

**SOFTWARE LICENSE AND SUPPORT SERVICES AGREEMENT  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
CARAHSOFT  
FOR FISCAL YEAR 2022-2023**

This “Software License and Support Services Agreement” (the “Agreement”) is entered into, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and Carahsoft Technology Corporation, a Maryland corporation authorized to do business in the State of California, hereinafter referred to as “COMPANY,” is made on the last date signed below for the following considerations:

WHEREAS, COUNTY, by and through its Department of Health and Human Services (“DHHS”), desires to retain a qualified professional firm to support and maintain a data analytics software system; 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, COMPANY represents that it is adequately trained, skilled, experienced and qualified to perform the support and maintenance services required by COUNTY; and

WHEREAS, COUNTY and COMPANY (the “Parties”) desire to enter into and document their agreement for COMPANY to provide these services to COUNTY and COUNTY to compensate COMPANY.

NOW THEREFORE, in consideration of the covenants and promises set forth herein, the Parties hereto mutually agree as follows:

1. DEFINITIONS:

- A. Affiliate. As used herein, the term “Affiliate” means each legal entity that is directly or indirectly controlled by COUNTY on or after the date upon which this Agreement becomes effective, and for so long as such entity remains directly or indirectly controlled by COUNTY.
- B. Authorized User. As used herein, the term “Authorized User” means those licensed uniquely identified individuals who are authorized by COUNTY to install and/or use the Software regardless of whether those individuals are actively using the Software at any given time.
- C. Client Sublicensee. As used herein, the term “Client Sublicensee” means those independent third parties who are granted access to the Software by COUNTY for the purpose of accomplishing any of the following:
  - 1. Interacting with visualizations based on Customer Data generated by COUNTY through COUNTY’s use of the Software.
  - 2. Creating visualizations using Customer Data, provided that in each case such Customer Data is relevant to COUNTY’s provision of services to that particular Client Sublicensee,

and further provided that COUNTY, in providing COUNTY's Client Sublicensees such access, is not acting as a marketing service provider, service bureau or other entity with a similar business model.

- D. Contractor. As used herein, the term "Contractor" means those independent third parties who perform services related to this Agreement, but solely to the extent such independent third parties are acting on COUNTY's behalf.
- E. Controlled. As used herein, the term "controlled" means the ownership of, or the power to vote, directly or indirectly, a majority of any class of voting securities of a corporation or limited liability company or the ownership of any interest in any general or limited partnership.
- F. Customer Data. As used herein, the term "Customer Data" means data generated by COUNTY, or its Authorized Users, and used by, or imported into, the Software, but excludes data generated by a Client Sublicensee unless such data is combined with COUNTY's data or is relevant to COUNTY's provision of services to such Client Sublicensee.
- G. Documentation. As used herein, the term "Documentation" means any and all technical specifications related to the Software provided pursuant to the terms and conditions of this Agreement.
- H. Professional Services. As used herein, the term "Professional Services" means the proprietary consulting and/or training services provided pursuant to the terms and conditions of this Agreement.
- I. Software. As used herein, the term "Software" means the proprietary software products provided by COMPANY pursuant to the terms and conditions of this Agreement.
- J. Support and Maintenance Services. As used herein, the term "Support and Maintenance Services" means the proprietary support and maintenance services provided by COMPANY pursuant to the terms and conditions of this Agreement.

2. GRANT OF LICENSE AND DESCRIPTION OF SERVICES:

- A. Grant of License to Use Software. Subject to the terms and conditions of this Agreement, COMPANY grants to COUNTY a non-exclusive and non-transferable license to use the Software set forth in Exhibit A – Ordering Document, which is attached hereto and incorporated herein by reference as if set forth in full.
- B. Support and Maintenance Services. Subject to the terms and conditions of this Agreement, COMPANY shall provide the Support and Maintenance Services set forth in Exhibit A – Ordering Document pursuant to COMPANY's current support and maintenance policies on the date COUNTY executes this Agreement, which COMPANY has provided to COUNTY.
- C. Professional Services. Subject to the terms and conditions of this Agreement, COMPANY shall provide the Professional Services set forth in Exhibit A – Ordering Document pursuant to COMPANY's current consultation and training policies on the date COUNTY executes this Agreement, which COMPANY has provided to COUNTY. COUNTY shall have a licensed right to use any deliverables, including, without limitation, any Software, Documentation, codes, training materials or other work product, delivered as part of the Professional Services provided pursuant to the terms and conditions of this Agreement. COUNTY's use of such deliverables

shall be solely in connection with COUNTY's licensed use of the Software, subject to all the same terms and conditions as apply to COUNTY's Software license, and subject to any additional terms and conditions provided with such deliverables.

3. SCOPE OF LICENSE:

- A. Production Environments. As it relates to the Software, COUNTY's use of the Software for the purpose of developing, creating, sharing, viewing and/or revising visualizations is considered use within a "Production Environment" and COUNTY is entitled to one (1) Production Environment for each Software license COUNTY purchases under this Agreement. COUNTY's use of the Software in a Production Environment allows for a single Production Environment regardless of the fact that single Production Environment may consume all the cores identified in Exhibit A – Ordering Document.
- B. Non-Production Environments. COUNTY's use of the Software in a technical environment and on the platforms and configurations specified in the Documentation, solely for internal development and testing in connection with the functionality of COUNTY's licensed Software, or for disaster recovery purposes is considered use within a "Non-Production Environment." For the avoidance of doubt, development of visualizations and any similar content creation is not a permitted use for the Non-Production Environment. COUNTY'S installation, activation or use of a copy of the Software in a Non-Production Environment is limited to the same number of Authorized Users and/or permitted number of Cores and/or computers as provided herein. COUNTY's use of the Software in a Non-Production Environment may be concurrent with COUNTY's use of the licensed Software in a Production Environment and such use is conditioned on COUNTY having an authorized license for the Software. COUNTY is only entitled to two (2) Non-Production Environments under this Agreement. Any additional licenses for Non-Production Environments other than what is described herein can be purchased by COUNTY and shall be subject to any and all additional terms and conditions agreed upon by the Parties.
- C. Contractors and Affiliates. Subject to the terms and conditions of this Agreement, COUNTY may allow Contractors and Affiliates to use the Software in accordance with the terms and conditions of this Agreement, provided COUNTY shall remain liable for any and all acts and omissions of COUNTY's Contractors and Affiliates.
- D. Client Sublicensees. Subject to the terms and conditions of this Agreement, COUNTY may permit Client Sublicensees to access the Software as Authorized Users on COUNTY servers. Client Sublicensees may not publish their own data to the Software, use any data other than Customer Data with the Software or access the Software for any other purposes except as expressly permitted herein. For the avoidance of doubt, Client Sublicensees may not access COUNTY desktop or prep Software for any purpose. COUNTY shall ensure that all Client Sublicensees' use of the Software is limited as described herein by designating the appropriate access levels for Client Sublicensees within the Software. COUNTY shall be solely liable for all acts and omissions of Client Sublicensees and must notify Client Sublicensees that COMPANY shall have no warranty, support or other obligation or liability to any Client Sublicensee.
- E. Third Party Codes. The Software provided pursuant to the terms and conditions of this Agreement may contain, or be provided with, components which are licensed from third parties, including components subject to the terms and conditions of open source software licenses. Open source software may be identified in the Documentation, or in a list of the open source

