



COUNTY OF HUMBOLDT

For the meeting of: September 19, 2017

Date: August 15, 2017  
 To: Board of Supervisors  
 From: Connie Beck, Director *F.S. for Connie Beck*  
 Department of Health and Human Services  
 Subject: Professional Services Agreement with Dimension Reports LLC Regarding the Provision of Reporting Services Related to Behavioral Health Claims Submitted to the California Department of Health Care Services for Fiscal Years 2017-2018 Through 2020-2021

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve, and authorize the Chair of the Board to execute, the attached professional services agreement with Dimension Reports LLC regarding the provision of reporting services related to behavioral health claims submitted to the California Department of Health Care Services for fiscal years 2017-2018 through 2020-2021; and
2. Direct the Clerk of the Board to return two (2) fully executed originals of the attached professional services agreement to the Department of Health and Human Services – Contract Unit.

SOURCE OF FUNDING:

Mental Health Fund

DISCUSSION:

The California Department of Health Care Services (“DHCS”) utilizes 837 and 835 X12 formatted files to communicate with county entities regarding behavioral claims that are submitted thereto.

Prepared by Haley Schandelmier AAIL

CAO Approval *Haley Schandelmier TLFQ*

REVIEW: Auditor *WBM* County Counsel *Sm* Human Resources *WLR* Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT  
 Upon motion of Supervisor *Wilson* Seconded by Supervisor *Sundberg*  
 Ayes *Wilson, Sundberg, Bass, Bohn, Fennell*  
 Nays \_\_\_\_\_  
 Abstain \_\_\_\_\_  
 Absent \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Order No. \_\_\_\_\_

Meeting of: \_\_\_\_\_

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *September 19, 2017*

By: *Kathy Hayes*

Kathy Hayes, Clerk of the Board

On October 9, 2015, the County of Humboldt (“County”) entered into the current professional services agreement with Dimension Reports LLC regarding the provision of reporting services related to the 837 and 835 X12 files submitted to, and received by, DHCS and the County, which is scheduled to expire on October 8, 2017. The Department of Health and Human Services – Mental Health (“DHHS – Mental Health”) continues to require the provision of such reporting services to ensure that behavioral health services provided to Medi-Cal recipients residing in Humboldt County can continue to be claimed, processed and paid.

Accordingly, staff recommends that the Board approve, and authorize the Chair of the Board to execute, the attached professional services agreement with Dimension Reports LLC for fiscal years 2017-2018 through 2020-2021 starting on October 9, 2017.

FINANCIAL IMPACT:

The attached professional services agreement with Dimension Reports LLC has a maximum amount payable of Sixty-Four Thousand Eight Hundred Dollars (\$64,800.00) for fiscal years 2017-2018 through 2020-2021. Expenditures related to the attached professional services agreement have been included in the approved fiscal year 2017-2018 budget for DHHS – Mental Health Administration budget unit 1170-424. Fund sources include Medi-Cal Federal Financial Participation and Realignment. Therefore, approval of the attached professional services agreement with Dimension Reports LLC will not impact the Humboldt County General Fund.

The recommended action supports your Board’s strategic framework by assisting with the management of County resources to ensure sustainability of services.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the attached professional services agreement with Dimension Reports LLC regarding the provision of reporting services related to behavioral health claims submitted to DHCS. This alternative is not recommended since DHHS – Mental Health continues to require the provision of such reporting services in order to ensure that behavioral health services provided thereby can be claimed, processed and paid.

ATTACHMENTS:

1. Professional Services Agreement with Dimension Reports LLC for Fiscal Years 2017-2018 Through 2020-2021

**PROFESSIONAL SERVICES AGREEMENT  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
DIMENSION REPORTS LLC  
FOR FISCAL YEARS 2017-2018 THROUGH 2020-2021**

This Agreement, entered into this 19<sup>th</sup> day of September, 2017, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Dimension Reports LLC, a California limited liability company, hereinafter referred to as "CONTRACTOR," is made upon the following considerations:

WHEREAS, behavioral health claims processed through the California Department of Health Care Services use 837 and 835 X12 formatted files to communicate with county entities and 837 X12 files are submitted by the county entity and DHCS in return sends the 835 X12 response; and

WHEREAS, COUNTY, by and through its Department of Health and Human Services – Mental Health ("DHHS – Mental Health"), desires to retain a qualified professional to perform reporting on 837 and 835 X12 Files; and

WHEREAS, such work involves the performance of professional, expert and technical services of a temporary and occasional character; and

WHEREAS, COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for the temporary period; and

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced and competent to perform the special services required by COUNTY.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. DESCRIPTION OF SERVICES:

CONTRACTOR agrees to furnish the services described in Exhibit A – Scope of Services, which is attached hereto and incorporated herein by reference. In providing such services, CONTRACTOR agrees to fully cooperate with the DHHS Deputy Director of Finance or a designee thereof, hereinafter referred to as "Deputy Director."

2. TERM:

This Agreement shall begin on October 9, 2017 and shall remain in full force and effect until September 30, 2020, unless sooner terminated as provided herein.

3. TERMINATION:

A. Breach of Contract. If, in the opinion of COUNTY, CONTRACTOR fails to adequately perform the services required hereunder within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation or other law applicable to its performance herein, COUNTY may terminate this Agreement immediately, upon notice.

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- B. Without Cause. COUNTY may terminate this Agreement without cause upon thirty (30) days advance written notice to CONTRACTOR. The notice shall state the effective date of the termination.
- C. Insufficient Funding. COUNTY's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is reduced or eliminated, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated. COUNTY shall provide CONTRACTOR seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- D. Compensation Upon Termination. In the event this Agreement is terminated, CONTRACTOR shall be entitled to compensation for uncompensated services rendered hereunder through and including the effective date of termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this Agreement by CONTRACTOR.

4. COMPENSATION:

- A. Maximum Amount Payable. The maximum amount payable by COUNTY for services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is Sixty-Four Thousand and Eight Hundred Dollars (\$64,800.00). In no event shall the maximum amount paid under this Agreement exceed Twenty-One Thousand Six Hundred Dollars (\$21,600) per fiscal year for fiscal years 2017-2018 through 2020-2021. CONTRACTOR hereby agrees to perform all services required by this Agreement for an amount not to exceed such maximum dollar amount. However, if local, state or federal funding or allowance rates are reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable for services provided hereunder, or terminate this Agreement as provided herein.
- B. Schedule of Rates. The specific rates and costs applicable to this Agreement are set forth in Exhibit B – Schedule of Rates, which is attached hereto and incorporated herein by reference.
- C. Additional Services. Any additional services not otherwise provided for herein, shall not be provided by CONTRACTOR, or compensated by COUNTY, without written authorization by COUNTY. All unauthorized costs and expenses incurred above the maximum dollar amount set forth herein shall be the responsibility of CONTRACTOR. CONTRACTOR shall notify COUNTY in writing, at least six weeks prior to the date upon which CONTRACTOR estimates that the maximum dollar amount will be reached.
- D. Hold Harmless. In the event COUNTY cannot, or will not, pay for services rendered by CONTRACTOR pursuant to the terms and conditions of this Agreement, CONTRACTOR shall hold harmless the State of California and Medi-Cal Beneficiaries.

5. PAYMENT:

CONTRACTOR shall submit to COUNTY quarterly invoices itemizing all services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement. Invoices shall be in a format approved by the Deputy Director and the Humboldt County Auditor-Controller, and shall include the date that each service was provided, the total number of service hours provided per day, the total cost per day and the total cost for the quarter. Payment for services rendered, and costs and expenses incurred, hereunder shall be made within thirty (30) days of receipt of approved invoices. All invoices submitted by CONTRACTOR shall be sent to COUNTY at the following address:

COUNTY: Humboldt County DHHS – Mental Health  
Attention: Financial Services  
507 F Street  
Eureka, California 95501

6. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: Humboldt County DHHS – Mental Health  
Attention: Deputy Director of Finance  
507 F Street  
Eureka, California 95501

CONTRACTOR: Dimension Reports LLC  
Attention: President, Orri Rail  
6261 Hazel Avenue  
Orangevale, California 95662

7. REPORTS:

CONTRACTOR agrees to provide COUNTY with any and all reports that may be required by local, state and/or federal agencies for compliance with this Agreement. Reports shall be submitted no later than fifteen (15) days after the end of each calendar quarter using the format required by the State of California as appropriate.

