

AGREEMENT FRAMEWORK

This agreement framework document ("**Framework**") is entered into as of the date of last signature ("**Effective Date**") between Clinisys, Inc. ("**Clinisys**"), a Pennsylvania corporation with its principal place of business at 3300 E. Sunrise Dr., Tucson, Arizona 85718, and County of Humboldt ("**Client**"), a political subdivision of the State of California located at Courthouse 825 5th Street, Eureka, California 95501 (each individually a "**Party**" and collectively the "**Parties**").

1. This Framework, along with the following terms and conditions, comprise the terms and conditions under which Clinisys agrees to grant to Client a Subscription to the SaaS and/or provide the services set forth in an Order (the "**Agreement**"):

General Terms	Version 2023.09.22
SaaS Terms	Version 2023.09.22
Insurance Terms	
Business Associate Agreement	
Each Order (as separately executed)	Each Order's Effective Date

2. This Agreement shall begin upon execution by both Parties and shall remain in full force and effect for a period of one year, unless extended by a valid amendment hereto or sooner terminated as set forth herein.
3. The Parties and each individual executing this Agreement on behalf of each Party represent and warrant that such individual is duly authorized to execute and deliver the Agreement on behalf of their Party.

In consideration of the mutual promises contained in the Agreement, by the signatures below, each Party acknowledges that they agree to be bound by the terms of the Agreement.

County of Humboldt

Signature: _____
(Pursuant to the authority granted by the
Humboldt County Board of Supervisors
on _____, 20 [Item -])

Name and Title: _____

Date: _____

INSURANCE AND INDEMNIFICATION REQUIREMENTS
APPROVED BY RISK MANAGEMENT:

Signature: _____
Name and Title: Jennifer Oakley, Risk Analyst
Date: 7/2/2026

Clinisys, Inc. Signed by:
Signature: Anne Rounds
5D44D77AF831471...
Name and Title: Anne Rounds Director of Contracts
Date: 02 July 2026 | 07:28 MST

Signed by:
Signature: George Buchana
2AF2FFD3837D420...
Name and Title: George Buchana/VP, Contracts
Date: 02 July 2026 | 18:12 BST

GENERAL TERMS

The following terms ("General Terms") set forth the general business terms and conditions under which Clinisys agrees to grant to Client a Subscription to the SaaS and/or provide the Services set forth in an Order, all subject to Client's compliance with the terms of the Agreement.

1 DEFINITIONS.

Any capitalized terms used but not defined in these General Terms have the meaning set forth in the SaaS Terms or an Order.

- 1.1 **Affiliate** means an entity controlling, controlled by, or under common control with, a Party, where "control" means the ability to direct the management of such entity in any manner.
- 1.2 **Authorized User** means any person or entity authorized by Client to use the SaaS.
- 1.3 **Client Data** means all Client data entered into, processed, and resulting output data received through use of the SaaS, by Client and its Authorized Users and all Client data accessed, processed or stored by Clinisys in the provision of SaaS or Services.
- 1.4 **Confidential Information** means any non-public information related to, disclosed by or on behalf of either Party to the other, which is either marked as confidential or is understood by a reasonable person to be confidential due to its nature, including but not limited to: Trade Secrets (as defined by the Uniform Trade Secret Act); proprietary information including, but not limited to software source and object code and all components and documentation thereof; technical processes and formulas; SaaS, benchmark and performance test results; product designs; sales, cost, and other unpublished financial information; product and business plans; projections and marketing data; customer lists; the terms and conditions (but not the existence) of the Agreement; and Client Data and any information protected by law revealing the identity, personal information of any person. Confidential Information does not include information (a) independently developed by the recipient without use of the discloser's Confidential Information; (b) that is or becomes generally known to the public through no act or omission of recipient; or (c) obtained by recipient from any third party not owing any confidentiality obligation to the discloser.
- 1.5 **Documentation** means the user guide(s), instructions, release notes, manuals and on-line help files generally made available by Clinisys to its customers regarding the functional and operational capabilities of the SaaS.
- 1.6 **Fee(s)** means the fees payable by Client, as outlined in an Order.
- 1.7 **Order** means any document executed by the Parties specifying the SaaS and/or Services provided to Client by Clinisys.
- 1.8 **Order Term** means the Initial Term and Renewal Term for each Order, as each are defined in the relevant Order.
- 1.9 **Services** mean the installation, implementation, training, consulting and/or other services designated as "Service" in an Order.
- 1.10 **Subscription** means the period of time specified in the applicable Order, during which Clinisys grants access to Client to the SaaS.
- 1.11 **Support** means the Clinisys support and maintenance services provided for the SaaS, as set forth in the SaaS Terms.
- 1.12 **System Requirements** has the meaning set forth in the SaaS Terms.
- 1.13 **Updates** has the meaning set forth in the SaaS Terms.
- 1.14 **Usage** means a Subscription that enables Client to pay based on actual usage during a specified period, such as maximum number of users, devices, transactions, units, reports, or other similar basis for a specified period, as designated and/or defined in the applicable Order.

2 ORDER TERMS

- 2.1 **Implementation.** Following execution of an Order, the Parties will develop a plan for the implementation and delivery of the SaaS and/or Services, designating the Parties' relevant responsibilities and project timelines ("**Implementation Schedule**"). The Parties will cooperate in the timely performance of their respective tasks in the Implementation Schedule. In the event Client solely causes a delay in the Implementation Schedule which requires the project to be stopped and subsequently resumed, Client agrees to pay any additional Fees Clinisys may charge for any services required to complete implementation, subject to advance written notice of such Fees. Unless otherwise set forth in an Order, Client agrees to complete implementation and accept delivery of all components of an Order within twelve (12) months from the Order's effective date ("**Order Duration**"). In the event Client does not complete implementation within the Order Duration, Client agrees to pay for any remaining components of the Order that have not been paid regardless of whether such components have been delivered to Client.
- 2.2 **Fees.** All Fees and any other charges stated in an Order are payable in U.S. dollars subject to the payment terms in such Order. Subscription Fees will apply to all elements of the SaaS which are required to be used conjunctively by Client under an Order.
- 2.3 **Payments.** Payments are due thirty (30) days from the date of an undisputed invoice. Client agrees to advise Clinisys of invoice disputes prior to the invoice due date and agrees to pay any undisputed amounts by the due date. Disputes will be resolved in accordance with Section 8.1.
- 2.4 **Travel and Related Expenses.** Client will reimburse Clinisys' actual, reasonable travel, living and other incidental expenses incurred for Services performed on Client's premises.
- 2.5 **Late Payments.** Client agrees that undisputed Fees that are unpaid thirty (30) days following the invoice due date will incur interest charges of 1.5% per month until paid. If still unpaid thirty (30) days after the invoice due date, Clinisys may without prior written

notice and notwithstanding the termination provisions of these General Terms, suspend Support until all past due amounts are paid. During the suspension, Client understands Support will not be provided but Fees will continue to accrue.