software that will be provided to COUNTY upon written request. To the extent required by the license that accompanies the open source software, the terms of such license on the date COUNTY executes this Agreement will apply in lieu of the terms and conditions of this Agreement with respect to such open source software, including, without limitation, any provisions governing access to source codes, modifications or reverse engineering.

- F. Ownership. Notwithstanding anything to the contrary, except for the limited license rights expressly provided herein, COMPANY and its licensors have and will retain all rights, title and interest, including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights, in and to the Software, sample code, third party code, deliverables and all copies, modifications and derivative works thereof, including, without limitation, any and all changes which incorporate any of COUNTY's ideas, feedback or suggestions. COUNTY acknowledges that COUNTY is obtaining only a limited license right to the Software, sample code, third party code and that, irrespective of any use of the words purchase, sale or like terms hereunder, no ownership rights are being conveyed to COUNTY under this Agreement or otherwise.
- G. License Restrictions. As a condition of COUNTY's license, COUNTY shall not, and shall not allow any third party, to do any of the following:
1. Decompile, disassemble or otherwise reverse engineer the Software or third party code or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Software or third party code by any means whatsoever, except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions or as permitted by an applicable open source software license.
  2. Distribute, sell, sublicense, rent, lease or use the Software, third party code or sample code, or any portion thereof, for time sharing, hosting, service provider or like purposes, except as expressly permitted hereunder.
  3. Remove any product identification, proprietary, copyright trademark, service mark or other notices contained in the Software, third party code or sample code.
  4. Modify any part of the Software, third party code or sample code, create a derivative work of any part of the Software, third party code, or sample code or incorporate the Software, third party code or sample code into or with other software, except to the extent expressly authorized in writing by COMPANY or as permitted by an applicable open source software license.
  5. Publicly disseminate performance information or analysis, including, without limitation, benchmarks, from any source relating to the Software.
  6. Utilize any equipment, device, software or other means designed to circumvent or remove any form of product key or copy protection used by COMPANY in connection with the Software, or use the Software together with any authorization code, product key, serial number or other copy protection device not supplied by COMPANY or an authorized partner thereof.
  7. Use the Software to develop a product which is competitive with any of COMPANY's product offerings.

8. Use unauthorized product keys or keycodes or distribute or publish keycodes except as may be expressly permitted by COMPANY in writing.
  9. As applicable to desktop, prep or user-based server licenses, enable access to the Software for a greater number of Authorized Users than the sum quantity of licenses purchased pursuant to the terms and conditions of this Agreement.
  10. As applicable to desktop, prep or user-based server licenses, reassign license rights between Authorized Users so frequently as to enable a single license to be shared between multiple users.
  11. Assert, or authorize, assist or encourage any third party to assert, against COMPANY, or any of its affiliates, customers, vendors, business partners or licensors, any patent infringement or other intellectual property infringement claim regarding any Software or Professional, Support and Maintenance Services COUNTY has purchased or used pursuant to the terms and conditions of this Agreement.
  12. Use the Software to develop a product that converts any COMPANY file format to an alternative report file format used by any general-purpose report writing, data analysis or report delivery product that is not the property of COMPANY.
- H. Export Compliance. COUNTY acknowledges that the Software is subject to United States (“U.S.”) export control and economic sanctions laws, regulations and requirements, as well as the import laws, regulations and requirements of foreign governments. COUNTY agrees that all use, exports and imports related to this Agreement will be in compliance with any and all applicable import and export laws, regulations and requirements. COUNTY shall not allow any third party to export, re-export or transfer any part of the Software in violation of any applicable import or export laws, regulations or requirements. The foregoing obligations include, but are not limited to, COUNTY or a third party exporting, transferring or importing the Software to:
1. Any country subject to an export control embargo or economic sanctions implemented by any agency of the U.S. or foreign government.
  2. Any person or entity on any of the U.S. Government’s Lists of Parties of Concern, which can be found online at <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-ofconcern>, or any applicable international specially-designated parties or economic sanctions programs.
  3. Any end-user for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction.
- I. Privacy Policy. To the extent permitted by law, COUNTY’s use of the Software, and any Professional, Support and Maintenance Services, provided hereunder is subject to COMPANY’s privacy policy, which can be found online at <https://www.tableau.com/privacy>, as that information is posted on the date this Agreement becomes effective.

4. TERM:

This Agreement shall begin on July 1, 2022 and shall remain in full force and effect until June 30, 2023, unless sooner terminated as provided herein.

5. TERMINATION:

- A. Termination for Cause. Either party may terminate this Agreement, in the event the other party materially defaults in performing any obligation under this Agreement, or violates any local, state or federal laws, regulations or standards applicable to its performance hereunder, and such default or violation continues uncured for thirty (30) days following written notice thereof.
- B. Termination without Cause. COUNTY may terminate this Agreement without cause upon thirty (30) days advance written notice which states the effective date of the termination.
- C. Termination Due to Insolvency. Either party may immediately terminate this Agreement, if the other party files for bankruptcy, becomes insolvent or makes an assignment of a substantial part of its property for the benefit of creditors.
- D. Termination due to 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 COMPANY seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- E. Compensation upon Termination. In the event this Agreement is terminated, COMPANY shall be entitled to compensation for uncompensated license and service fees through, and including, the effective date and time of termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this Agreement by COMPANY.
- F. Effect of Termination. Upon termination of this Agreement, COUNTY shall promptly take all of the following actions:
  - 1. Cease any and all use of any Software provided pursuant to the terms and conditions of this Agreement.
  - 2. Destroy any and all copies of the Software provided pursuant to the terms and conditions of this Agreement.
  - 3. Provide COMPANY with a certificate of compliance with this provision signed by an authorized representative of COUNTY.