8. AUDIT AND RETENTION OF PERFORMANCE RECORDS:

- A. Maintenance of Records. CONTRACTOR shall maintain books, records, documents, and other evidence of CONTRACTOR's accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including, without limitation, any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- B. Government Access to Records and Facilities. CONTRACTOR's facility or office, or such part thereof as may be engaged in the performance of this Agreement, and its records shall be subject at all reasonable times to inspection, audit and reproduction by COUNTY, the California Department of Health Care Services ("DHCS"), the California Department of General Services, the Bureau of State Audits, or their designated representatives, including, without limitation, the Comptroller General of the United States, and any other duly authorized local, state or federal agencies.
- C. Examination and Audit by the California State Auditor. Pursuant to California Government Code Section 8546.7, CONTRACTOR shall be subject to the examination and audit of the California State Auditor for a period of three (3) years after final payment under this Agreement. CONTRACTOR shall hold COUNTY harmless for any liability resulting from said audit.
- D. Federal Examination and Audit. CONTRACTOR agrees that COUNTY, DHCS, the

California Department of General Services, the Bureau of State Audits, or their designated representatives, including the Comptroller General of the United States, and any other duly authorized local, state or federal agencies, shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. CONTRACTOR agrees to allow COUNTY, DHCS and any other duly authorized local, state or federal agencies access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

- E. Preservation of Records. CONTRACTOR shall preserve and make available its records for a period of three (3) years from the date of final payment under this Agreement, and for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement or by subparagraphs 1 or 2 below.
1. If this Agreement is completely or partially terminated, the records relating to the terminated services shall be preserved and made available for a period of three (3) years from the date of any resulting final settlement.
  2. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three (3) year period, the records shall be retained until completion of the action and resolution of all issues which arise there from, or until the end of the regular three (3) year period, whichever is later.
- F. Legal Compliance. CONTRACTOR shall comply with the above-referenced requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Section 10115.10 of the California Public Contract Code, if applicable.
- G. Record Storage and Reproduction. CONTRACTOR may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD or other data storage medium. Upon request by a designated representative of COUNTY, DHCS or any other duly authorized local, state or federal agencies to inspect, audit or obtain copies of said records, CONTRACTOR must supply or make available applicable devices, hardware and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers.

9. INSPECTION RIGHTS:

CONTRACTOR shall allow COUNTY, DHCS, the United States Department of Health and Human Services, the Comptroller General of the United States, and any other duly authorized local, state and federal agencies, or their designated representatives, to inspect or otherwise evaluate the quality, appropriateness and timeliness of services performed under this Agreement, and to inspect, evaluate, and audit any and all books, records and facilities maintained by CONTRACTOR, and its subcontractors hereunder, pertaining to such services at any time during normal business hours, for a period of at least three (3) years from the close of the DHCS fiscal year in which this Agreement came into effect. Books and records include, but are not limited to, all physical records originated or prepared pursuant to CONTRACTOR's performance of the obligations and duties contained in this Agreement, including working papers, reports, financial records and books of account, client records, prescription files, subcontracts and any other documentation pertaining to covered services and other related services for clients. Upon request, at any time during the above-referenced period, CONTRACTOR shall furnish any such record, or copy thereof, to COUNTY, DHCS, the United States Department of Health and Human Services, the Comptroller General of the United States, and other duly authorized local, state and federal agencies, or their designated representatives.

COUNTY and all other duly authorized local, state and federal agencies shall maintain the confidentiality of such books and records in accordance with any and all applicable laws and regulations.

10. MONITORING:

CONTRACTOR agrees that COUNTY and any other duly authorized local, state or federal agencies, including, without limitation, DHCS, have the right to monitor all activities related to this Agreement, including the right to review and monitor CONTRACTOR's records, programs or procedures, at any time, as well as the overall operation of CONTRACTOR's programs in order to ensure compliance with the terms and conditions of this Agreement. CONTRACTOR will cooperate with a corrective action plan, if deficiencies in CONTRACTOR's records, programs or procedures are identified by COUNTY or any other duly authorized local, state or federal agencies. However, COUNTY is not responsible, and shall not be held accountable, for overseeing or evaluating the adequacy of the results of services performed by CONTRACTOR pursuant to the terms and conditions of this Agreement.

11. PROPRIETARY INFORMATION:

- A. Disclosure of Proprietary Information. During the performance of this Agreement, each party may be given access to information in tangible, electronic downloadable or non-downloadable or online form that relates to the other party's past, present and future research, development, business activities, products, services, technical knowledge and customer information ("Proprietary Information"). Each party will protect the confidentiality of the Proprietary Information of the other in the same manner that it protects the confidentiality of its own similar information, but in no event using less than a reasonable standard of care. Each party will restrict access to the Proprietary Information to those of its personnel, including such personnel employed by its affiliates and subcontractors engaged in the performance, management, receipt or use of the services under this Agreement, provided that such persons are bound by obligations of confidentiality substantially similar to the terms of this Agreement.
- B. Data Disclosures. CONTRACTOR shall not disclose, sell or rent COUNTY Proprietary information or other health claim information ("Data") stored in the 837/835 EDI files provided by COUNTY, unless required by applicable law or an order or other requirement of a court, administrative agency or other duly authorized local, state or federal governmental entity or applicable law. Notwithstanding the above, COUNTY expressly permits CONTRACTOR to use and/or disclose the Data to personnel who access, process or manage the Data in connection to the services being provided hereunder. CONTRACTOR shall not retain or store the Data in any form for its research, marketing or financial/non-financial purposes; however, CONTRACTOR shall retain such books, records and papers concerning the services provided hereunder that will enable regulatory agencies and/or COUNTY to monitor and oversee such performance.
- C. Use of CONTRACTOR's Server. In the event COUNTY agrees to use CONTRACTOR's Secure File Transfer Protocol ("SFTP") server, the CONTRACTOR will provide COUNTY necessary user name, password and access rights to connect and download the electronic files from the server. It will be COUNTY's responsibility to ensure strict confidentiality of the password. Any unauthorized use of the password by COUNTY will constitute a material breach of this Agreement. CONTRACTOR will not be responsible for loss of data or its confidentiality and COUNTY will be solely responsible for all actions and fees incurred as a result of such incident.

- D. Proprietary Rights. This Agreement pertains only to the provision of the professional reporting services set forth Exhibit A – Scope of Services, and COUNTY is not granted any license hereunder. All technical and non-technical materials, tools, methodologies and/or analytical models that CONTRACTOR may use to produce tangible, downloadable or online products for this service are, and shall remain, the sole and exclusive property of CONTRACTOR, except as otherwise provided herein.

12. CONFIDENTIAL INFORMATION:

- A. Legal Compliance. CONTRACTOR hereby agrees to protect all confidential records and client confidentiality in conformance with any and all applicable local, state and federal laws and regulations, including, but not limited to: California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health & Safety Code Sections 1280.15 and 1280.18; the California Information Practices Act of 1977; the California Confidentiality of Medical Information Act (“CMIA”); the United States Health Information Technology and Clinical Health Act (“HITECH Act”); the United States Health Information Portability and Accountability Act of 1996 (“HIPAA”) and any current and future implementing regulations promulgated thereunder, all as may be amended from time to time.
- B. Continuing Compliance with Confidentiality Laws. COUNTY and CONTRACTOR acknowledge that local, state and federal laws, regulations, standards and contractual requirements pertaining to confidentiality, electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws, regulations, standards or contractual requirements.

13. CONFIDENTIALITY AND SECURITY REQUIREMENTS:

- A. Legal Compliance. CONTRACTOR hereby agrees to comply with any and all applicable local, state and federal privacy, security and confidentiality requirements, including, but not limited to, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations (“C.F.R.”) Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162; 42 C.F.R. Sections 431.300, et seq.; and 45 C.F.R. Section 205.50, all as may be amended from time to time. CONTRACTOR further agrees to comply with any and all applicable privacy, security, and confidentiality requirements contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) and the Mental Health Performance Agreement (State Standard Agreement No. 16-93113) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full.
- B. Disclosure of Confidential Information. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
1. Disclosure of Identifying Information. CONTRACTOR shall protect from unauthorized disclosure the names and other “Identifying Information,” including “Personal Information” and “Personally Identifiable Information,” concerning persons either receiving services pursuant to this Agreement or persons whose names or Identifying Information become available to CONTRACTOR as a result of services performed under this Agreement, except for statistical information not identifying any such person.

- a. Personal Information. As used herein, the term “Personal Information” (“PI”) shall include, without limitation, any information that identifies or describes an individual, including, but not limited to, his or her physical description, home address, home telephone number, education, financial matters, medical or employment history and statements made by, or attributed to, the individual.
  - b. Personally Identifiable Information. As used herein, the term “Personally Identifiable Information” (“PII”) shall include, without limitation, any information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, driver license number, identification card number, financial account number or other identifying number, symbol or particular assigned to the individual, including, but not limited to, finger prints, voice prints and photographs.
2. Unauthorized Disclosures of Identifying Information. CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such Identifying Information to anyone other than COUNTY or DHCS without prior written authorization from COUNTY or the DHCS Program Contract Manager, except if disclosure is required by local, state or federal law.
  3. Use of Identifying Information. CONTRACTOR shall not use such Identifying Information for any purpose other than carrying out CONTRACTOR’s duties and obligations under this Agreement.
  4. Notification of Requests for Identifying Information. CONTRACTOR shall promptly transmit to COUNTY all requests for disclosure of such Identifying Information not emanating from a client, patient or person whose name or Identifying Information becomes available to CONTRACTOR or is disclosed to CONTRACTOR as a result of services performed under this Agreement.
  5. Use and Disclosure of Protected Health Information. CONTRACTOR shall not use or disclose “Protected Health Information” in any manner that would constitute a breach of this Agreement or a violation of any applicable local, state or federal laws, regulations, rules or standards.
    - a. Protected Health Information. As used herein, the term “Protected Health Information” (“PHI”) shall include, without limitation, individually identifiable health information that is transmitted by electronic media, maintained in electronic media or is transmitted or maintained in any other form or medium, as defined by the HIPAA Standards for Privacy of Individually Identifiable Health Information, as codified at 45 C.F.R. Parts 160 and 164, and the Federal Security Standards contained in 45 C.F.R. Parts 160 and 164, all as may be amended from time to time.
  6. Minimum Use and Disclosure of Protected Health Information. CONTRACTOR shall use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of this Agreement.
  7. Compliance with Legal Standards Pertaining to Protected Health Information. CONTRACTOR shall only use, store, disclose or access PHI in compliance with this Agreement and all applicable local, state and federal laws, regulations, rules and standards.