- 2.6 **Taxes.** Fees set forth in Orders are not quoted to include taxes, duties, tariffs, levies, and similar assessments, however invoices issued to Client for payment of such Fees will include applicable taxes payable by Client unless Client provides a certificate of exemption to Clinisys. Client is responsible for all applicable non-income taxes relating to the products, materials, and services provided, including, without limitation, those which may subsequently become due because of any (i) tax law changes, (ii) changes in interpretation of existing tax law, and (iii) tax audits.
- 2.7 **Annual Fee Assessment.** Clinisys may increase Subscription Fees each year of the Order Term with ninety (90) days advance written notice. Any such increase will not exceed the annual percentage increase in the CPI for the previous calendar year. Subscription Fees are payable annually in advance and may not be reduced during the relevant Order Term. Subscription Fees added through subsequent Orders will be prorated based upon the due date of the Order Term to provide a consistent annual renewal date for all licensed or purchased products. For the purposes of the Agreement, CPI means Consumer Price Index for All Urban Consumers, U.S. City Average, All items 1982-84 = 100 published by the United States Department of Labor, Bureau of Labor Statistics.
- 2.8 **Usage Fees.** For Subscriptions based upon Usage, the minimum Fees for the first year of Usage are based upon estimates provided by Client. Prior to the end of each year of the Order Term, the Usage for the then-current year will be evaluated by Clinisys to determine whether actual Usage during the then-current year exceeded the Usage Fees paid. In such event, Client must pay Fees for any actual Usage exceeding the Usage Fees paid. The actual Usage at the end of each year will establish the Usage Fee for the subsequent year of the Order Term.

3 PROPRIETARY RIGHTS AND CONFIDENTIALITY

3.1 Ownership.

- (a) **Clinisys.** Ownership of, and title to the SaaS, any deliverables developed or provided pursuant to the Services, and to Clinisys' Confidential Information, and all intellectual property rights embodied therein, are vested in Clinisys and its Affiliates and licensors, as applicable. Client shall not take any action inconsistent with such title and ownership. Client acknowledges that (i) suggestions, comments, feedback, or the like provided by Client to Clinisys is provided for Clinisys to use for any purpose and that Clinisys has sole discretion whether to incorporate such suggestions, comments, feedback, or the like into its offerings.
- (b) **Client.** Ownership of, and title to, the Client's Confidential Information is vested in Client, its Affiliates, or the subjects of Client Data, as applicable. Clinisys shall not take any action inconsistent with such title and ownership.

- 3.2 **Confidentiality.** In the performance of the Agreement, the Parties will be exposed to or provided with certain Confidential Information of the other Party. Each Party will protect the other's Confidential Information with the same degree of care used to protect its own Confidential Information but in no event less than a reasonable amount of care. Except as required by law or as otherwise agreed between the Parties, neither Party will use the other Party's Confidential Information for purposes other than as necessary for its performance hereunder and as may be required to report to its Affiliates, legal, and financial advisors as long as such persons are bound by confidentiality obligations no less strict than those herein. Either Party may disclose the Confidential Information of the other Party to the extent required by law or court order or other governmental authority, provided recipient must promptly notify the discloser prior to such disclosure to enable discloser to seek a protective order or otherwise prevent or restrict such disclosure.

- 3.3 **Client Data.** To the extent Clinisys has access to, processes or stores Client Data, Clinisys will only use, store, disclose, or access Client Data: (i) in accordance with the Agreement, (ii) only to the extent necessary to perform its duties under this Agreement, and (iii) in full compliance with applicable laws and regulations. Clinisys will implement and maintain controls reasonably necessary to prevent unauthorized use, disclosure, loss, acquisition of, or access to Client Data. All transmissions of Client Data by Clinisys will be performed using a secure transfer method. Client acknowledges Clinisys and its licensors exercise no control over the content, accuracy, or adequacy of the Client Data. Notwithstanding any other provision in the Agreement to the contrary, Client agrees that Clinisys may use the anonymized aggregated data submitted by Client as input in connection with Client's use of the SaaS for statistical analysis. Clinisys agrees that the analysis will not disclose to any other organization or entity (i) information linked to an identifiable person or sample, or (ii) the identity of any person or sample, or (iii) that Client is the source of such data. Clinisys may use this information without restriction for any purpose including the development and/or marketing of a benchmarking database to compare utilization patterns and/or improvement of the SaaS.

- 3.4 **Equitable Relief.** The Parties agree monetary damages may not be an adequate remedy if this Section 3 is breached and, therefore, either Party shall, in addition to any other legal or equitable remedies, be entitled to seek an injunction or similar equitable relief without bond against such breach or threatened breach.

4 LIMITATION OF LIABILITY

- 4.1 **Limitation of Types of Damages.** EXCEPT AS PROHIBITED BY LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES OR LIABILITIES FOR ANY CAUSE WHATSOEVER ARISING OUT OF OR RELATING TO THE AGREEMENT, INCLUDING ALL ORDERS, ADDENDA OR AMENDMENTS HERETO, WHETHER IN CONTRACT, TORT, OR BY WAY OF INDEMNITY OR OTHERWISE, INCLUDING A BREACH THEREOF, INCLUDING, WITHOUT LIMITATION, DAMAGES OR LIABILITIES FOR LOST PROFIT, LOST REVENUE, LOSS OF USE, LOSS OF DATA, AND COSTS OF RECREATING

LOST DATA, WHETHER EITHER PARTY HAS OR GAINS KNOWLEDGE OF THE EXISTENCE OF SUCH DAMAGES OR LIABILITIES.