6. COMPENSATION:

- A. Maximum Amount Payable. The maximum amount payable by COUNTY for the licenses and Professional, Support and Maintenance Services provided, including costs and expenses incurred, pursuant to the terms and conditions of this Agreement is One Hundred Forty Seven Thousand Three Hundred Sixteen Dollars and Thirty-One Cents (\$147,316.31). COMPANY hereby agrees to provide any and all licenses and Professional, Support and Maintenance 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 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 A – Ordering Document.
- C. Additional Licenses and Services. Any additional licenses and/or Professional, Support and Maintenance Services not otherwise set forth herein shall not be provided by COMPANY, or compensated by COUNTY, without COUNTY’s prior written authorization. Any and all unauthorized costs and expenses incurred above the maximum payable amount set forth herein shall be the responsibility of COMPANY. COMPANY shall notify COUNTY in writing, at least six (6) weeks prior to the date upon which COMPANY estimates that the maximum payable amount will be reached.
- D. Taxes. COUNTY shall be responsible for the payment of any and all applicable taxes associated with the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement other than federal taxes based on COMPANY’s net income.
- E. Effect of Nonpayment. In the event COUNTY cannot, or will not, pay for the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement, COMPANY shall hold harmless the State of California and Medi-Cal Beneficiaries.

7. PAYMENT:

- A. Invoices. COMPANY shall submit to COUNTY monthly invoices itemizing all costs and expenses incurred, pursuant to the terms and conditions of this Agreement. Invoices shall be in a format approved, and include any and all appropriate backup documentation as specified by, Director and the Humboldt County Auditor-Controller. COMPANY shall submit a final invoice for payment within thirty (30) days following the expiration or termination date of this Agreement. Payment for the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement shall be made within thirty (30) days after the receipt of approved invoices. Any and all invoices submitted pursuant by COMPANY shall be sent to COUNTY at the following address:

COUNTY: Humboldt County Department of Health and Human Services  
Attention: Financial Services  
507 F Street  
Eureka, California 95501

- B. Disputed Costs. COUNTY shall have the right to reasonably and in good faith dispute any portion of any amount billed by COMPANY. If COUNTY believes that COMPANY has billed COUNTY incorrectly, COUNTY must contact COMPANY’s customer support department no later than thirty (30) days after the date on the invoice in which the error or problem appeared, in order to receive an adjustment or credit. Such notification shall include written documentation which identifies and substantiates the disputed amount. Notwithstanding the foregoing, COUNTY shall submit to COMPANY, prior to the invoice due date, full payment of the undisputed portion of any fees billed by COMPANY.

8. NOTICES:

Any and all notices required to be given pursuant to the terms and conditions 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 Department of Health and Human Services  
Attention: Connie Beck, DHHS Director  
507 F Street  
Eureka, California 95501

COMPANY: Carahsoft Technology Corporation  
Attention: Leslie Ramos  
11493 Sunset Hills Rd. Suite 100  
Reston, Virginia 20190

9. REPORTS:

COMPANY hereby agrees to provide COUNTY with any and all reports that may be required by any local, state and/or federal agencies for compliance with this Agreement. COMPANY shall submit one (1) hard copy and one (1) electronic copy of any and all reports required hereunder in a format that complies with the Americans with Disabilities Act and any other applicable local, state and federal accessibility laws, regulations and standards. Any and all reports required hereunder shall be submitted in accordance with any and all applicable timeframes using the format required by the State of California as appropriate.

10. AUDIT AND RETENTION OF PERFORMANCE RECORDS:

- A. Preparation of Performance Records. COMPANY shall prepare and maintain, in accordance with all applicable local, state and federal laws, regulations and standards, any and all records, documents and other evidence relating to the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement, including, without limitation, documents regarding COMPANY's accounting procedures and practices, necessary to properly reflect all direct and indirect costs of any nature claimed to have been incurred in the provision of the licenses and Professional, Support and Maintenance Services required hereunder, including, but not limited to, any and all matching costs and expenses. The foregoing constitutes "performance records" for the purpose of this provision.
- B. Preservation of Performance Records. COMPANY shall preserve, in accordance with any and all applicable local, state and federal laws, regulations and standards, any and all performance records prepared and maintained pursuant to the terms and conditions of this Agreement for a period of six (6) years after final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.
  - 1. If this Agreement is completely or partially terminated, any and all performance records relating to the terminated services shall be preserved and made available for a period of six (6) years from the date of any resulting final settlement.
  - 2. If any litigation, claim, negotiation, audit or other action involving any performance records prepared and maintained pursuant to the terms and conditions of this Agreement is



initiated before the expiration of the above-referenced six (6) year period, such performance records shall be retained until completion of the action and resolution of all issues arising therefrom, or until the end of the six (6) year period, whichever is later.

- C. Access to Performance Records and Facilities. COMPANY hereby agrees that its facilities, and any and all performance records prepared and maintained pursuant to the terms and conditions of this Agreement, 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 for a period of six (6) years after final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.
- D. General Audit and Examination Requirements. COMPANY hereby agrees that COUNTY, 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, shall have the right to review and copy any and all performance records prepared pursuant to the terms and conditions of this Agreement. COMPANY hereby agrees to allow COUNTY, DHCS and any other duly authorized local, state or federal agencies access to such performance records during normal business hours, and to allow interviews of any employees who might reasonably have information related thereto, for a period of six (6) years after final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.
- E. Audit and Examination by the California State Auditor. In addition to California Government Code Section 8546.7, COMPANY shall be subject to the examination and audit of the California State Auditor for a period of three (3) years after final payment hereunder as part of the six (6) year retention period required in subparagraphs A. through D. immediately above. COMPANY shall hold COUNTY harmless for any liability resulting from said audit.
- F. Storage and Reproduction. Following the receipt of final payment under this Agreement, COMPANY may, at its discretion, reduce any and all performance records prepared and maintained pursuant to the terms and conditions of 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 agency to inspect, audit or obtain copies of said performance records, COMPANY shall supply or make available any and all applicable devices, hardware and/or software necessary to view, copy and/or print such performance records.
- G. Effect of Non-Compliance. COMPANY’s failure to comply with the requirements set forth herein may result in the imposition of any and all applicable penalties pertaining to obstruction of governmental investigations.