8. Downloading Protected Health Information. CONTRACTOR shall not download PHI to any personal device, including, but not limited to, flash drives, cell phones, iPads or tablets without the prior written approval of COUNTY.
  9. Maintenance and Preservation of Disclosure Records. CONTRACTOR agrees to timely prepare accurate and complete performance records relating to the use and disclosure of PHI transmitted pursuant to this Agreement, and to maintain and preserve said records for at least three (3) years from the date of expiration or termination of this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising there from.
  10. Accounting Requirements. CONTRACTOR shall comply with the accounting requirements of 45 C.F.R. Section 164.528 and any associated regulations or informal guidance issued by the United States Department of Health and Human Services – Office of Civil Rights, all as may be amended from time to time.
- C. Security Incidents and Suspected Breaches of Confidential Information. If CONTRACTOR has reason to believe that PHI, PI or PII transmitted pursuant to this Agreement may have been accessed, disclosed or acquired in breach of the terms and conditions set forth herein, CONTRACTOR shall immediately take all actions necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the suspected breach. Such actions include, but are not limited to, the following:
1. Reporting Breaches of Confidential Information. CONTRACTOR shall notify COUNTY immediately, by telephone call and e-mail or fax, upon the discovery of a breach of PHI, PI or PII in electronic media or in any other media, if the PHI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person.
  2. Reporting Suspected Security Incidents. CONTRACTOR shall notify COUNTY, by telephone call and e-mail or fax, within twenty-four (24) hours after discovering any other suspected security incident, intrusion, loss or unauthorized use or disclosure of PHI, PI or PII in violation of this Agreement or any applicable local, state or federal law.
    - a. Discovery of Breaches and Security Incidents. For purposes of this Agreement, a breach of, or security incident involving, PHI, PI or PII shall be treated as discovered by CONTRACTOR as of the first day on which such breach is known, or by exercising reasonable diligence would have been known, to CONTRACTOR or any person, other than the person committing the suspected breach, who is an employee, officer or other agent of CONTRACTOR.
  3. Reporting Suspected Breaches and Security Incidents to Affected Individuals. To the extent deemed warranted, CONTRACTOR shall provide notice to any and all individuals affected by the suspected breach of, or security incident involving, PHI, PI or PII. CONTRACTOR shall pay the full costs associated with notifying the impacted individuals, which may include, but are not limited to, the costs to retain an outside consulting firm to undertake the notification effort. In addition, CONTRACTOR shall consult with COUNTY regarding the steps required to notify impacted individuals and any other persons, media outlets or governmental agencies, and must supply COUNTY with the following information:
    - a. Description of Suspected Breach or Security Incident. A brief description of the circumstances surrounding the suspected breach of, or security incident involving,



and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the nature, size, scope and complexity of CONTRACTOR's operations, including, at a minimum, the following safeguards:

1. Personnel Controls. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
  - a. Employee Training. All workforce members who assist in the performance of functions or activities on behalf of CONTRACTOR, or access or disclose PHI, PI or PII, must complete information privacy and security training, at least annually, at their own expense. Each workforce member who receives information privacy and security training must sign a certification indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following expiration or termination of this Agreement.
  - b. Employee Discipline. Appropriate sanctions must be applied against workforce members who fail to comply with the privacy policies and procedures or any of the privacy, security and confidentiality requirements contained herein, including termination of employment where appropriate.
  - c. Confidentiality Statement. All persons that will be working with PHI, PI or PII must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use and Enforcement Policies. The statement must be signed by the workforce member prior to gaining access to PHI, PI or PII. The statement must be renewed annually. CONTRACTOR shall retain each person's written confidentiality statement for inspection for a period of six (6) years following expiration or termination of this Agreement.
  - d. Background Check. Before a member of the workforce may access PHI, PI or PII, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. CONTRACTOR shall retain each workforce member's background check documentation for a period of three (3) years following expiration or termination of this Agreement.
2. Technical Security Controls. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
  - a. Workstation and Laptop Encryption. All workstations and laptops that store PHI, PI or PII either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard ("AES"). The encryption solution must be full disk unless approved by the DHCS – Information Security Office.
  - b. Server Security. Servers containing unencrypted PHI, PI or PII must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
  - c. Minimum Necessary. Only the minimum necessary amount of PHI, PI or PII required to perform necessary business functions may be copied, downloaded or exported.

- d. Removable Media Devices. All electronic files that contain PHI, PI or PII data must be encrypted when stored on any removable media or portable device, including, without limitation, USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes, etc. Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- e. Antivirus Software. All workstations, laptops and other systems that process and/or store PHI, PI or PII must install and actively use a comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- f. Patch Management. All workstations, laptops and other systems that process and/or store PHI, PI or PII must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within thirty (30) days of vendor release. Applications and systems that cannot be patched within the required time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.
- g. User Identification and Password Controls. All users must be issued a unique user name for accessing PHI, PI or PII. Usernames must be promptly disabled, deleted or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight (8) characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed at least every ninety (90) days, preferably every sixty (60) days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z);
  - Lower case letters (a-z);
  - Arabic numerals (0-9);
  - Non-alphanumeric characters (punctuation symbols).
- h. Data Destruction. When no longer needed, all PHI, PI or PII must be wiped using the Gutmann or United States Department of Defense (“DOD”) 5220.22-M (7 Pass) standard or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the DHCS – Information Security Office.
- i. System Timeout. The system providing access to PHI, PI or PII must provide an automatic timeout, requiring re-authentication of the user session after no more than twenty (20) minutes of inactivity.
- j. Warning Banners. All systems providing access to PHI, PI or PII must display a warning banner stating that data is confidential, systems are logged and system use is for business purposes only by authorized users. Users must be directed to log off the system if they do not agree with these requirements.

- k. System Logging. The system must maintain an automated audit trail which can identify the user or system process which alters PHI, PI or PII. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only and must be restricted to authorized users. If PHI, PI or PII is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least three (3) years after occurrence.
  - l. Access Controls. The system providing access to PHI, PI or PII must use role based access controls for all user authentications, enforcing the principle of least privilege.
  - m. Transmission Encryption. All data transmissions of PHI, PI or PII outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI, PI or PII in motion such as website access, file transfer and E-Mail.
  - n. Intrusion Detection. All systems involved in accessing, holding, transporting and protecting PHI, PI or PII that are accessible via the internet must be protected by a comprehensive intrusion detection and prevention solution.
3. Audit Controls. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
- a. System Security Review. CONTRACTOR must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing PHI, PI or PII must have at least an annual system risk assessment/security review which provides assurance that administrative, physical and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
  - b. Log Reviews. All systems processing and/or storing PHI, PI or PII must have a routine procedure in place to review system logs for unauthorized access.
  - c. Change Control. All systems processing and/or storing PHI, PI or PII must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.
4. Business Continuity and Disaster Recovery Controls. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
- a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan to enable continuation of critical business processes and protection of the security of PHI, PI or PII held in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than twenty-four (24) hours.
  - b. Data Backup Plan. CONTRACTOR must have established documented procedures to backup PHI to maintain retrievable exact copies of PHI, PI or PII. The plan

must include a regular schedule for making backups, storing backups offsite, an inventory of backup media and an estimate of the amount of time needed to restore PHI, PI or PII should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of data.

5. Paper Document Controls. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
  - a. Supervision of Data. PHI, PI or PII in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. PHI, PI or PII in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
  - b. Escorting Visitors. Visitors to areas where PHI, PI or PII is contained shall be escorted, and PHI, PI or PII shall be kept out of sight while visitors are in the area.
  - c. Confidential Destruction. PHI, PI or PII must be disposed of through confidential means, such as cross cut shredding and pulverizing.
  - d. Removal of Data. Only the minimum necessary amount of PHI, PI or PII may be removed from the premises of CONTRACTOR except with express written permission from COUNTY. PHI, PI or PII shall not be considered "removed from the premises," if it is only being transported from one (1) of CONTRACTOR's locations to another of CONTRACTOR's locations.
  - e. Faxing. Faxes containing PHI, PI or PII shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
  - f. Mailings. Mailings containing PHI, PI or PII shall be sealed and secured from damage or inappropriate viewing of such PHI, PI or PII to the extent possible. Mailings which include five hundred (500) or more individually identifiable records of PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission to use another method is obtained.

14. HIPAA BUSINESS ASSOCIATE AGREEMENT:

CONTRACTOR hereby agrees to adhere to the terms and conditions set forth in the "County of Humboldt HIPAA Business Associate Agreement," which is attached hereto as Exhibit C and incorporated herein by reference. A breach of the attached Business Associate Agreement shall constitute a material breach of this Agreement.

15. PATIENTS' RIGHTS:

- A. Legal Compliance. The parties to this Agreement shall comply with any and all applicable local, state and federal laws and regulations relating to patients' rights, including, but not limited to, California Welfare and Institutions Code Section 5325, Title 9 of the California Code of Regulations ("C.C.R.") Sections 860 through 868 and 42 C.F.R. Section 438.100.