- 4.2 **Limitation of Liability.** EXCEPT AS PROHIBITED BY LAW, THE CUMULATIVE, AGGREGATE LIABILITY OF CLINISYS AND ITS LICENSORS TO CLIENT AND/OR ITS AFFILIATES FOR ALL CLAIMS, LIABILITIES AND DAMAGES (INCLUDING FOR ATTORNEYS' FEES) ARISING OUT OF OR RELATING TO THE AGREEMENT, INCLUDING ALL ORDERS, ADDENDA OR AMENDMENTS HERETO, WHETHER IN CONTRACT, TORT, OR BY WAY OF INDEMNITY OR OTHERWISE, INCLUDING A BREACH THEREOF, WILL NOT EXCEED THE FEES PAID TO CLINISYS UNDER THE AGREEMENT.
- 4.3 **Exclusions.** The limitation of liability in Section 4.2 above shall not apply to either Clinisys' indemnification obligation or either Party's breach of the confidentiality obligations hereunder.
- 4.4 **No Substitute for Professional Judgment.** The SaaS and/or Services are not intended to provide professional advice, to determine or recommend an appropriate course of action, or to otherwise provide professional services. Client, for itself and on behalf of its Authorized Users and Affiliates, acknowledges that the SaaS and/or Services are not intended as a substitute for professional judgment and Clinisys shall have no responsibility, obligations or other liability related to any failure to exercise such professional judgment.

5 INDEMNIFICATION

- 5.1 **By Clinisys.** Provided Client is current on its payment of Subscription Fees, Clinisys will defend and indemnify Client against any third party claim asserted in its entirety that the SaaS infringes any United States trademark, patent, copyright, or Trade Secret, in which event Clinisys may, for the affected SaaS, at its sole option and expense: (i) obtain for Client the right to continue use; or (ii) replace or modify to correct the SaaS while giving substantially equivalent functionality. If the remedies in (i) or (ii) are not reasonably available, Client may terminate the relevant Subscription and Clinisys will provide a pro-rated refund of applicable prepaid Subscription Fees for the remainder of the Order Term. Notwithstanding any terms in this Section 5.1, Clinisys will have no liability for infringement claims, and Client will be responsible for such claims if the alleged infringement is based on or arises from: (u) Client Data; (v) combination or use of the SaaS with any third party product, service or data; (w) the modification of the SaaS by anyone other than Clinisys; (x) the use of the SaaS not in accordance with the Documentation, System Requirements, or the Agreement; (y) failure to install any Critical Updates; or (z) the use of other than the then most current or one prior supported Release. THE FOREGOING STATES CLINISYS' ENTIRE LIABILITY AND CLIENT'S EXCLUSIVE REMEDY FOR ANY CLAIM OF INFRINGEMENT.
- 5.2 **By Client.** Intentionally omitted.
- 5.3 **Conditions for Indemnification.** A Party seeking indemnification ("Indemnitee") must promptly notify the other Party ("Indemnitor") of the claim. Indemnitor will have sole control of the defense, compromise or settlement of the claim and Indemnitee must provide information, reasonable assistance, and authority to enable the Indemnitor to do so. The Indemnitee may participate in the defense of any suit or proceeding at its own expense; however, such participation will not include the right for Indemnitee to settle, influence or compromise the claim in any manner. Indemnitor will have the right to settle any claims, provided, however, Indemnitor shall make no admission of fault or wrongdoing as to Indemnitee without Indemnitee's prior express written consent.

6 WARRANTIES

- 6.1 **SaaS Warranty.** Clinisys warrants that the SaaS conform(s) in all material respects to the Documentation for the Order Term.
- 6.2 **Services Warranty.** Clinisys warrants that all Services will be performed in a skillful manner consistent with generally accepted industry standards and will conform to the specifications set forth in an Order for ninety (90) days from performance of the Services.
- 6.3 **Exclusions.** Use of the SaaS not in compliance with the Documentation or the Agreement is a material breach of the Agreement and voids all applicable Clinisys warranties and relieves Clinisys of any obligation to provide the Subscription.
- 6.4 **Remedies.** Prior to expiration of the applicable warranty period, Client must notify Clinisys in writing detailing any alleged breach of any of the foregoing warranties. Within thirty (30) days of receipt of such notice or such other period as the parties may agree: (i) for SaaS (provided that Clinisys can reproduce or recreate any reported nonconformance), Clinisys will correct the non-conformance; or (ii) for Services, Clinisys will re-perform any non-conforming Services. If the non-conformance cannot be corrected with reasonable commercial efforts, Clinisys or Client may terminate the applicable Subscription or Services and Client will be refunded: (1) Subscription Fees pre-paid for the Subscription for the remaining Subscription Term and/or (2) Fees paid for the applicable Services. If Client elects not to terminate the affected portion of the Subscription or Services, Client waives all warranty rights set forth herein. The foregoing constitutes Client's sole remedies and Clinisys' sole obligation in the event of any warranty claim hereunder.
- 6.5 **Warranty Exclusions.** EXCEPT AS SET FORTH IN THIS SECTION 6, NEITHER CLINISYS NOR ITS AFFILIATES MAKE ANY WARRANTY, REPRESENTATION, CONDITION OR AGREEMENT WITH RESPECT TO THE SAAS OR SERVICES OBTAINED HEREUNDER. CLINISYS AND ITS AFFILIATES EXPRESSLY DISCLAIM AND EXCLUDE TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY AND ALL IMPLIED AND EXPRESS WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLINISYS DOES NOT REPRESENT THAT THE OPERATION OF THE SAAS WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL ERRORS WILL BE CORRECTED.