11. LOCAL, STATE AND FEDERAL INSPECTION RIGHTS:

COMPANY 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 the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement, and to inspect, evaluate and audit

any and all records, documents and facilities maintained by COMPANY, and its subcontractors hereunder, pertaining to such licenses and Professional, Support and Maintenance 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. For purposes of this provision, “records” and “documents” include, without limitation, any and all physical and electronic records originated or prepared pursuant to COMPANY’s performance hereunder, including, but not limited to, working papers, reports, financial records and books of account, client records, prescription files, subcontracts and any other documentation pertaining to the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement. Upon request, at any time during the above-referenced three (3) year period, COMPANY 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 any 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 records and documents in accordance with any and all applicable local, state and federal laws, regulations and standards.

12. LOCAL, STATE AND FEDERAL MONITORING:

COMPANY hereby agrees that COUNTY and any other duly authorized local, state or federal agencies, including, without limitation, DHCS and the United States Department of Health and Human Services, have the right to monitor any and all activities related hereto, including the right to review and monitor COMPANY’s records, policies, procedures and overall business operations, at any time, in order to ensure compliance with the terms and conditions of this Agreement. COMPANY shall cooperate with a corrective action plan, if deficiencies in COMPANY’s records, policies, procedures or business operations 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 COMPANY’s performance hereunder.

13. CONFIDENTIAL INFORMATION:

- A. Legal Compliance. COMPANY hereby agrees to protect any and all confidential records and client confidentiality in conformance with any and all applicable local, state and federal laws, regulations and standards, including, without limitation: California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health and 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. State Contractual Requirements. COMPANY hereby agrees to comply with any and all applicable confidentiality requirements contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) and the Mental Health Performance Agreement (State Standard Agreement No. 18-95244) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full.
- C. HIPAA Business Associate Requirements. COMPANY hereby agrees to adhere to the terms and conditions set forth in Exhibit B – County of Humboldt HIPAA Business Associate Agreement, which is attached hereto and incorporated herein by reference as if set forth in full.
- D. Assistance in Litigation or Administrative Proceedings. COMPANY shall make itself, and any

agents, officers, directors, employees or subcontractors assisting COMPANY in the performance of its duties and obligations hereunder, available to DHCS, at COMPANY's expense, to testify as witnesses or otherwise, in the event of any litigation or administrative proceedings being commenced against DHCS, or its agents, officers, directors or employees, based upon claimed violations of HIPAA, or any regulations promulgated thereunder, which involve inactions or actions by COUNTY or COMPANY, except where COUNTY or COMPANY is a named adverse party.

- E. Continuing Compliance with Confidentiality Requirements. Each party hereby acknowledges 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 enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws, regulations, standards or contractual requirements.

#### 14. PRIVACY AND DATA SECURITY REQUIREMENTS:

- A. Legal Compliance. COMPANY hereby agrees to comply with any and all applicable local, state and federal privacy and data security requirements, including, without limitation: the Federal Privacy Regulations contained in Parts 160 and 164 of Title 45 of the Code of Federal Regulations ("C.F.R."); the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164; 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.
- B. State Contractual Requirements. COMPANY hereby agrees to comply with any and all applicable privacy and data security requirements contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) and the Mental Health Performance Agreement (State Standard Agreement No. 18-95244) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full.
- C. Disclosure of Confidential Information. By executing this Agreement, COMPANY, for itself, and its assignees and successors in interest, agrees as follows:
  - 1. Disclosure of Identifying Information. COMPANY shall protect from unauthorized disclosure the names and other "Identifying Information," including "Personal Information" and "Personally Identifiable Information," concerning persons whose names or Identifying Information become available, or are disclosed, to COMPANY as a result of the licenses and/or Professional, Support and Maintenance Services provided hereunder, 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 and all 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 and all 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, including, but not limited to, finger prints, voice prints and photographs.

2. Unauthorized Disclosures of Identifying Information. COMPANY 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, unless disclosure is required by applicable local, state or federal law.
3. Use of Identifying Information. COMPANY shall not use such Identifying Information for any purpose other than carrying out its obligations under this Agreement.
4. Notification of Requests for Identifying Information. COMPANY shall promptly transmit to COUNTY all requests for disclosure of such Identifying Information not emanating from a person whose name or Identifying Information becomes available, or is disclosed, to COMPANY as a result of the licenses and/or Professional, Support and Maintenance Services provided hereunder.
5. Use and Disclosure of Protected Health Information. COMPANY shall not use or disclose “Protected Health Information” in any manner that would breach this Agreement or violate any applicable local, state or federal laws, regulations or standards.
  - a. Protected Health Information. As used herein, the term “Protected Health Information” (“PHI”) shall include, without limitation, any and all individually identifiable health information that is transmitted by, or maintained in, electronic media or any other medium, as defined by the HIPAA Standards for Privacy of Individually Identifiable Health Information 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. COMPANY shall use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of this Agreement.
7. Legal Standards Pertaining to Protected Health Information. COMPANY shall only use, store, disclose or access PHI in compliance with this Agreement and all applicable local, state and federal laws, regulations and standards.
8. Downloading Protected Health Information. COMPANY shall not download PHI to any personal device, including, without limitation, flash drives, cell phones or tablets without COUNTY’s prior written approval.
9. Maintenance and Preservation of Disclosure Records. COMPANY hereby 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 six (6) 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 therefrom.
10. Accounting Requirements. COMPANY shall comply with the accounting requirements set forth in 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.

- D. Security Incidents and Suspected Breaches of Confidential Information. If COMPANY has reason to believe that PHI, PI or PII transmitted hereunder may have been accessed, disclosed or acquired in breach of this Agreement, COMPANY shall immediately take all actions necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the suspected breach. Such actions shall include, without limitation, the following:
1. Reporting Breaches of Confidential Information. COMPANY 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 any other medium, if the PHI, PI or PII was, or is reasonably believed to have been, accessed or acquired by an unauthorized person.
  2. Reporting Suspected Security Incidents. COMPANY 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 laws, regulations or standards.
    - 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 COMPANY as of the first (1<sup>st</sup>) day on which such breach is known, or by exercising reasonable diligence would have been known, to COMPANY or any person, other than the person committing the suspected breach, who is an employee, officer or other agent of COMPANY.
  3. Reporting Suspected Breaches and Security Incidents to Affected Individuals. To the extent deemed warranted, COMPANY shall provide notice to any and all individuals affected by the suspected breach of, or security incident involving, PHI, PI or PII. COMPANY shall pay the full costs associated with notifying such individuals, which may include, without limitation, the costs to retain an outside firm to undertake the notification effort. In addition, COMPANY 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, PHI, PI or PII, including, without limitation, the date of occurrence and discovery thereof, if known.
    - b. Description of the Information Involved. A description of the types of unsecured PHI, PI or PII that were involved in the suspected breach or security incident, including, without limitation, the full name, social security number, date of birth, home address, account number or disability code of all affected third parties.
    - c. Description of Remedial Actions. A brief description of the actions being taken by COMPANY to remediate the breach of, or security incident involving, PHI, PI or PII, mitigate losses and protect against any further breaches or security incidents.
  4. Investigation of Suspected Breaches and Security Incidents. COMPANY shall immediately investigate any and all suspected breaches of, or security incidents involving,

PHI, PI or PII. Within seventy-two (72) hours after the discovery of such suspected breach or security incident, COMPANY shall submit an updated "Privacy Incident Report" containing the applicable information to the extent known at that time.