B. Specific Rights. During the performance of this Agreement, the parties hereto shall comply with any and all applicable local, state and federal policies and procedures pertaining to patients' rights, and shall ensure that its staff and subcontractors take those rights into account when providing services hereunder, including, without limitation, the right to:

1. Receive information in accordance with 42 C.F.R. Section 438.10.
2. Be treated with respect and with due consideration for his or her dignity and privacy.
3. Receive information on available treatment options and alternatives, presented in a manner appropriate to his or her condition and ability to understand.
4. Participate in decisions regarding his or her health care, including the right to refuse treatment.
5. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation.
6. Request and receive a copy of his or her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. Sections 164.524 and 164.526.
7. Be furnished services in accordance with 42 C.F.R. Sections 438.206 through 438.210.
8. Freely exercise his or her rights, and the exercise of those rights will not adversely affect the way in which CONTRACTOR treats the patient.

16. REQUIRED DISCLOSURES:

A. Notification of Change in Ownership and Control. In the event of a change in ownership or control of CONTRACTOR's business, within thirty-five (35) days after the occurrence thereof or upon request of COUNTY, CONTRACTOR, shall notify COUNTY of any change in ownership or control of its business and provide information as requested by COUNTY. The disclosures to be provided shall include, without limitation:

1. The name and address of any person (individual or corporation) with an ownership or control interest in CONTRACTOR's business. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;
2. Date of birth and social security number (in the case of an individual);
3. Other tax identification number (in the case of a corporation with an ownership or control interest in CONTRACTOR's business or in the business of any subcontractor in which CONTRACTOR has a five percent (5%) or more interest);
4. Whether the person (individual or corporation) with an ownership or control interest in CONTRACTOR's business is related to another person with ownership or control interest in the same or any other COUNTY contractor as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in the business of any subcontractor in which CONTRACTOR has a five percent (5%) or more interest is related to another person with ownership or control interest in CONTRACTOR's business as a spouse, parent, child or sibling;

5. The name of any other disclosing entity in which CONTRACTOR has an ownership or control interest; and
6. The name, address, date of birth, and social security number of any managing employee of CONTRACTOR.

B. Disclosures Related to Business Transactions. In accordance with 42 C.F.R. Sections 455.101 through 455.106, CONTRACTOR shall submit disclosures regarding certain business transactions within thirty-five (35) days after receiving COUNTY's request for such information. The disclosures to be provided shall include, without limitation:

1. The ownership of any subcontractor with whom CONTRACTOR has had business transactions totaling more than Twenty Five Thousand Dollars (\$25,000.00) during the twelve (12) month period ending on the date of the request; and
2. Any significant business transactions between CONTRACTOR and any wholly owned supplier, or between CONTRACTOR and any subcontractor, during the five (5) year period ending on the date of the request.

C. Disclosures Related to Persons Convicted of Crimes. Upon request by COUNTY, CONTRACTOR shall submit disclosures regarding its owners, persons with controlling interest, agents and managing employees' criminal convictions related to federal health care programs pursuant to 42 C.F.R. Section 455.106(a)(1)-(2). CONTRACTOR shall submit the following disclosures:

1. The identity of any person who is a managing employee of CONTRACTOR who has been convicted of a crime related to federal health care programs (42 C.F.R. Section 455.106(a)(1)-(2)); and
2. The identity of any person who is an agent of CONTRACTOR who has been convicted of a crime related to federal health care programs. (42 C.F.R. Section 455.106(a)(1)-(2).) For purposes of this provision, the word "agent" has the meaning set forth in 42 C.F.R. Section 455.101.

#### 17. FEDERAL HEALTH CARE PROGRAM EXCLUSION:

- A. Certification of Eligibility. By executing this Agreement, CONTRACTOR certifies that neither it nor any of its current staff members are restricted or excluded from providing services under any health care program funded by the federal government, either directly or indirectly, in whole or in part.
- B. Employment of Ineligible or Excluded Individuals or Entities. CONTRACTOR shall not employ or contract with providers or other individuals and entities excluded from participation in federally funded health care programs (as defined in Section 1128B(F) of the Social Security Act) under either Section 1128, 1128A, or 1156 of the Social Security Act. Federal financial participation is not available for amounts expended for providers excluded by Medicare, Medicaid or the California Children's Insurance Program, except for emergency services.
- C. Eligibility Screening. CONTRACTOR shall screen, on a monthly basis, all staff employed or retained to provide services related to this Agreement to ensure that they are not designated as "Ineligible" or "Excluded" as defined herein. Screening shall be conducted against both the

California “Medi-Cal Suspended and Ineligible List,” and the United States Health and Human Services – Office of Inspector General “List of Excluded Individuals/Entities” or any other list pursuant to 42 C.F.R. 438.214(d). CONTRACTOR shall screen prospective staff prior to hire or engagement.

- D. Eligibility Notification. CONTRACTOR shall notify COUNTY in writing that CONTRACTOR and its staff are eligible to participate in federally funded health care programs on a monthly basis. This notification shall be performed by completing the Organizational Provider Employee Screening form (QI 67).
- E. Disclosure Requirements. CONTRACTOR shall immediately disclose to COUNTY any debarment, exclusion or other event that causes CONTRACTOR, or any member of its staff to be ineligible for participation in federally funded health care programs. If CONTRACTOR discovers that a staff member has become ineligible for, or excluded from, participation in federally funded health care programs, CONTRACTOR shall remove such individual from responsibility for, or involvement with, business or health care operations related to this Agreement.
- F. Defense and Indemnification. CONTRACTOR shall hold harmless, defend and indemnify COUNTY against any and all loss or damage arising from any federal exclusion of CONTRACTOR or its staff members from such participation in a federally funded health care program.
- G. Effect of Non-Compliance. Failure by CONTRACTOR to meet the requirements of the provisions set forth herein shall constitute a material breach upon which COUNTY may immediately terminate or suspend this Agreement.

18. DEBARMENT AND SUSPENSION:

- A. Legal Compliance. CONTRACTOR hereby agrees to comply with any and all applicable federal suspension and debarment regulations, including, without limitation, 42 C.F.R. Sections 438.610 and 455.106.
- B. Certification of Compliance. By executing this Agreement, CONTRACTOR certifies to the best of its knowledge and belief, that it and its principals:
  - 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency.
  - 2. Have not within the three (3)-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a local, state or federal transaction or contract under a public transaction; violation of state or federal antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
  - 3. Are not presently indicted for, or otherwise criminally or civilly charged by a local, state or federal governmental entity with, commission of any of the above-referenced offenses.
  - 4. Have not within a three (3)-year period preceding this Agreement had one (1) or more local, state or federal transactions terminated for cause or default.

5. Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations, including, but not limited to, 48 C.F.R. Part 9, debarred, suspended, declared ineligible or voluntarily excluded from participation in such transaction, unless authorized by the state.
  6. Shall include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitation for lower tier covered transactions.
- C. Notification of Inability to Comply. If CONTRACTOR is unable to comply with any of the statements in this certification, CONTRACTOR shall submit an explanation of such inability to comply to COUNTY.
  - D. Terms and Definitions. The terms and definitions used herein have the meanings set forth in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
  - E. Sanctions for Non-Compliance. If CONTRACTOR knowingly violates this certification, in addition to other remedies available to DHCS or the federal government, COUNTY may terminate this Agreement for cause or default.

19. INTELLECTUAL PROPERTY RIGHTS:

CONTRACTOR hereby agrees to comply with any and all applicable intellectual property rights provisions contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) that COUNTY has with DHCS, which is incorporated herein by reference and made a part hereof as if set forth in full.

- A. Ownership. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
  1. Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all "Intellectual Property," from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS and which result directly or indirectly from this Agreement.
  2. For purposes of this Agreement, "Intellectual Property" means recognized protectable rights and interest such as: patents (whether or not issued), copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or come into existence hereafter, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
    - a. For purposes of the definition of "Intellectual Property," "works" means all literary works, writings and printed matter, including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images,

animation cells and other audiovisual works, including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.

3. In the performance of this Agreement, CONTRACTOR will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, CONTRACTOR may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, CONTRACTOR shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without DHCS' prior written permission. Except as otherwise set forth herein, neither CONTRACTOR nor DHCS shall give any ownership interest in, or rights to, its Intellectual Property to the other party. If during the term of this Agreement, CONTRACTOR accesses any third-party Intellectual Property that is licensed to DHCS, CONTRACTOR agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
4. CONTRACTOR agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If CONTRACTOR enters into any agreements or subcontracts with other parties in order to perform this Agreement, CONTRACTOR shall require the terms of the agreements or subcontracts to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, CONTRACTOR or DHCS and which result directly or indirectly from this Agreement or any subcontract.
5. CONTRACTOR further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain and enforce DHCS' Intellectual Property rights and interests.

B. Retained Rights / License Rights. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:

1. Except for Intellectual Property made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS and which result directly or indirectly from this Agreement, CONTRACTOR shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. CONTRACTOR hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute and dispose CONTRACTOR's Intellectual Property resulting from this Agreement, unless CONTRACTOR assigns all rights, title and interest in the Intellectual Property as set forth herein.