7 TERMINATION AND EFFECTS

- 7.1 The Agreement may be terminated in its entirety by either Party:

- (a) Sixty (60) days following written notification to the other Party of an alleged breach of a material term if the other Party has not taken substantial steps to cure by the 60th day.; provided, however, that such cure period for failure to pay in accordance with Clause 2.3 herein is reduced from sixty (60) days to thirty (30) days.
 - (b) Immediately in the event of any breach of any of the terms of the Agreement that are incapable of remedy, or of a Party's bankruptcy, or the appointment of a trustee or receiver.
- 7.2 Termination of the Agreement has the effect of terminating all Orders, Services, and Subscriptions hereunder, with all accrued but unpaid Fees becoming immediately due and payable.
- 7.3 Once terminated, Client will have no further right to use the SaaS. Clinisys will disable Client's access to the SaaS and Client must de-install and/or destroy any Confidential Information received from Clinisys in Client's possession. Client must certify in writing to Clinisys within ten (10) days following termination of its compliance with this Section 7.3.
- 7.4 Upon termination of the Agreement and at Client's request, Clinisys will return to Client any Client Confidential Information in Clinisys' possession or under its control except for product, account, or financial information to be retained by Clinisys in the normal course of business.
- 7.5 In the case of Client Data related to an expired or terminated SaaS, upon Client's request, Clinisys will provide Client with written certification of destruction of the same following the next media rotation cycle. In the event Client desires return of Client Data, Client must provide written request to Clinisys within 30 days of termination. Clinisys will use reasonable efforts to work with Client to extract Client Data from the SaaS in accordance with Clinisys' then-current fees and policies. Unless required by law, Clinisys shall neither retain nor bear responsibility or obligations for Client Data after thereafter.
- 7.6 Notwithstanding anything in this Section 7 to the contrary, either Party may retain any of the other Party's Confidential Information for regulatory or legal purposes, and such copies will be subject to the obligations of confidentiality hereunder.
- 7.7 Business Associate Agreement. A material breach of the Business Associate Agreement shall constitute a material breach of this Agreement and shall be subject to Section 7.1(a).

8 GENERAL PROVISIONS

- 8.1 **Governing Law and Disputes.** The laws of the State of Arizona govern the Agreement without regard to the conflict of laws principles. The Parties agree to attempt in good faith to informally resolve any disputes arising out of the Agreement by negotiation between executives who have authority to settle the dispute. In the event a dispute remains unresolved following informal negotiation, the Parties agree to submit the dispute to binding arbitration in the defending Party's jurisdiction, with each Party bearing its own costs. The Agreement is not subject to the United Nations Convention on Contracts for the International Sale of Goods.
- 8.2 **Survival.** All provisions survive termination of the Agreement except those requiring performance only during the term of the Agreement.
- 8.3 **Entire Agreement, Amendment, Waiver, Conflict.** The Agreement, and any attachments, amendments, or addenda thereto, constitute the entire agreement between the Parties regarding the subject matter hereof and supersedes all previous oral and written communication or understanding of the Parties. No amendment to the Agreement or additional terms contained in Client's purchase order will bind either Party unless agreed in writing signed by authorized representatives of both Parties. A Party's failure to enforce a breach or exercise any right provided hereunder will not constitute a waiver of such breach, successive breach, or any right. Except as otherwise expressly stated in an applicable Order, in the event of a conflict between documents, the following order of precedence will control: (1) General Terms; (2) Order, excluding any attachments; (3) any attachments to an Order; and (4) SaaS Terms.
- 8.4 **Severability.** Any provision of the Agreement deemed invalid or unenforceable will be limited, modified, or severed to the extent necessary, to eliminate its invalidity or unenforceability, and all other provisions of the Agreement will remain in full force and effect.
- 8.5 **Assignment.** Neither Party may assign the Agreement in whole or in part without the prior written consent of the other Party, except as otherwise permitted by applicable law. In the case of any permitted assignment, the Agreement will be binding upon, and inure to the benefit of, permitted assigns. An assignment by Client hereunder may require additional fees in the event that the proposed assignment is to an assignee of a size and complexity that is greater than Client and for which such assignee desires increased use and/or access.
- 8.6 **Export.** Client hereby agrees not to, directly or indirectly, access, transmit or use the SaaS in any country, entity or individual to which such transmission is restricted by applicable law.
- 8.7 **License to the Government.** If any Software or Third Party Software is acquired by or on behalf of a unit or agency of the United States Government, the Government agrees such Software or Third Party Software is "commercial computer software" or "commercial computer software documentation" and that, absent a written agreement with Clinisys to the contrary, the Government's rights with respect to such Software are, in the case of civilian agency use, Restricted Rights, as defined in FAR §52.227.19, and if for Department of Defense use, limited by the terms of the Agreement, pursuant to DFARS §227.7202.
- 8.8 **Force Majeure.** If either Party cannot perform any of its obligations under the Agreement due to any cause beyond such Party's reasonable control and without its fault or negligence, the affected Party's performance will be extended for the period of delay or

inability to perform due to such occurrence, and provided further if such condition continues for a period of one hundred eighty (180) days, either Party may terminate the Agreement. This provision will not apply to payment obligations, except those that are discharged due to such termination.

- 8.9 **Non-solicitation.** Without the other Party's written consent, neither Party will solicit any employee of the other within twelve (12) months from the last date such person worked in a professional capacity hereunder. This provision will not apply to employees who independently reply to a published solicitation for employment.
- 8.10 **Publicity.** Neither Party shall make any public announcement relating to the Agreement without the prior written approval of the other Party (such approval not to be unreasonably withheld), except as otherwise required by law. Notwithstanding, Clinisys may in press releases, advertising or other publicly disseminated materials refer to the existence of the Agreement.
- 8.11 **Relationship.** The Parties agree neither Party is the agent, representative, employer, or employee of the other Party, nor are they joint venturers or partners for any purpose.
- 8.12 **Third Party Beneficiaries.** There are no intended third party beneficiaries of the Agreement.
- 8.13 **Compliance, Audits.** During the term of the Agreement and for one (1) year following termination, Client agrees that Clinisys or an independent auditor may perform an audit and/or request records to verify Client's compliance with the terms of the Agreement, including product usage. If the audit reveals any noncompliance, Client will reimburse Clinisys for the reasonable costs and expenses incurred, and Client will promptly cure any noted noncompliance, including payment of fees payable from the first date of noncompliance.
- 8.14 **Notices.** Official communications between the Parties must be in English, addressed to the attention of the relevant Party's legal department at the address specified on the applicable Order and either personally delivered or sent via a tracked delivery service. Notices are effective upon receipt.
- 8.15 **Compliance with Laws.** Each Party must comply with all state, national and foreign laws applicable to its obligations under the Agreement. Client agrees it is solely responsible for ensuring its organization and practices comply with applicable data security and privacy regulations.
- 8.16 **Interpretation.** The headings are for reference only and will not control or affect the meaning or construction of any provision of the Agreement. No presumption or interpretation for or against any Party shall arise based on the drafting of the Agreement.