5. Remediation of Breaches and Security Incidents. Upon discovery of a breach of, or security incident involving, PHI, PI or PII, COMPANY shall:
    - a. Corrective Action. Take prompt corrective action to mitigate any risks or damages regarding the breach or security incident and to protect the operating environment.
    - b. Legal Compliance. Take any action pertaining to such breach or security incident required by any and all applicable local, state and federal laws and regulations.
  6. Cooperation with COUNTY's Remediation Efforts. Upon discovery of a breach of, or security incident involving, PHI, PI or PII, COMPANY shall give highest priority to immediately mitigating and remediating the breach or security incident, and shall devote such resources as may be required to accomplish that goal. In addition, COMPANY shall cooperate with COUNTY's mitigation and remediation efforts, including, without limitation, providing any and all information necessary to enable COUNTY to fully understand the nature and scope of the breach or security incident, including, but not limited to, identification of each individual whose unsecured PHI may have been improperly accessed, acquired or disclosed. In the event that COMPANY's assistance is required to reinstall software, such assistance shall be provided, at COMPANY's expense, in accordance with COUNTY's policies and standards.
  7. Remediation Report. COMPANY shall provide to COUNTY a written report of the investigation of a breach of, or security incident involving, PHI, PI or PII within six (6) business days of the discovery of such breach or security incident. The report shall include, without limitation, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to remediate and/or contain the breach or security incident.
- E. Safeguarding Confidential Information. COMPANY shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of all PHI, PI and PII, including, without limitation, electronic PHI, PI and PII that COMPANY creates, receives, maintains, uses or transmits on behalf of COUNTY. COMPANY shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of COMPANY's operations and the nature and scope of its activities, including, at a minimum, all of the following safeguards:
1. Personnel Controls. By executing this Agreement, COMPANY, for itself, and its assignees and successors in interest, agrees as follows:
    - a. Employee Training. Any and all employees who assist in the performance of COMPANY's duties and obligations hereunder, or access or disclose PHI, PI or PII, must complete, at a minimum, annual confidentiality, data security and privacy training at their own expense. Each employee who receives confidentiality, data security and privacy training pursuant to the terms and conditions of this Agreement must sign a certification indicating the member's name and the date on which the training was completed. Such certifications must be retained for a period of six (6) years following the expiration or termination of this Agreement.

- b. Employee Discipline. Appropriate sanctions must be applied against any and all employees who fail to comply with any of the confidentiality, data security or privacy requirements contained herein, including, without limitation, termination of employment where appropriate.
  - c. Confidentiality Statement. Any and all employees that will be accessing 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, prior to gaining access to any such PHI, PI or PII and on an annual basis thereafter. COMPANY shall retain each employee's written confidentiality statement for a period of six (6) years following the expiration or termination of this Agreement.
  - d. Background Check. A background screening of each employee that will be accessing PHI, PI or PII must be conducted before such employee is allowed to obtain any PHI, PI or PII. The screening should be commensurate with the risk and magnitude of harm that each employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. COMPANY shall retain each employee's background check documentation for a period of six (6) years following the expiration or termination of this Agreement.
2. Technical Security Controls. By executing this Agreement, COMPANY, for itself, and its assignees and successors in interest, agrees as follows:
- a. Workstation and Laptop Encryption. Any and all workstations and laptops that store PHI, PI or PII either directly, indirectly 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. Any and all servers containing unencrypted PHI, PI or PII must have sufficient administrative, physical and technical controls in place to protect such data, based upon a risk assessment or system security review.
  - c. Minimum Necessary. Only the minimum amount of PHI, PI or PII required to perform necessary business functions may be copied, downloaded or exported.
  - d. Removable Media Devices. Any and all electronic files that contain PHI, PI or PII must be encrypted when stored on any removable media or portable device, including, without limitation, USB drives, CD, DVD, and backup tapes. Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
  - e. Antivirus Software. Any and all workstations, laptops and 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. Any and all workstations, laptops and systems that process and/or store PHI, PI or PII must have critical security patches applied, with system reboot capabilities, if necessary. There must be a documented patch management process which determines installation timeframes based on risk assessment and

vendor recommendations. At a maximum, all applicable patches must be installed within thirty (30) days after vendor release. Applications and systems that cannot be patched within the required timeframe due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Any and all applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.

- g. User Identification and Password Controls. Any and all users of any system providing access to PHI, PI or PII must be issued a unique user name and password. Usernames must be promptly disabled, deleted or have the password associated therewith changed within twenty-four (24) hours after the transfer or termination of an employee with knowledge of the password. Passwords must be a non-dictionary word that has at least eight (8) characters, and must not be shared or stored in readable format on any computer. Passwords must be changed at least every ninety (90) days, preferably every sixty (60) days. Passwords must be immediately changed if revealed or compromised. Passwords must be composed of characters from at least three (3) of the following four (4) 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. Warning Banners. Any and all systems providing access to PHI, PI or PII must display a warning banner which states that data contained therein is confidential and that system use is restricted to authorized users for business purposes and will be logged. Users must be directed to log off if they disagree with such requirements.
- i. System Timeout. Any and all systems providing access to PHI, PI or PII must have an automatic timeout feature which requires re-authentication of the user session after no more than twenty (20) minutes of inactivity.
- j. System Logging. Any and all systems providing access to PHI, PI or PII must maintain an automated audit trail that can be used to identify any user or process which alters PHI, PI or PII. The audit trail must be date and time stamped, log both successful and failed accesses, be read only and restricted to authorized users. If PHI, PI or PII is stored in a database, logging functionality must be enabled. Audit trail data must be archived for at least six (6) years after occurrence.
- k. Access Controls. Any and all systems providing access to PHI, PI or PII must use role-based user authentication controls that enforce the principle of least privilege.
- l. Transmission Encryption. Any and all 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 applies to any type of PHI, PI or PII in motion such as website access and e-mail.
- m. Intrusion Detection. Any and all systems involved in accessing, holding, transporting or protecting PHI, PI or PII that are accessible via the internet must be protected by



a comprehensive intrusion detection and prevention solution.