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2. Nothing in this provision shall restrict, limit or otherwise prevent CONTRACTOR from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that CONTRACTOR's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or any third-party, or result in a breach or default of any provisions herein or result in a breach of any provisions of law relating to confidentiality.
- C. Copyright. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
1. CONTRACTOR agrees that for purposes of copyright law, all works, as defined herein, of authorship made by or on behalf of CONTRACTOR in connection with CONTRACTOR's performance of this Agreement shall be deemed "works made for hire." CONTRACTOR further agrees that the work of each person utilized by CONTRACTOR in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of CONTRACTOR or that person has entered into an agreement with CONTRACTOR to perform the work. CONTRACTOR shall enter into a written agreement with any such person that: (i) all work performed for CONTRACTOR shall be deemed a "work made for hire" under the Copyright Act; and (ii) such person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS and which result directly or indirectly from this Agreement.
  2. All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [*Enter Current Year e.g., 2010, etc.*], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.
- D. Patent Rights. With respect to inventions made by CONTRACTOR in the performance of this Agreement, which did not result from research and development specifically included in this Agreement's scope of services, CONTRACTOR hereby grants to DHCS a license as described herein for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within this Agreement's scope of services, then CONTRACTOR agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.
- E. Third-Party Intellectual Property. Except as provided herein, CONTRACTOR agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of CONTRACTOR or third-party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described herein, for any of CONTRACTOR's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and DHCS determines that Intellectual Property should be included in or is required for CONTRACTOR's performance of this Agreement, CONTRACTOR shall obtain a license under terms acceptable to DHCS.

F. Warranties. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, represents, warrants and agrees as follows:

1. It is free to enter into and fully perform this Agreement.
2. It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
3. Neither CONTRACTOR's performance of this Agreement, nor the exercise by either party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution and disposition of the Intellectual Property made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States or any foreign country. There is currently no actual or threatened claim by any such third-party based on an alleged violation of any such right by CONTRACTOR.
4. Neither CONTRACTOR's performance of this Agreement, nor any part of its performance thereof, will violate the right of privacy of, or constitute a libel or slander against, any person or entity.
5. It has secured and will secure all rights and licenses necessary for Intellectual Property, including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
6. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber or interfere with any of the rights granted to DHCS in this Agreement.
7. It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
8. It has no knowledge of any outstanding claims, licenses or other charges, liens or encumbrances of any kind or nature whatsoever that could affect in any way CONTRACTOR's performance of this Agreement.
9. DHCS makes no warranty that the Intellectual Property resulting from this Agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

G. Intellectual Property Indemnity. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:

1. CONTRACTOR shall indemnify, defend and hold harmless DHCS, its licensees, assignees, officers, directors, employees, agents, representatives, successors and users of its products ("Indemnitees"), from and against all claims, actions, damages, losses or liabilities, or actions or proceedings with respect to any thereof, whether or not rightful,

arising from any and all actions or claims by any third-party or expenses related thereto, including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action or proceeding, whether commenced or threatened, to which any of the Indemnitees may be subject, whether or not CONTRACTOR is a party to any pending or threatened litigation, which arise out of or are related to: (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of CONTRACTOR pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by CONTRACTOR or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at CONTRACTOR's expense, any such infringement action brought against DHCS.

2. Should any Intellectual Property licensed by CONTRACTOR to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, CONTRACTOR will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel, at CONTRACTOR's expense, in any such claim or action. In the defense or settlement of the claim, CONTRACTOR may obtain the right for DHCS to continue using the licensed Intellectual Property; or replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
3. CONTRACTOR agrees that damages alone would be inadequate to compensate DHCS for breach of any term of these Intellectual Property provisions by CONTRACTOR. CONTRACTOR acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including, without limitation, an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

- H. Federal Funding. In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title and ownership, which results directly or indirectly from the agreement; except as provided in 37 C.F.R. Part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.
- I. Survival. The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule associated therewith.

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20. NONDISCRIMINATION:

During the performance of this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:

- A. Compliance with Anti-Discrimination laws. CONTRACTOR hereby assures that it, and its subcontractors, shall comply with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, California Welfare and Institutions Code Section 10000, Division 21 of the California Department of Social Services Manual of Policies and Procedures, United States Executive Order 11246, as amended, the Americans with Disabilities Act of 1990, the California Fair Employment and Housing Act and any other applicable local, state and federal laws and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in 2 C.C.R. Sections 8101, et seq., are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- B. Provision of Professional Services. Consistent with the requirements of any and all applicable local, state and/or federal laws and regulations, including, but not limited to, 42 C.F.R. Section 438.6(d)(3)-(4), CONTRACTOR shall not: engage in any unlawful discriminatory practices in the admission of clients; assignments of accommodations, treatment, evaluation, employment or personnel; or in any other respect on the basis of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal ordinances, laws or regulations. CONTRACTOR shall not discriminate against clients on the basis of health status or need for health care services, pursuant to 42 C.F.R. Section 438.6(d)(3).
- C. Employment Practices. In connection with the services provided hereunder, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any employee, or applicant for employment, because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal ordinances, laws or regulations. CONTRACTOR shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to the factors referenced above. Such actions shall include, without limitation: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. Nothing herein shall be construed to require the employment of unqualified persons.
- D. Solicitations for Employment. CONTRACTOR shall, in all solicitations or advancements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental disability, age or status as a disabled veteran or veteran of the Vietnam era.

- E. Notification to Current and Prospective Employees. CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the federal government or DHCS, setting forth the provisions of the Equal Opportunity Clause of Section 503 of the Rehabilitation Act of 1973 and the Affirmative Action Clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 United States Code ("U.S.C.") Section 4212). Such notices shall state CONTRACTOR's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin, physical or mental disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- F. Notification to Labor Unions and/or Workers' Representatives. CONTRACTOR shall send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice, to be provided by the federal government or the State of California, advising the labor union or workers' representative of CONTRACTOR's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- G. Compliance with Legal Standards Regarding Non-Discrimination in Federally Assisted Programs. CONTRACTOR shall comply with any and all applicable provisions of, and furnish all information and reports required by, Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. Section 4212) and of the Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations and relevant orders of the Secretary of Labor pertaining to the prohibition of discrimination against qualified disabled persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.
- H. Access to Records Regarding Non-Discrimination Compliance. CONTRACTOR shall furnish all information and reports required by Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by authorized representatives of the State of California and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- I. Sanctions for Non-Compliance. In the event of CONTRACTOR's non-compliance with the requirements of the provisions set forth herein, or with any federal rules, regulations or orders referenced herein, this Agreement may be cancelled, terminated or suspended in whole or in part and CONTRACTOR may be declared ineligible for further state and federal contracts in accordance with procedures authorized in Federal Executive Order No. 11246, as amended, and such other sanctions that may be imposed, and remedies invoked, as provided in Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

- J. Determination of Medical Necessity. Notwithstanding other provisions of this section, CONTRACTOR may require a determination of medical necessity pursuant to 9 C.C.R. Sections 1820.205, 1830.205 or 1830.210, prior to providing covered services to a client.
- K. Incorporation of Provisions. CONTRACTOR shall include the foregoing provisions in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulation at 41 C.F.R. Part 60 – “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” or Section 503 of the Rehabilitation Act of 1973 or of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974 (38 U.S.C. Section 4212), so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR shall take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions, including, without limitation, sanctions for non-compliance provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, CONTRACTOR may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State of California and of the United States.

21. SMOKE-FREE WORKPLACE CERTIFICATION:

- A. Legal Requirements. Public Law 103-227, also known as the Pro-Children Act of 1994 (“PCA”), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of eighteen (18), if the services are funded by federal programs either directly or through local or state governments by federal grant, contract, loan or loan guarantee. The PCA also applies to children’s services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The PCA does not apply to children’s services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants and Children Program coupons are redeemed.
- B. Certification of Compliance. By executing this Agreement, CONTRACTOR certifies that it will comply with the requirements of the PCA, and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined thereby.
- C. Effect of Non-Compliance. Failure to comply with the PCA may result in the imposition of a civil monetary penalty of up to One Thousand Dollars (\$1,000.00) for each violation and/or the imposition of an administrative compliance order on the responsible entity.
- D. Incorporation of Provisions. CONTRACTOR further agrees that it will incorporate the provisions contained herein into any subcontracts entered into that involve the services to be provided hereunder.

22. DRUG FREE WORKPLACE CERTIFICATION:

By executing this Agreement, CONTRACTOR certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350, et seq.), and will provide a drug-free workplace by doing all of the following:

- A. Drug-Free Policy Statement. Publish, as required by California Government Code Section 8355(a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.
- B. Drug-Free Awareness Program. Establish, as required by California Government Code Section 8355(a)(2), a Drug-Free Awareness Program which informs employees about the following:
  - 1. The dangers of drug abuse in the workplace;
  - 2. CONTRACTOR's policy of maintaining a drug-free workplace;
  - 3. Any available counseling, rehabilitation and employee assistance programs; and
  - 4. Penalties that may be imposed upon employees for drug abuse violations.
- C. Drug-Free Employment Agreement. Ensure, as required by California Government Code Section 8355(a)(3), that every employee who provides services hereunder will:
  - 1. Receive a copy of CONTRACTOR's Drug-Free Policy Statement; and
  - 2. Agree to abide by CONTRACTOR's Drug-Free Policy as a condition of employment.
- D. Effect of Non-Compliance. Failure to comply with the above-referenced requirements may result in suspension of payments under this Agreement, and/or termination thereof, and CONTRACTOR may be ineligible for award of future contracts if COUNTY determines that the foregoing certification is false or if CONTRACTOR fails to carry out such requirements.

23. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

CONTRACTOR certifies by its signature below that it is not a Nuclear Weapons Contractor, in that CONTRACTOR is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONTRACTOR agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if CONTRACTOR subsequently becomes a Nuclear Weapons Contractor.

24. WARRANTIES:

In providing professional services pursuant to the terms and conditions of this Agreement, CONTRACTOR warrants that it will perform such services in good faith and in a professional manner that the report files it sends to COUNTY will contain information from the 5010 837/835 files, and that services will be provided in compliance with all applicable local, state and federal laws and regulations. CONTRACTOR disclaims all other warranties, either express, implied or statutory, including, without limitation, warranties of merchantability and fitness for any purpose other than the purpose for which the report files would normally be used.

25. LIMITATION OF LIABILITY:

In no event, other than breaches of confidentiality of PHI, PI or PII, will either party or any of its representatives be liable to the other party for any special, indirect, incidental, exemplary,

consequential or punitive damages arising from, or in connection with, the performance of the parties' obligations hereunder, including, but not limited to, damages for loss of data, loss of use or loss of profits. Further, in no event will either party or any of its representatives' total cumulative liability to the other party for claims, losses, or damages of any kind, whether based on contract, tort, negligence, indemnity or otherwise, arising out of, or related in any way to, performance of the parties' obligations hereunder, exceed the limits of liability insurance policies that either party is required to retain hereby.

26. INDEMNIFICATION:

- A. Mutual Indemnity. 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.
- B. 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.
- C. Effect of Insurance. Acceptance of the insurance required by this Agreement shall not relieve CONTRACTOR from liability under this provision. This provision shall apply to all claims for damages related to the services performed by CONTRACTOR pursuant to the terms and conditions of this Agreement regardless of whether any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided by CONTRACTOR hereunder.

27. INSURANCE REQUIREMENTS:

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.

- A. 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:
  - 1. 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 (1) 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.

2. Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000) combined single limit coverage. Such insurance shall include coverage of all owned, non-owned and hired vehicles. Said coverage shall be at least as broad as Insurance Service Offices Form Code 1 (any auto).
  3. 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. In the event CONTRACTOR is self-insured, a Certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations Administration of Self-Insurance shall be filed with the Clerk of the Humboldt County Board of Supervisors.
  4. 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.
- B. Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:
1. 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:
    - a. Includes contractual liability.
    - b. 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."
    - c. Is the primary insurance with regard to COUNTY.
    - d. Does not contain a pro-rata, excess only and/or escape clause.
    - e. Contains a cross liability, severability of interest or separation of insureds clause.
  2. 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.
  3. 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.

4. The inclusion of more than one (1) insured shall not operate to impair the rights of one (1) 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 (1) insured shall not operate to increase the limits of the insurer's liability.
  5. 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.
  6. 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.
  7. 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.
- C. 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  
 Attention: Risk Management  
 825 Fifth Street, Room 131  
 Eureka, California 95501

CONTRACTOR: Dimension Reports LLC  
 Attention: President, Orri Rail  
 6261 Hazel Avenue  
 Orangevale, California 95662

28. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agents, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that CONTRACTOR shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation.

29. COMPLIANCE WITH LAWS AND LICENSURE REQUIREMENTS:

- A. Legal Compliance. CONTRACTOR agrees to comply with any and all local, state and federal laws, regulations, policies, procedures and guidelines applicable to the services provided pursuant to the terms and conditions of this Agreement.

- B. Humboldt County Mental Health Managed Care Agreement. CONTRACTOR agrees to comply with all provisions applicable to subcontractors in the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full. The above-referenced agreement can be obtained online at the following address: [http://humboldt.granicus.com/GeneratedAgendaViewer.php?view\\_id=2&clip\\_id=707](http://humboldt.granicus.com/GeneratedAgendaViewer.php?view_id=2&clip_id=707).
- C. Humboldt County Mental Health Performance Agreement. CONTRACTOR agrees to comply with all provision applicable to subcontractors in the Mental Health Performance Agreement (State Standard Agreement No. 16-93113) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full. The above-referenced agreement can be obtained online at the following address: <http://humboldt.legistar.com/gateway.aspx?M=F&ID=c469180d-dcf8-4627-ae05-1c9fdca06082.pdf>.
- D. Licensure Requirements. CONTRACTOR agrees to comply with any and all local, state and federal licensure, certification and accreditation standards applicable to the services provided pursuant to the terms and conditions of this Agreement.

30. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

31. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy, procedure, standard or contractual obligation referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

32. PROTOCOLS:

Both parties recognize that the inclusion of additional protocols may be required to make this Agreement specific. All such protocols shall be negotiated, determined and agreed upon by the Deputy Director and CONTRACTOR.

33. NOTIFICATION OF LITIGATION:

COUNTY shall be informed by CONTRACTOR within forty-eight (48) hours of notification of professional litigation.

34. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS:

CONTRACTOR shall make itself, and any employees, agents or subcontractors assisting CONTRACTOR in the performance of its obligations hereunder, available to DHCS at no cost to testify as witnesses, or otherwise, in the event of any litigation or administrative proceedings being commenced against DHCS, its directors, officers or employees based upon claimed violations of HIPAA, or the regulations promulgated thereunder, which involves inactions or actions by the parties hereto, except where COUNTY or CONTRACTOR is a named adverse party.

35. SEVERABILITY:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

36. ASSIGNMENT:

Neither party shall delegate its duties or assign its rights hereunder, either in whole or in part, without the other party's prior written consent. Any assignment by CONTRACTOR in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by the parties to obtain supplies, technical support or professional services.

37. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and permitted assigns.

38. NO WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement. In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement or any default which may then exist on the part of CONTRACTOR. Nor shall such payment impair or prejudice any remedy available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand repayment of, and CONTRACTOR shall promptly refund, any funds disbursed to CONTRACTOR, which in the judgment of COUNTY were not expended in accordance with the terms of this Agreement.

39. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY shall be personally liable for any default or liability under this Agreement.

40. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

41. STANDARD OF PRACTICE:

CONTRACTOR warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONTRACTOR's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances. All services provided by CONTRACTOR pursuant to the terms and conditions of this Agreement shall meet or exceed professionally recognized industry standards for quality, completeness, accuracy, timeliness, security and confidentiality.

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42. DISPUTE RESOLUTION:

If a dispute arises involving the interpretation, implementation or enforcement of this Agreement, the parties shall make every reasonable attempt to resolve the problem within thirty (30) days of becoming aware of the dispute. Each party agrees to cooperate with the other party in trying to reasonably resolve all disputes, including, if requested by either party, appointing senior representatives to meet and engage in good faith negotiations regarding resolution of the dispute. Senior representatives of the parties shall meet in person, at a mutually agreeable location in Humboldt County, within thirty (30) days of receiving written notice of a dispute, unless otherwise agreed upon by the parties. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar state statute or rule of court. Each party further agrees that informal dispute resolution, including mediation, should an in-person meeting prove unsuccessful, shall be attempted prior to seeking recourse from the courts.

43. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and COUNTY's contractual obligations under the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) and the Mental Health Performance Agreement (State Standard Agreement No. 16-93113) that COUNTY has with DHCS. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

44. ADVERTISING AND MEDIA RELEASE:

All informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. CONTRACTOR shall inform COUNTY of all requests for interviews by the media related to this Agreement before such interviews take place; and COUNTY shall be entitled to have a representative present at such interviews. All notices required by this provision shall be given to the Deputy Director.

45. SUBCONTRACTS:

CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services to be provided hereunder. Any and all subcontracts shall be subject to all applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification, privacy, security and confidentiality requirements set forth herein. CONTRACTOR shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts, whether approved by COUNTY or not.

46. ATTORNEYS' FEES:

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment

of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

47. SURVIVAL:

The duties and obligations of the parties set forth in Section 3(D) – Compensation Upon Termination, Section 8 – Audit and Retention of Performance Records, Section 9 – Inspection Rights, Section 12 – Confidential Information, Section 13 – Disclosure and Security Requirements, Section 26 – Intellectual Property Rights and Section 19 – Indemnification shall survive the expiration or termination of this Agreement.

48. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this Agreement, the terms and conditions set forth herein shall have priority.

49. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one (1) party on the basis that the other party prepared it.

50. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

51. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

52. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in their entirety any and all prior agreements, promises, representations, understandings and negotiations of the parties, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms of this Agreement are hereby ratified.

53. NON-EXCLUSIVITY:

This Agreement shall not in any way preclude or limit the right of CONTRACTOR to: (i) provide consulting or other services of any kind or nature whatsoever to any individual or entity as CONTRACTOR in its sole discretion deems appropriate, as long as such services do not breach the

confidentiality of COUNTY's confidential information, including, without limitation, PHI, PI and PII; or (ii) develop for itself or for others, materials that are competitive with those produced as a result of the services provided, irrespective of their similarity to the deliverables provided hereunder, except as may otherwise be provided herein.

54. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

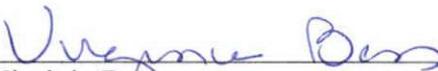
IN WITNESS WHEREOF, the parties have entered into this Agreement as of the first date written above.