8.17 Non-Discrimination Compliance.

- A. **Nondiscriminatory Delivery of Social Services.** In connection with the execution of this Agreement, Clinisys, and its subcontractors, shall not unlawfully discriminate in the performance of Services under this Agreement. Clinisys hereby assures that no person shall be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving local, state or federal financial assistance because of: race; religion or religious creed; color; age, over forty (40) years of age; sex, including, without limitation, gender identity and expression, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality; national origin; ancestry; marital status; medical condition, including, without limitation, cancer and genetic characteristics; mental or physical disability, including, without limitation, HIV status and AIDS; political affiliation; military service; denial of family care leave; or any other classifications protected by any and all applicable local, state or federal laws, regulations or standards, all as may be amended from time to time. Clinisys reserves the right to monitor the services provided hereunder in order to ensure compliance with the requirements of this provision.
- B. **Professional Services and Employment.** In connection with the execution of this Agreement, Clinisys, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of: race; religion or religious creed; color; age, over forty (40) years of age; sex, including, without limitation, gender identity and expression, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality; national origin; ancestry; marital status; medical condition, including, without limitation, **cancer and** genetic characteristics; mental or physical disability, including, without limitation, HIV status and AIDS; political affiliation; military service; denial of family care leave; or any other classifications protected by any and all applicable local, state or federal laws, regulations or standards, all as may be amended from time to time. Nothing herein shall be construed to require the employment of unqualified persons.
- C. **Compliance with Anti-Discrimination Laws.** Clinisys further assures that it, and its subcontractors, will abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, et seq.; California Government Code Sections 4450, et seq.; 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 and supplemented by United States Executive Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state or federal laws, regulations or standards, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission

implementing California Government Code Section 12990, set forth in Sections 8101, et seq. of Title 2 of the California Code of Regulations are incorporated herein by reference as if set forth in full.

8.18 Nuclear-Free Humboldt County Ordinance Compliance.

By executing this Agreement, Clinisys certifies that it is not a Nuclear Weapons Contractor, in that Clinisys 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. Clinisys hereby agrees to notify Client promptly if it becomes a Nuclear Weapons Contractor as defined above. Clinisys may immediately terminate this Agreement if it determines that the foregoing certification is false or if Clinisys subsequently becomes a Nuclear Weapons Contractor.

8.19 Drug-Free Workplace Certification

By executing this Agreement, Clinisys certifies that it will provide a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350, et seq.) 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:
 - 1. The dangers of drug abuse in the workplace;
 - 2. Clinisys' 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 pursuant to the terms and conditions of this Agreement shall:
 - 1. Receive a copy of Clinisys' Drug-Free Policy Statement; and
 - 2. Agree to abide by Clinisys' Drug-Free Policy as a condition of employment.
- D. Effect of Non-Compliance. Failure to comply with the requirements set forth herein may result in termination of this Agreement and/or ineligibility for award of future contracts.

SAAS TERMS

These terms and conditions apply only to products and services designated as “SaaS” in an Order (“SaaS Terms”). Capitalized terms that are used but not defined herein have the meaning set out in the General Terms.

1. Supplemental Definitions.

- 1.1. **Critical Updates** mean those Updates intended to remedy safety or critical security issues, or third-party infringement claims against the SaaS.
- 1.2. **Error** means a material failure of the SaaS to conform to its functional specifications described in the Documentation
- 1.3. **Live Operation** means the first date on which the SaaS, or a portion thereof, is capable of productive use by Client.
- 1.4. **Release** means a new or upgraded version of the SaaS containing improvements, Updates, and bug corrections, and as may be identified by a change in the numeric designation. Releases exclude new products for which Clinisys generally charges a separate Subscription Fee.
- 1.5. **SaaS** means the services and Support provided to Client and information technology infrastructure managed by Clinisys, which are designated as “SaaS” in an Order, to deliver Clinisys’ proprietary software, third party software or services (as applicable), object code, source code, Updates, Releases, and Documentation provided hereunder in a Clinisys-hosted environment under a Subscription.
- 1.6. **System Requirements** means the Clinisys-specified hardware, third party software, operating system configuration, network requirements and other technical specifications for the Client’s environment to enable Client’s use of SaaS, as modified from time to time by Clinisys.
- 1.7. **Updates** means minor modifications or enhancements to the SaaS (including corrections to Errors) which Clinisys makes generally available to customers under Subscription.
- 1.8. **User System** means any computer hardware, software, telecommunication, connections, or other equipment owned and/or maintained by Client that is necessary for Clinisys to interface with the Client’s systems (i.e., a gateway, user workstations, communication server, etc.) or for Client and its Authorized Users to access or use the SaaS from Client’s or Authorized Users’ facilities.

2. Rights.

- 2.1. **Access and Use.** During the Order Term, Clinisys grants to Client a non-exclusive, non-assignable, non-transferable, and limited right for Client and its Authorized Users to access and use the SaaS identified on each Order, solely for Client’s own internal business purposes, in accordance with the limitations herein and in the Order. Client agrees it will be responsible for (i) its Authorized Users’ access to and use of the SaaS, and (ii) enforcement of these terms against such Authorized Users.
- 2.2. **Copies.** Client may make a reasonable number of copies of the Documentation solely to support use of the SaaS. All proprietary rights and notices must be reproduced and included on such copies.
- 2.3. **External Information.** The SaaS may contain links to or content from third party information sources (“External Information”). Client understands and agrees External Information is provided by Clinisys solely for convenience and that Client’s and its Authorized Users’ use of External Information is subject exclusively to the terms of the relevant provider’s licensing terms. Clinisys makes no warranties of any kind as to the External Information, including merchantability or fitness for a particular purpose, nor does Clinisys accept any liability with respect to the External Information.