- n. Data Destruction. When no longer needed, all PHI, PI or PII must be wiped using the Gutmann or United States Department of Defense 5220.22-M (7 Pass) standard or by degaussing. Media may also be physically destroyed in accordance with National Institute of Standards and Technology Special Publication 800-88. The use of any other data destruction methods shall require prior written permission of the DHCS – Information Security Office.
3. Audit Controls. By executing this Agreement, COMPANY, for itself, and its assignees and successors in interest, agrees as follows:
    - a. System Security Review. COMPANY must ensure audit control mechanisms which record and examine system activity are in place. Any and all systems processing and/or storing PHI, PI or PII must have at least an annual system risk assessment or security review, including, without limitation, vulnerability scanning, which provides assurance that administrative, physical and technical controls are functioning effectively and providing adequate levels of protection.
    - b. Log Reviews. Any and 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. Any and 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, COMPANY, for itself, and its assignees and successors in interest, agrees as follows:
    - a. Emergency Mode Operation Plan. COMPANY 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. For purposes of this provision, “emergency” means any circumstance or situation that causes normal computer operations to become unavailable for performing the work required under this Agreement for more than twenty-four (24) hours.
    - b. Data Backup Plan. COMPANY must have documented procedures to backup PHI, PI or PII which allows retrievable exact copies of PHI, PI or PII to be maintained. Such procedures 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 lost PHI, PI or PII. At a minimum, the schedule must include weekly data backup and monthly offsite storage.
  5. Paper Document Controls. By executing this Agreement, COMPANY, 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 airplanes 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, including, without limitation, 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 COMPANY unless authorized by COUNTY. PHI, PI or PII shall not be considered “removed from the premises,” if it is transported from one (1) of COMPANY’s locations to another of COMPANY’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 to the extent possible. Mailings which include five hundred (500) or more individually identifiable records in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless prior written permission to use another method is obtained.

15. REQUIRED DISCLOSURES:

- A. Notification of Change in Ownership and Control. COMPANY shall notify COUNTY of any change in ownership or control of its business within thirty-five (35) days after the occurrence thereof, and provide COUNTY with any and all information relating thereto upon request. The disclosures to be provided hereunder shall include, without limitation:
  - 1. The name and address of any individual or corporation with an ownership or control interest in COMPANY’s business. The address for corporate entities shall include, as applicable, a primary business address, each business location, and a P.O. Box address;
  - 2. Date of birth and social security number, in the case of an individual;
  - 3. Tax identification number, in the case of a corporation with an ownership or control interest in COMPANY’s business or in the business of any subcontractor in which COMPANY has a five percent (5%) or more interest;
  - 4. Whether the individual or corporation with an ownership or control interest in COMPANY’s business is related to another person with an ownership or control interest in the same or any other COUNTY contractor as a spouse, parent, child or sibling;
  - 5. Whether the individual or corporation with an ownership or control interest in the business of any subcontractor in which COMPANY has a five percent (5%) or more interest is related to another person with ownership or control interest in COMPANY’s business as a spouse, parent, child or sibling;
  - 6. The name of any other disclosing entity in which COMPANY has an ownership or control interest; and

7. The name, address, date of birth and social security number of any managing employee of COMPANY.

B. Disclosures Related to Business Transactions. In accordance with 42 C.F.R. Sections 455.101 through 455.106, COMPANY shall submit the following disclosures regarding certain business transactions within thirty-five (35) days after receiving COUNTY's request for such information:

1. The ownership of any subcontractor with whom COMPANY has had business transactions totaling more than Twenty-Five Thousand Dollars (\$25,000.00) within twelve (12) months prior to the date of the request; and
2. Any significant business transactions between COMPANY and any wholly owned supplier, or any subcontractor, within five (5) years prior to the date of the request.

C. Disclosures Related to Persons Convicted of Crimes. Upon request by COUNTY, COMPANY shall submit the following 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):

1. The identity of any managing employee of COMPANY who has been convicted of a crime related to federal health care programs; and
2. The identity of any agent of COMPANY who has been convicted of a crime related to federal health care programs. For purposes of this provision, the term "agent" has the meaning set forth in 42 C.F.R. Section 455.101.

16. SUSPENSION AND DEBARMENT:

A. Legal Compliance. COMPANY hereby agrees to comply with any and all applicable local, state and federal suspension and debarment laws, regulations and standards, including, without limitation, 7 C.F.R. Part 3017, 45 C.F.R. Part 76, 40 C.F.R. Part 32 and 34 C.F.R. Part 85.

B. Certification of Eligibility. By executing this Agreement, COMPANY certifies, to the best of its knowledge and belief, that it and its principals, assignees and successors in interest:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency.
2. Have not, within a three (3) year period preceding the effective date of this Agreement, been convicted of, or had a civil judgment rendered against it, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public transaction or contract at the local, state or federal level; violation of local, state or federal antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records 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 offenses referenced herein.
4. Have not, within a three (3) year period preceding the effective date of this Agreement, had

one (1) or more public transactions with a local, state or federal entity 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 48 C.F.R. Part 9, debarred, suspended, declared ineligible or voluntarily excluded from participation in such transaction, unless specifically authorized to do so by DHCS.

C. Construction of Provision. The terms and definitions used herein shall have the meanings set forth in the definitions and coverage sections of the rules implementing Federal Executive Order 12549.

D. Effect of Non-Compliance. Failure to meet any of the requirements set forth herein shall constitute a material breach of this Agreement, upon which COUNTY may, in addition to any other available remedies, immediately suspend any and all payments due hereunder or terminate this Agreement as provided herein.

E. Incorporation of Provisions. COMPANY hereby agrees to include the provisions contained herein, without substantial modification, in all lower tier covered transactions as well as all solicitations for lower tier covered transactions.

17. FEDERAL HEALTH CARE PROGRAM EXCLUSION:

A. Certification of Eligibility. By executing this Agreement, COMPANY certifies that neither it nor any of its 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, and that COMPANY will notify COUNTY in writing, within thirty (30) days from receipt of a fully executed copy of this Agreement, of any event that would require the mandatory exclusion of COMPANY, or one (1) or more of its staff members, from participation in a federally funded health care program and/or any exclusionary action taken by any agency of the federal government barring COMPANY, or one (1) or more of its staff members, from participation in a federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

B. Eligibility Notification. Upon request, COMPANY shall provide COUNTY with a written attestation that COMPANY and its staff are eligible to participate in federally funded health care programs.