DIMENSION REPORTS LLC:

By:   
Name: Orri Rait  
Title: President

Date: 8-23-2017

COUNTY OF HUMBOLDT:

By:   
Virginia Bass  
Chair, Humboldt County Board of Supervisors

Date: 9/19/17

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By:   
Risk Management

Date: 9/13/17

**LIST OF EXHIBITS:**

- Exhibit A – Scope of Services
- Exhibit B – Schedule of Rates
- Exhibit C – County of Humboldt HIPAA Business Associate Agreement

**EXHIBIT A**  
**SCOPE OF SERVICES**  
Dimension Reports LLC  
For Fiscal Years 2017-2018 Through 2020-2021

1. SERVICES:

CONTRACTOR shall obtain 5010 837 and 835 files through Secure File Transport (“SFTP”) server. The EDI files should be provided to, or obtained by, CONTRACTOR in the same format in which it is processed from the California Department of Health Care Services (“DHCS”), which should be electronic downloadable format. As a product of this service, CONTRACTOR shall produce report files using claim information stored in the EDI files.

2. DELIVERABLES:

CONTRACTOR shall deliver the report files to COUNTY in electronic downloadable format. The product will be delivered either on COUNTY’S SFTP server or CONTRACTOR’S public SFTP server. In case of use of COUNTY’S SFTP server for such deliverables, COUNTY shall provide CONTRACTOR the necessary access rights to SFTP server. CONTRACTOR will copy the deliverables in standard ASCII format. In case of use of the CONTRACTOR’S public SFTP server, CONTRACTOR will provide COUNTY necessary access rights to the SFTP server to download the deliverables as set forth in Section 11(C) of the Agreement.

3. ASSUMPTIONS:

- 90,000 TO 95,000 claim lines annually (for all payers combined)
- DMH and ADP payers
- 5010 837 and 835 Transactions
- Internet Explorer 9+, Firefox 4+, Chrome 5+ and Safari 5+ browser support

4. REPORT TYPES:

The Core Reports are Provider and 835 Claim Response based; these are the primary reports. The Supplemental Reports are specialized for denied claims and fiscal aid code categories; these are optional reports. COUNTY wishes to contract for both Core and Supplemental reports.

5. REFRESH FREQUENCY:

The Refresh Frequency refers to the number of times 837/835 EDI files are processed and new reports are published. CONTRACTOR shall provide the following refresh frequency:

- WEEKLY- One day per week.

6. CORE REPORTS:

- A. By Provider. Users will be able to view claim data by provider within a fiscal year by service date. Provider groups (Program Codes) will let providers (reporting units) to be grouped and viewed individually. Data can be viewed at a summary level (sum of all provider groups within a fiscal year) as well as at claim level details. All data can be viewed in Excel.

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- B. By Claim Response. Users will be able to view claim data by 835 response within a fiscal year by warrant date. Selecting individual warrants will show all claim data information related to warrant. Users will be able to filter by approved and denied responses. Data can be viewed at a summary level (sum of claim within an 835 response) as well as claims details. All data can be viewed in Excel.

7. SUPPLEMENTAL REPORTS:

- A. Denial Reports. Users will be able to view denied claim data by denial reason. Denial reasons will be grouped by CO Reasons 1 through 4 and Remark Codes. Users will be able to filter the denials by Provider Group (Program Code). Data can be viewed at a summary level (sum of all denial reasons within a fiscal year) as well as at claim level details. All data can be viewed in Excel.
- B. Fiscal Reports. Users will be able to view claim data by Aid Code Category (i.e. FFP, Refugee). The Aid Code Categories will be cross-walked using the member aid code (from 835 file). Payments will be shown in the appropriate bucket (i.e. County vs. Federal). Data can be viewed at a summary level (sum by Aid Code Category) to service date details. All data can be viewed in Excel.

**EXHIBIT B**  
**SCHEDULE OF RATES**  
Dimension Reports LLC  
For Fiscal Years 2017-2018 Through 2020-2021

1. RATE OF COMPENSATION:

The following cost sheet is based on annual subscription.

REFRESH FREQUENCY	<ul style="list-style-type: none"><li>• Weekly</li></ul>
REPORT TYPES	<ul style="list-style-type: none"><li>• Core</li><li>• Supplemental</li></ul>
ANNUAL SUBSCRIPTION	<ul style="list-style-type: none"><li>• \$21,600.00</li></ul>

2. INCLUDED IN COST:

- All historical fiscal years of 5010 837 and 835 files
- Claim detail reporting
- Full support for any issues that may occur due to the reporting software
- 5 hours per month of any additional consulting support
- HIPAA Secure Server (SFTP) for all file transfers (EDI and report files)
- Web Portal to manage issues and tasks

3. PAYMENT SCHEDULE:

CONTRACTOR will submit quarterly invoices to COUNTY per Section 5 of Agreement.

**EXHIBIT C**  
**COUNTY OF HUMBOLDT HIPAA BUSINESS ASSOCIATE AGREEMENT**

Dimension Reports LLC  
For Fiscal Years 2017-2018 Through 2020-2021

This Business Associate Agreement is entered into this 19<sup>th</sup> day of September, 2017, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Dimension Reports LLC, a California Limited Liability Company, hereinafter referred to as "CONTRACTOR."

**Recitals:**

- A. COUNTY, as a "Covered Entity" (defined below) wishes to disclose certain information to CONTRACTOR, hereafter known as the "BUSINESS ASSOCIATE" (defined below) pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI") (defined below).
- B. COUNTY and BUSINESS ASSOCIATE intend to protect the privacy and provide for the security of PHI disclosed to BUSINESS ASSOCIATE pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information and Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and Security Rule (defined below) requires COUNTY to enter into an Agreement containing specific requirements with BUSINESS ASSOCIATE prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Agreement.

The parties agree as follows:

**1. Definitions**

- a. **Breach** shall have the meaning given to such term under the HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402].
- b. **Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.
- c. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- d. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.

- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to the term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by COUNTY to BUSINESS ASSOCIATE or created, maintained, received, or transmitted by BUSINESS ASSOCIATE on COUNTY's behalf.
- l. **Security Incident** shall have the same meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.
- m. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- n. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.

## 2. **Obligations of Business Associate**

- a. **Permitted Uses.** BUSINESS ASSOCIATE shall use Protected Information only for the purpose of performing BUSINESS ASSOCIATE's obligations under the Agreement and as permitted or required under the Agreement, or as required by law. Further, BUSINESS ASSOCIATE shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by COUNTY. However, BUSINESS ASSOCIATE may use Protected Information as necessary (i) for the proper management and administration of BUSINESS ASSOCIATE; (ii) to carry out the legal responsibilities of BUSINESS ASSOCIATE; or (iii) as required by law. [45 C.F.R. Sections 164.504(e)(2), 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** BUSINESS ASSOCIATE shall disclose Protected Information only for the purpose of performing BUSINESS ASSOCIATE's obligations under the Agreement and as permitted or required under the Agreement, or as required by law. BUSINESS ASSOCIATE shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by COUNTY. However, BUSINESS ASSOCIATE may disclose Protected Information as necessary (i) for the proper management and administration of BUSINESS ASSOCIATE; (ii) to carry out the legal responsibilities of BUSINESS ASSOCIATE; or (iii) as required by law. If BUSINESS ASSOCIATE discloses Protected Information to a third party, BUSINESS ASSOCIATE must obtain, prior to making any such disclosure, (i) reasonable *written* assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and used or disclosed only as required by law or for the

purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BUSINESS ASSOCIATE of any breaches, suspected breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with paragraph 2.l. of the Agreement, to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)].

- c. **Prohibited Uses and Disclosures.** BUSINESS ASSOCIATE shall not use or disclose PHI other than as permitted or required by the Agreement, or as required by law. BUSINESS ASSOCIATE shall not use or disclose Protected Information for fundraising or marketing purposes. BUSINESS ASSOCIATE shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which PHI solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(vi)]. BUSINESS ASSOCIATE shall not directly or indirectly receive remuneration in exchange for Protected Information, except with prior written consent of COUNTY and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however this prohibition shall not affect payment by COUNTY to BUSINESS ASSOCIATE for services provided pursuant to the Agreement.
- d. **Appropriate Safeguards.** BUSINESS ASSOCIATE shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including but not limited to, 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BUSINESS ASSOCIATE shall comply with the policies, procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].
- e. **Business Associate's Subcontractors and Agents.** BUSINESS ASSOCIATE shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of COUNTY, agree in writing to the same restrictions and conditions that apply to COUNTY with respect to such Protected Information and implement the safeguards required by paragraph 2.d. above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BUSINESS ASSOCIATE shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- f. **Access to Protected Information.** If BUSINESS ASSOCIATE maintains a designated record set on behalf of COUNTY, BUSINESS ASSOCIATE shall make Protected Information maintained by BUSINESS ASSOCIATE or its agents or subcontractors in Designated Record Sets available to COUNTY for inspection and copying within five (5) days of a request by COUNTY to enable COUNTY to fulfill its obligations under state law [California Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(e)]. If BUSINESS ASSOCIATE maintains Protected Information in electronic format, BUSINESS ASSOCIATE shall provide such information in electronic format as necessary to enable COUNTY to fulfill its obligations under the HITECH Act and HIPAA Regulations, including, but not limited to, 42 U.S.C. Section 17935(e) and 45 C.F.R. Section 164.524.
- g. **Amendment of PHI.** If BUSINESS ASSOCIATE maintains a designated record set on behalf of COUNTY, within ten (10) days of a request by COUNTY for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BUSINESS ASSOCIATE and its agents and subcontractors shall make such Protected Information available to