3. Restrictions. Except as otherwise expressly permitted in the Agreement, Client and/or its Authorized Users may not, and they may not allow any other person to, directly or indirectly:

- 3.1. use the SaaS in excess of the limitations as stated in an Order, such as the maximum number of users, devices, reports, or similar terms;
- 3.2. copy, republish or make the SaaS available to any person other than an Authorized User, including but not limited to, providing service bureau, time-sharing or other computer hosting services to third parties;
- 3.3. remove, modify, or obscure any copyright, trademark or other proprietary notices contained in the SaaS;
- 3.4. change, alter, translate, reverse engineer, decompile, disassemble, modify, create derivative works of, or otherwise attempt to derive the Source Code or the algorithms, structure, or organization of the SaaS;
- 3.5. use or facilitate use of the SaaS in any way that is harassing, harmful, obscene, threatening, libelous, or otherwise tortious, or for illegal, abusive, or unethical activities (including violations of law or privacy, hacking, or computer viruses);
- 3.6. collect any information from the SaaS using “web-bots”, “scraping”, “crawling”, “spidering”, or any other method not explicitly approved in writing by Clinisys;
- 3.7. provide, post, or transmit any data infringing or violating any intellectual property rights or publicity/privacy rights, or containing any viruses or programming routines that may damage, interrupt, or appropriate the SaaS;
- 3.8. use any of Clinisys’ Confidential Information to create any product or service similar to or competitive with the SaaS;
- 3.9. alter in any way any Source Code and/or any controls enabling or restricting access to the SaaS;
- 3.10. use the SaaS in any manner that violates the terms of the Agreement, including in violation of any applicable law, regulation or commonly accepted standards of network and application usage; or
- 3.11. operate the SaaS on any User System not meeting the System Requirements.

Breach of any of the foregoing restrictions is a material breach of the Agreement, voids all Clinisys warranties as to the SaaS and relieves Clinisys of any obligation to provide Support.

4. **Client Responsibilities.**

- 4.1. **Assistance.** Client must provide commercially reasonable information and assistance to Clinisys to enable Clinisys to deliver the SaaS.
 - 4.2. **User System.** Client must procure and support any User System and provide Clinisys with access to the User System at any time such access is needed for Clinisys to perform its responsibilities under the Agreement. Client's failure to provide access as required herein will result in suspension of any performance by Clinisys of its responsibilities and relieve Clinisys of any related contractual obligation to perform its responsibilities for so long as such access is not provided.
 - 4.3. **Security.** Client is responsible for the security of its facilities, data centers, servers, network, backup systems, computing equipment, and information transmission, storage, and User System. Client must immediately notify Clinisys of any: (i) known or suspected breach or cybersecurity incident, including but not limited to ransomware, malware, or a denial of service attack; (ii) unauthorized use of any password or user ID; or (iii) suspected or known unauthorized use of the SaaS. Upon notification, in its sole and reasonable discretion, Clinisys may suspend Clinisys' connections to Client's systems (as applicable) or Client's connection to the SaaS until Clinisys determines there is no threat to the security of Clinisys' systems and/or SaaS.
 - 4.4. **Permissions.** Client must obtain all necessary permissions from the owners and/or subjects of the Client Data prior to uploading any Client Data to the SaaS. Client is solely responsible for the collection, input and update of all Client Data stored and used on the SaaS or provided or made available to Clinisys for the purposes of this Agreement, including any consents required for personally identifiable information.
 - 4.5. **Data Audit and Testing.** Prior to Live Operation, Client must audit its Client Data, including but not limited to test results and billing transactions, to ensure the integrity of the data imported into the SaaS. Client will have sole responsibility for the accuracy and/or adequacy of information imported into the SaaS. Client will perform its own testing for the SaaS, including testing the file setup, Updates and Releases, prior to utilizing them in Live Operation. Client's use of the SaaS in Live Operation will constitute Client's acceptance.
 - 4.6. **Updates and Releases.** Client agrees to install and use in Live Operation all Critical Updates and the most current or one prior supported Release of the SaaS. Failure or refusal of Client to accept Critical Updates and/or the most current or one prior supported Release is a material breach of the Agreement.
 - 4.7. **Client Super User.** Client will maintain a full-time, qualified individual who is responsible for overseeing the proper functioning of the SaaS. If Clinisys is required to provide such services to Client due to lack of Client resources, Client agrees to pay for such services on a time and materials basis at Clinisys' then-current rates. Client understands and agrees the fees for any such services will be in addition to the SaaS Subscription Fees.
 - 4.8. **Training.** Client agrees all Authorized Users will receive training by Client or Clinisys prior to using the SaaS. Client is responsible for documenting its own internal policies and procedures relating to the use of the SaaS and agrees such policies and procedures will be available to the Authorized Users prior to Live Operation.
 - 4.9. **License from Client.** Client grants to Clinisys and its licensors a limited, royalty-free, non-exclusive, and non-transferable license to copy, electronically store, configure, implement, process, display and transmit Client Data solely as necessary to provide the SaaS and Support to Client and its Authorized Users.
 - 4.10. **Rules-Based Services.** Client agrees and acknowledges the content of any algorithms, and any corresponding results and actions, are solely Client's responsibility. While Clinisys may offer consulting, training and/or predefined algorithms and rules to implement certain parameters for processing such results and actions, Client agrees the final identified parameters will always be determined by, and be the sole responsibility of, Client.
5. **Support.** The following Support is made available by Clinisys to Client for SaaS under a Subscription, provided Client remains current on its obligations for payment.
- 5.1. **Provision of Services.** Except as otherwise provided in Section 4 (Client Responsibilities), Clinisys is responsible for providing all equipment, servers, software, and networking infrastructure to provide the Services under these SaaS Terms.
 - 5.2. **Availability and Response.** Clinisys will provide Support for the most current and one prior Release of SaaS made generally available, on a twenty-four (24) hour per day, 365 days per year basis. Clinisys will use reasonable efforts to respond to any request for Support within one (1) hour for Critical Problems, within one and a half (1.5) hours for Urgent Problems and no later than the next business day for Routine Problems (defined below). Clinisys and Client will jointly determine the category of problem based on each Party's professional discretion and all the facts available. Clinisys' response to Critical Problems, Urgent Problems or Routine Problems may be in person, via telephone conversation with the Client, on-line or by communication with the relevant SaaS. All requests for Support will be documented by Clinisys with time and date of reported incident, description of the reported incident, and explanation of Support services performed.
 - 5.2.1 **"Critical Problems"** means Errors completely preventing use of the SaaS with no immediately available and reasonable workaround (i.e.: SaaS is down or unavailable for use, or the Error poses a safety risk);
 - 5.2.2 **"Urgent Problems"** means Errors severely limiting normal use of the SaaS with no available and reasonable workaround (i.e., inability to print reports); and
 - 5.2.3 **"Routine Problems"** means Errors or any other issue not defined as a Critical Problem or Urgent Problem.
 - 5.3. **Updates and Releases.** Clinisys will provide all Updates and Releases made by Clinisys to the SaaS. Releases may be subject to additional services charges. If produced, updated Documentation will be made available to Client before any change to the SaaS is made.