C. Disclosure Requirements. COMPANY shall immediately disclose to COUNTY any debarment, exclusion or other event that causes COMPANY, or any member of its staff to be ineligible for, or excluded from, participation in federally funded health care programs. If COMPANY discovers that a staff member has become ineligible for, or excluded from, participation in any federally funded health care program, COMPANY shall remove such individual from any involvement with the business or health care operations related to this Agreement.

D. Defense and Indemnification. COMPANY shall hold harmless, defend and indemnify COUNTY against any and all loss or damage arising from any exclusion of COMPANY, or any of its staff members, from participation in federally funded health care programs.

E. Effect of Non-Compliance. Failure to meet any of the requirements set forth herein shall constitute a material breach of this Agreement, upon which COUNTY may, in addition to any other available remedies, immediately suspend any and all payments due hereunder or terminate

this Agreement as provided herein.

18. INTELLECTUAL PROPERTY RIGHTS:

COMPANY 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. 17-94583) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full.

A. Retained Rights and License Rights. By executing this Agreement, COMPANY, 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 COMPANY or DHCS as a direct or indirect result of this Agreement, COMPANY 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. COMPANY 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 or perform, distribute and dispose COMPANY's Intellectual Property resulting from this Agreement, unless COMPANY assigns all rights, title and interest in the Intellectual Property as set forth herein.
2. Nothing in this provision shall restrict, limit or otherwise prevent COMPANY from using any ideas, concepts, know-how, methodology or techniques related to the performance of its duties and obligations hereunder, provided that COMPANY's use does not infringe the patent, copyright, trademark, license or other Intellectual Property rights of DHCS or any third-party, or result in a breach of this Agreement or violation of any local, state or federal laws, regulations or standards relating to confidentiality.

B. Third-Party Intellectual Property. Except as provided herein, COMPANY hereby agrees that the performance of its obligations and duties hereunder shall not be dependent upon or include any Intellectual Property of COMPANY or third-party without first: obtaining DHCS' prior written approval; and granting to or obtaining for DHCS, without additional compensation, a license, as described herein, for any of COMPANY's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license is unattainable, and DHCS determines that Intellectual Property should be included in, or is required for COMPANY's performance of, this Agreement, COMPANY shall obtain a license under terms acceptable to DHCS.

C. Warranties. By executing this Agreement, COMPANY, 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, any and all rights and licenses necessary for the performance of its duties and obligations hereunder.
3. Neither COMPANY'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 or performance, distribution and disposition of the Intellectual Property made, conceived, derived from or reduced to

practice by COMPANY or DHCS as a direct or indirect result of 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 COMPANY.

4. Neither COMPANY's performance of its duties and obligations hereunder, nor any part thereof, will violate the privacy rights of, or constitute a libel or slander against, any person or entity.
5. It has secured, and will secure, any and all rights and licenses necessary for the use of Intellectual Property, including, without limitation, consents, waivers or releases from all authors of music or performances, talent, including radio, television and motion picture talent, and owners of any interest in sites, 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 might derogate, encumber or interfere with any of the rights granted to DHCS hereunder.
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 that could affect in any way COMPANY's performance of its duties and obligations hereunder.
9. DHCS makes no warranty that the Intellectual Property resulting from this Agreement will not infringe upon any existing or subsequent patent, trademark, copyright or the like.

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

1. COMPANY SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DHCS, AND 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, WHETHER OR NOT RIGHTFUL, ARISING FROM ANY AND ALL ACTIONS OR CLAIMS BY ANY THIRD-PARTY OR EXPENSES RELATED THERETO, INCLUDING, WITHOUT LIMITATION, 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, REGARDLESS OF WHETHER OR NOT COMPANY IS A PARTY TO ANY PENDING OR THREATENED LITIGATION, WHICH ARISE OUT OF OR ARE RELATED TO: THE INCORRECTNESS OR BREACH OF ANY OF THE REPRESENTATIONS, WARRANTIES, COVENANTS OR AGREEMENTS OF COMPANY PERTAINING TO INTELLECTUAL PROPERTY; OR ANY INTELLECTUAL PROPERTY INFRINGEMENT, OR 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 OR DISPLAY, LICENSE AND DISPOSITION OF THE INTELLECTUAL PROPERTY MADE, CONCEIVED, DERIVED FROM OR REDUCED TO PRACTICE BY COMPANY OR DHCS AS A DIRECT OR INDIRECT RESULT OF THIS AGREEMENT. COMPANY's indemnity obligations set forth herein 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, at COMPANY's expense, any such infringement action brought against DHCS.

2. Should any Intellectual Property licensed by COMPANY to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, COMPANY shall exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with the terms and conditions of this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel, at COMPANY's expense, in any such claim or action. In the defense or settlement of the claim, COMPANY 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 available rights and remedies.
3. COMPANY hereby agrees that damages alone would be inadequate to compensate DHCS for COMPANY's breach of the Intellectual Property provisions set forth herein. COMPANY 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.

- E. 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 this Agreement; except as provided in 37 C.F.R. Section 401.14; however, the federal government shall have a worldwide, non-exclusive, nontransferable, irrevocable, paid-up license to use, duplicate or dispose of such Intellectual Property in any manner for governmental purposes and to have and permit others to do so.
- F. Survival. The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule associated therewith.