COUNTY for amendment and incorporate any such amendment or other documentation to enable COUNTY to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If an individual requests an amendment of Protected Information directly from BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE must notify COUNTY in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

- h. **Accounting of Disclosures.** Within ten (10) days of a request by COUNTY for an accounting of disclosures of Protected Information, BUSINESS ASSOCIATE and its agents and subcontractors shall make available to COUNTY the information required to provide an accounting of disclosures to enable COUNTY to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by COUNTY. BUSINESS ASSOCIATE agrees to implement a process that allows for an accounting to be collected and maintained by BUSINESS ASSOCIATE and its agents and subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BUSINESS ASSOCIATE maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. If a patient submits a request for an accounting directly to BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE shall within five (5) days of the request forward it to COUNTY in writing.
- i. **Governmental Access to Records.** BUSINESS ASSOCIATE shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to COUNTY and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BUSINESS ASSOCIATE's compliance with HIPAA [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. BUSINESS ASSOCIATE shall provide COUNTY a copy of any Protected Information and other documents and records that BUSINESS ASSOCIATE provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- j. **Minimum Necessary.** BUSINESS ASSOCIATES, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)]. BUSINESS ASSOCIATE understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- k. **Data Ownership.** BUSINESS ASSOCIATE understands that BUSINESS ASSOCIATE has no ownership rights with respect to the Protected Information.
- l. **Notification of Possible Breach.** BUSINESS ASSOCIATE shall notify COUNTY within twenty-four (24) hours of any suspected or actual breach of Protected Information; any use or disclosure of Protected Information not permitted by the Agreement; any security incident (i.e., any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system) related to Protected

Information, and any actual or suspected use or disclosure of data in violation of any applicable federal or state laws by BUSINESS ASSOCIATE or its agents or subcontractors. The notification shall include, to the extent possible, the identification of each individual whose unsecured Protected Information has been, or is reasonably believed by the BUSINESS ASSOCIATE to have been accessed, acquired, used, or disclosed, as well as any other available information that COUNTY is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited, to 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.1408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BUSINESS ASSOCIATE shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].

- m. **Breach Pattern or Practice by Business Associate's Subcontractors and Agents.** Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(ii), if BUSINESS ASSOCIATE knows of a pattern or activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent's obligations under the Agreement or other arrangement, BUSINESS ASSOCIATE must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, BUSINESS ASSOCIATE must terminate the Agreement or other arrangement if feasible. BUSINESS ASSOCIATE shall provide written notice to COUNTY of any pattern of activity or practice of a subcontractor or agent that BUSINESS ASSOCIATE believes constitutes a material breach or violation of the subcontractor or agent's obligations under the Agreement or other arrangement within five (5) days of discovery and shall meet with COUNTY to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- n. **Audits, Inspection and Enforcement.** Within ten (10) days of a request by COUNTY, BUSINESS ASSOCIATE and its agents and subcontractors shall allow COUNTY or its agents or subcontractors to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BUSINESS ASSOCIATE has complied with this Agreement or maintains adequate security safeguards. BUSINESS ASSOCIATE shall notify COUNTY within five (5) days of learning that BUSINESS ASSOCIATE has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights or other state or federal government entity.

### 3. Termination

- a. **Material Breach.** A breach by BUSINESS ASSOCIATE of any provision of this Agreement, as determined by COUNTY, shall constitute a material breach of the Agreement and shall provide grounds for *immediate* termination of the Agreement, any provision in the Agreement to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Effect of Termination.** Upon termination of the Agreement for any reason, BUSINESS ASSOCIATE shall, at the option of COUNTY, return or destroy all Protected Information that BUSINESS ASSOCIATE or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by COUNTY, BUSINESS ASSOCIATE shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(ii)(2)(J)]. If COUNTY elects destruction of the PHI, BUSINESS ASSOCIATE

shall certify in writing to COUNTY that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.

4. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, and the HIPAA regulations.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first written above.

**DIMENSION REPORTS LLC:**

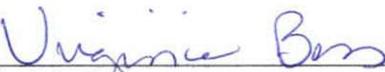
By: 

Date: 8-23-2017

Name: Orri Rai

Title: President

**COUNTY OF HUMBOLDT:**

By:   
Virginia Bass  
Chair, Humboldt County Board of Supervisors

Date: 9/19/17

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CMP-4786.1 ADDITIONAL INSURED — OWNERS, LESSEES, OR CONTRACTORS  
(Scheduled)**

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This endorsement modifies insurance provided under the following:  
BUSINESSOWNERS COVERAGE FORM

**SCHEDULE**

**Policy Number:** G 90 CEN133 0

**Named Insured:**

DIMENSION REPORTS LLC  
237 ROCHELLE CT  
ROSEVILLE CA

**Name And Address Of Additional Insured Person Or Organization:**

HUMBOLDT COUNTY DHHS - MENTAL HEALTH  
507 F ST  
EUREAKA, CA 95501

1. **SECTION II — WHO IS AN INSURED** of **SECTION II — LIABILITY** is amended to include, as an additional insured, any person or organization shown in the Schedule, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by:
- a. **Ongoing Operations**
    - (1) Your acts or omissions; or
    - (2) The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for that additional insured; or
  - b. **Products – Completed Operations**  
"Your work" performed for that additional insured and included in the "products-completed operations hazard".
- However, Paragraph 1. above is subject to the following:
- a. The insurance afforded to the additional insured only applies to the extent permitted by law;
  - b. If coverage provided to the additional insured is required by a contract or agreement, the insurance provided to the additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured; and
  - c. If the contract or agreement between you and the additional insured is governed by California Civil Code Section 2782 or 2782.05, the insurance provided to the additional insured is the lesser of that which:
    - (1) Is allowed for the satisfaction of a defense or indemnity obligation by California Civil Code Section 2782 or 2782.05 for your sole liability; or
    - (2) You are required by contract or agreement to provide for such additional insured.

We have no duty to defend or indemnify the additional insured under this endorsement until a claim or "suit" is tendered to us.

2. Any insurance provided to the additional insured shall only apply with respect to a claim made or a "suit" brought for damages for which you are provided coverage.

3. With respect to the insurance afforded to the additional insured, the following is added to **SECTION II — LIMITS OF INSURANCE:**

If coverage provided to the additional insured is required by contract or agreement, the most we will pay on behalf of the additional insured will be the lesser of the amount of insurance:

- a. Required by the contract or agreement; or
- b. Available under the applicable Limits Of Insurance shown in the Declarations.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

4. With respect to the insurance afforded to the additional insured, the following is added to Paragraph 3. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** of **SECTION II — GENERAL CONDITIONS:**

The additional insured must:

a. See to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense;

b. Tender the defense and indemnity of any claim or "suit" to us and to all other insurers who may have insurance potentially available to the additional insured; and

c. Agree to make available any other insurance the additional insured has for defense or damages for which we would provide coverage under **SECTION II — LIABILITY.**

5. With respect to the insurance afforded the additional insured, the following replaces **SECTION II — LIABILITY** of Paragraph 7. **Other Insurance of SECTION I AND SECTION II — COMMON POLICY CONDITIONS:**

a. This insurance is primary to and will not seek contribution from any other insurance available to the additional insured, provided that the additional insured is a named insured under such other insurance.

b. Regardless of any agreement between you and the additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

There will be no refund of premium in the event this endorsement is cancelled.

All other policy provisions apply.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/11/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>State Farm</b> David Hagiwara Insurance Agency Inc, lic # 0L34062 5056 Sunrise Blvd, Ste B-5 Fair Oaks, CA 95628	<b>CONTACT NAME:</b> David Hagiwara <b>PHONE (A/C, No, Ext):</b> 916 966 7877 <b>E-MAIL ADDRESS:</b> dave@greatquote4u.com	<b>FAX (A/C, No):</b> 916 966 7098
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> DIMENSION REPORTS LLC and RAIL, ORRIM 237 ROCHELLE CT ROSEVILLE CA 95661-3921	<b>INSURER A:</b> State Farm Mutual Automobile Insurance Company      NAIC # 25178	
	<b>INSURER B:</b> State Farm Fire and Casualty Company                      25143	
	<b>INSURER C:</b> State Farm General Insurance Company                      25151	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CI AIMS-MADE <input checked="" type="checkbox"/> OCCUR \$1,000 DEDUCTIBLE-SEC.I GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y Y	90-CE-N133-0	09/13/2016	09/13/2018	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	160 2103-D27-55N	04/27/2017	04/27/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y N/A	90-CT-J950-4	12/08/2016	12/08/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.I. EACH ACCIDENT \$ 1,000,000 E.I. DISEASE - EA EMPLOYEE \$ 1,000,000 E.I. DISEASE - POLICY LIMIT \$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 VEHICLE: 14 SUBARU XV CROSSTR  
 This insurance is primary and non-contributory with respects to auto liability claims arising out of the operation of the described vehicle.  
 CERTIFICATE HOLDER IS ALSO ADDITIONAL INSURED.

<b>CERTIFICATE HOLDER</b> HUMBOLDT COUNTY DHHS - MENTAL HEALTH 507 F ST EUREKA, CA 95501	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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