- 5.4. **Support Exclusions.** Client understands that while Subscription Fees will continue to accrue, Clinisys is under no obligation to provide Support for SaaS that: (i) has been altered or modified by Client or any third party without Clinisys' prior written approval (including, without limitation, modification of table schemas) or; (ii) is used on a User System that does not meet System Requirements, or (iii) Client has failed to operate in accordance with Documentation, or; (iv) has been specifically designated as "end of support" or similarly described ("**EOS**") ; however, Support for the EOS SaaS will continue for at least one (1) year after the EOS announcement and Subscription Fees will cease for any EOS SaaS after such time. Clinisys is not responsible for: (w) procurement, support, or maintenance of the User System; (x) the transmission of order and results information by Client or any Authorized User to the SaaS; (y) any Authorized User's access to the SaaS, or (z) any Client Data.
6. **Uptime.** Clinisys will provide continuous service and access to the SaaS with 99.5% up-time per month, excluding scheduled maintenance and repairs ("**Uptime**"). Clinisys will use commercially reasonable efforts to restore access to the SaaS as soon as reasonably possible in the event of an interruption or suspension of service or access to the SaaS.
- 6.1. **Uptime Exclusions.** Client acknowledges and agrees that Clinisys will not be responsible for failure to meet Uptime due to (i) any circumstance outside of Clinisys' control, including but not limited to, outages caused by the failure of any public telecommunications network or internet service provider; (ii) the negligent, grossly negligent or willful actions of Client or its Authorized Users or any other third party; (iii) errors in coding in or any other aspect of the electronic files containing information supplied by Client or its Authorized Users; (iv) unauthorized use or misuse of the SaaS; (v) Client's failure to provide connectivity as required under the SaaS Terms; (iv) alteration or modification by Client or any third party without Clinisys' prior written approval (including, without limitation, modification of table schemas); or (v) unavailability due to any matter beyond Clinisys' reasonable control.
- 6.2. **Uptime Remedy.** In the event the SaaS fails to meet Uptime in any month, Clinisys shall credit to Client's account a pro-rata portion of the Subscription Fees paid by Client attributable to such period. Such credit shall be Client's sole and exclusive remedy for such failure of Uptime. Client must exercise its right to such credit by providing written notice to Clinisys not later than thirty (30) days after the Uptime failure occurred.
7. **SaaS Functionality.** Clinisys reserves the right to integrate any new functionality, modifications or reliability or performance improvements into the SaaS without notice, so long as such modifications do not adversely affect Client's use of the SaaS in a material manner. Whenever possible, Clinisys will provide Client with reasonable advance notice of any changes deemed to adversely affect Client's use of the SaaS in a material manner, however in the case of an emergency or other urgent circumstance that does not allow for adequate prior notice, Clinisys will inform Client of such changes as soon as possible after they are implemented.
8. **Additional Modifications.** Subject to additional fees at Clinisys' sole discretion, Clinisys agrees to make the SaaS delivered under these SaaS Terms compliant with applicable federal regulatory requirements, which are technically feasible and commercially reasonable. Client agrees that such requirements may be resolved through workflow processes until an automated solution is achieved, where possible.

INSURANCE TERMS

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 received by the Humboldt County Risk Manager or a designee thereof.

- A. General Insurance Requirements. Without limiting CONTRACTOR's indemnification obligations set forth herein, CONTRACTOR, and its subcontractors hereunder, shall take out and maintain, throughout the entire term of this Agreement, and any extensions 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 or 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 Three Million Dollars (\$3,000,000.00) per occurrence for any one (1) incident, including, without limitation, 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. As stated in Exhibit A – Scope of Services, CONTRACTOR will not drive an automobile in the performance of the services provided pursuant to the terms and conditions of this Agreement. If CONTRACTOR's responsibilities are changed in such a way that driving will be required during the performance of the services set forth herein, CONTRACTOR shall take out and maintain Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000.00) combined single limit coverage. Such insurance shall include coverage of all owned, hired and non-owned vehicles, and be at least as broad as Insurance Service Offices Form Code 1 (any auto).
 3. Workers' Compensation Insurance, as required by the California Labor Code, 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 and One Million Dollars (\$1,000,000.00) aggregate for disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY and its agents, officers, officials, employees and volunteers.
 4. Cyber Liability Insurance with limits not less than Ten Million Dollars (\$10,000,000) per occurrence or claim (Ten Million Dollars (\$10,000,000) aggregate). Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by CONTRACTOR in this Agreement and shall include, without limitation, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to, infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information and alteration of electronic information. Such policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
 5. Technology Professional Liability Insurance – Errors and Omissions Coverage appropriate to CONTRACTOR's profession and performance hereunder, with limits broad to respond to the duties and obligations as is undertaken by CONTRACTOR in this Agreement. Such policy shall include, or be endorsed to include property damage liability coverage for damage to, alteration of, loss of, or destruction of COUNTY's electronic data and/or information ("property") in the care, custody, or control of CONTRACTOR. If not covered under the general liability policy, such property coverage may be endorsed onto CONTRACTOR's Technology Professional liability policy as covered property as follows: If CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, COUNTY shall be entitled to the broader coverage and/or the higher limits maintained by CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to COUNTY.
- 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, and its agents, officers, officials, employees and volunteers, are covered as additional insured for liability caused in whole or in part by the CONTRACTOR'S acts or omissions or the acts or omissions of those acting on the CONTRACTOR'S behalf. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY or 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 property damage caused by explosion or collapse of structures or underground damage, commonly referred to as "XCU Hazards."
 - c. Is the primary insurance with regard to COUNTY when additional insured status applies.
 - 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 requirements set forth herein. In the event such notice is not commercially available from an insurer, the CONTRACTOR shall provide it. 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. 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.
 4. For claims related to this Agreement when additional insured status applies, 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.
 5. Any failure to comply with the terms and conditions of this Agreement shall not affect the coverage provided to COUNTY or 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. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) shall be disclosed to COUNTY. If CONTRACTOR does not keep all required policies in full force and effect, COUNTY may, in addition to any other available remedies, take out the necessary insurance and 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.
- b. Insurance Notices. Any and all notices regarding the insurance required pursuant to the terms and conditions of this Agreement shall be sent to the addresses set forth below in accordance with the notice requirements contained herein.

COUNTY: County of Humboldt
Attention: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501

CONTRACTOR: Clinisys, Inc.
Attention: Andrea Rus, Account Executive

3300 E. Sunrise Drive
Tucson, Arizona 85718
Email: Andrea.rus@clinisys.com
Phone: (520) 570-2279

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is attached to and made part of the Agreement between Clinisys Inc. (the “**BUSINESS ASSOCIATE**”) and the County of Humboldt (the “**COVERED ENTITY**”). Covered Entity and Business Associate are individually a “**Party**” and jointly the “**Parties**”.

RECITALS:

WHEREAS, COVERED ENTITY wishes to disclose certain information to BUSINESS ASSOCIATE pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“**PHI**”).

WHEREAS, COVERED ENTITY 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.

WHEREAS, pursuant to HIPAA Regulations, the Privacy Rule and Security Rule (defined below) COVERED ENTITY is required to enter into this BAA 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.

NOW THEREFORE, the Parties hereto mutually agree as follows:

1. DEFINITIONS:

- A. **Breach.** As used herein, the term “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.** As used herein, the term “Breach of 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.** As used herein, the term “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.** As used herein, the term “Covered Entity” shall have the meaning given to such term under the Privacy and Security Rules, including, without limitation, 45 C.F.R. Section 160.103.
- E. **Designated Record Set.** As used herein, the term “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.** As used herein, the term “Electronic Protected Health Information” means Protected Health Information that is maintained in or transmitted by electronic media.
- G. **Electronic Health Record.** As used herein, the term “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.** As used herein, the term “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.** As used herein, the term “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.** As used herein, the term “Protected Health Information” (“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.** As used herein, the term “Protected Information” shall mean PHI provided by COVERED ENTITY to BUSINESS ASSOCIATE or created, maintained, received, or transmitted by BUSINESS ASSOCIATE on COVERED ENTITY’s behalf.
- L. **Security Incident.** As used herein, the term “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.** As used herein, the term “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.** As used herein, the term “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.

Capitalized terms used in this BAA and not otherwise defined herein will have the meaning set forth in the Privacy Rule, the Security Rule, and the HIPAA Final Rule.

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 Breach of the Privacy Rule or the HITECH Act if so used by COVERED ENTITY. 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 COVERED ENTITY. 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 applicable law or for the purposes for which it was disclosed to such third-party, and (ii) a written agreement from such third-party to promptly 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 this BAA, 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 COVERED ENTITY 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 COVERED ENTITY 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 COVERED ENTITY, agree in writing to the same restrictions and conditions that apply to COVERED ENTITY 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 COVERED ENTITY for inspection and copying within ten (10) days, or sooner if reasonably practicable, of a request by COVERED ENTITY to enable COVERED ENTITY to fulfill its obligations under 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 COVERED ENTITY 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 COVERED ENTITY, within twenty (20) business days of a request by COVERED ENTITY 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 COVERED ENTITY for amendment and incorporate any such amendment or other documentation to enable COVERED ENTITY 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 COVERED ENTITY 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 thirty (30) business days of a written request by COVERED ENTITY for an accounting of disclosures of Protected Information, BUSINESS ASSOCIATE and its agents and subcontractors shall make available to COVERED ENTITY the information required by applicable law to provide an accounting of disclosures to enable COVERED ENTITY 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). BUSINESS ASSOCIATE agrees to implement a process that allows for an accounting to be collected and maintained by BUSINESS ASSOCIATE 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. To the extent required by applicable law, 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 ten business (10) business days of the request forward it to COVERED ENTITY 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 concurrently provide COUNTY with copies of any Protected Information and other records that BUSINESS ASSOCIATE provides to the Secretary.
- J. Minimum Necessary.** BUSINESS ASSOCIATES and 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. Notwithstanding the foregoing, nothing herein restricts BUSINESS ASSOCIATE'S rights to use de-identified data or system-generated metadata that meets with the requirements of 45 C.F.R. § 164.514 for de-identification, so long as the use is consistent with Section 3 Proprietary Rights and Confidentiality of the Agreement Framework and 45 C.F.R. § 164 and permitted therein.
- L. **Notification of Possible Breach.** BUSINESS ASSOCIATE shall notify COVERED ENTITY without unreasonable delay, and in no event later than twenty-four (24) hours following confirmation of a Breach of Unsecured PHI Protected Information; any use or disclosure of Protected Information not permitted by the Agreement; any security incident resulting in unauthorized access, use, or disclosure of Protected Information (i.e., including 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 COVERED ENTITY 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)]. Any and all notices required pursuant to the terms and conditions of this provision shall be submitted to COVERED ENTITY at the following address:

COVERED ENTITY: Humboldt County DHHS Compliance and Quality Assurance Office
Attention: Compliance and Quality Assurance Administrator & Privacy
Officer 507 F Street
Eureka, California 95501
(707) 441-5410

- 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 COVERED ENTITY 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 COVERED ENTITY to discuss and attempt to resolve the problem as one (1) of the reasonable steps to cure the breach or end the violation.

- N. **Audits, Inspection and Enforcement.** BUSINESS ASSOCIATE shall make its internal practices, books, and records relating to the use and disclosure of Protected Information available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with HIPAA, in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(I).

Upon reasonable written request, BUSINESS ASSOCIATE shall provide COVERED ENTITY with responses or relevant documentation sufficient to demonstrate compliance with this Agreement, subject to reasonable confidentiality, security, and scope limitations.

3. **TERMINATION:**

- A. **Material Breach.** A material breach of this Business Associate Agreement shall constitute a material breach of the Agreement and shall be subject to the termination provisions set forth in the Agreement, including any applicable cure periods.
- B. **Effect of Termination.** Upon termination of the Agreement for any reason, BUSINESS ASSOCIATE shall, at the option of

COVERED ENTITY, 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 unless required by law. 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 COVERED ENTITY elects destruction of the PHI, COVERED ENTITY, BUSINESS ASSOCIATE shall certify in writing to COVERED ENTITY that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.

4. INTERPRETATION:

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