19. NON-DISCRIMINATION COMPLIANCE:

- A. Compliance with Anti-Discrimination laws. COMPANY 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, Federal 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, regulations and standards, 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.*, and as they may be amended during the Term of this Agreement, 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 federal laws, regulations and standards, including, without limitation, 42 C.F.R. Section 438.3(d)(3)-(4), COMPANY shall not engage in any unlawful discriminatory practices in the admission of clients, assignments of accommodations, treatment, evaluation, employment or personnel or any other respect on the basis 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. COMPANY shall not discriminate against clients on the basis of health status or need for health care services, pursuant to 42 C.F.R. Section 438.3(d)(3).
- C. Employment Practices. In connection with the licenses and Professional, Support and Maintenance Services provided hereunder, COMPANY, 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, 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 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. COMPANY shall take affirmative action to ensure that qualified applicants are employed, and that during employment, employees are treated 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, but not limited to, apprenticeship. Nothing herein shall be construed to require the employment of unqualified persons.
- D. Solicitations for Employment. Any and all solicitations or advancements for employees placed by, or on behalf of, COMPANY shall 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. COMPANY 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 (Section 4212 of Title 38 United States Code ("U.S.C.")). Such notices shall state COMPANY'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. COMPANY 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 COMPANY's commitments under the provisions herein, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- G. Non-Discrimination in Federally Assisted Programs. COMPANY shall comply with all the 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 Federal Executive Order 11246, as amended by Federal Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and 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 the regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.
- H. Access to Records Regarding Non-Discrimination Compliance. COMPANY shall furnish any and all information and reports required by Federal Executive Order 11246, as amended, including by Federal Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," the Rehabilitation Act of 1973, and by the rules, regulations and orders of the Secretary of Labor, 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 as well as upon reasonable request by the COUNTY.
- I. Sanctions for Non-Compliance. In the event of COMPANY's non-compliance with the requirements 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 COMPANY may be declared ineligible for further state and federal contracts in accordance with procedures authorized in Federal Executive Order 11246, as amended, and such other sanctions that may be imposed, and remedies invoked, as provided in Federal Executive Order 11246, as amended, including by Federal Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by the rules, regulations or orders of the Secretary of Labor, or as otherwise provided by any and all applicable local, state and federal laws, regulations and standards, all as may be amended from time to time.
- J. Determination of Medical Necessity. Notwithstanding anything set forth herein to the contrary, COMPANY 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. COMPANY shall include the foregoing provisions in every

subcontract related to the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Federal Executive Order 11246, as amended, including by Federal Executive Order 11375 – “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by 41 C.F.R. Part 60 – “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” Section 503 of the Rehabilitation Act of 1973 or 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. COMPANY shall take such action with respect to any subcontract related to the licenses and Professional, Support and Maintenance Services provided hereunder, 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 COMPANY becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, COMPANY 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.

20. SMOKE-FREE WORKPLACE CERTIFICATION:

- A. Legal Requirements. The United States Pro-Children Act of 1994 (“PCA”), requires that smoking not be permitted in any portion of any indoor facility owned or leased by an entity and used routinely or regularly for the provision of health, day care, early childhood development, education or library services to children under eighteen (18) years of age, if the services are funded by federal programs, either directly or through local or state governments, or 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 substance use disorder 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, COMPANY certifies that it will comply with the requirements of the PCA, and will not allow smoking within 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. COMPANY further agrees that it will incorporate the provisions contained herein into any subcontracts related to the Professional, Support and Maintenance Services provided hereunder.

21. DRUG-FREE WORKPLACE CERTIFICATION:

By executing this Agreement, COMPANY 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. COMPANY'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 Professional, Support and Maintenance Services hereunder will:

1. Receive a copy of COMPANY's Drug-Free Policy Statement; and
2. Agree to abide by COMPANY's 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.

22. NUCLEAR-FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

By executing this Agreement, COMPANY certifies that it is not a Nuclear Weapons Contractor, in that COMPANY 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. COMPANY hereby 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 COMPANY subsequently becomes a Nuclear Weapons Contractor.

23. INDEMNIFICATION:

A. HOLD HARMLESS, DEFENSE AND INDEMNIFICATION. COMPANY SHALL HOLD HARMLESS, DEFEND AND INDEMNIFY COUNTY AND ITS AGENTS, OFFICERS, OFFICIALS, EMPLOYEES AND VOLUNTEERS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES AND LIABILITIES OF ANY KIND OR NATURE, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND OTHER COSTS OF LITIGATION, ARISING OUT OF, OR IN CONNECTION WITH, COMPANY'S 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 COUNTY.

B. Effect of Insurance. Acceptance of the insurance required by this Agreement shall not relieve COMPANY from liability under this provision. This provision shall apply to all claims for

damages related to COMPANY's performance hereunder, 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 hereunder.

24. INSURANCE REQUIREMENTS:

This Agreement shall not be executed by COUNTY, and COMPANY is not entitled to any rights hereunder, unless certificates of insurance, or other 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 COMPANY's indemnification obligations set forth herein, COMPANY, and shall 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 COMPANY 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 Two Million Dollars (\$2,000,000.00) 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 – Ordering Document, COMPANY will not drive an automobile in the performance of the Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement. If COMPANY's responsibilities are changed in such a way that driving will be required during the performance of the Professional, Support and Maintenance Services set forth herein, COMPANY 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 or 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. 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 COMPANY may be exposed to liability regarding the services provided pursuant to the terms and conditions of this Agreement. COMPANY 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, and 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, COMPANY. 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.
  - 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. It is further understood that COMPANY 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, COMPANY's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to COMPANY'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. COMPANY 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, and approved by, COUNTY. If COMPANY 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 COMPANY 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 COMPANY 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 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

COMPANY: Carahsoft Technology Corporation  
Attention: Leslie Ramos  
11493 Sunset Hills Rd. Ste 100  
Reston, VA 20190

25. 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 or legal entity. Both Parties further agree that COMPANY shall not be entitled to any benefits to which COUNTY employees are entitled, including, without limitation, overtime, retirement, leave or workers' compensation benefits. COMPANY shall be solely responsible for the acts and omissions of its agents, officers, employees, assignees and subcontractors.

26. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND STANDARDS:

- A. General Legal Requirements. COMPANY hereby agrees to comply with any and all local, state and federal laws, regulations, policies, procedures and standards applicable to the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement, including, without limitation, any and all applicable laws, regulations and standards pertaining to the Medicaid program.
- B. Licensure Requirements. COMPANY hereby agrees to comply with any and all local, state and federal licensure, certification and accreditation standards applicable to the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement.
- C. Accessibility Requirements. COMPANY hereby agrees to comply with any and all applicable accessibility requirements set forth in the Americans with Disabilities Act, Section 508 of the Rehabilitation Act of 1973, as amended, California Government Code Section 1135 and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, the federal accessibility standards set forth in 36 C.F.R. Section 1194.1, all as may be amended from time to time.
- D. Conflict of Interest Requirements. COMPANY hereby agrees to comply with any and all applicable conflict of interest requirements set forth in the California Political Reform Act and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, COUNTY's Conflict of Interest Code, all as may be amended from time to time.
- E. Humboldt County Mental Health Managed Care Agreement. COMPANY hereby agrees to comply with any and all applicable provisions of the Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) that COUNTY has with DHCS, which are

incorporated herein by reference and made a part hereof as if set forth in full. In the event, of any conflict in the terms and conditions set forth in COUNTY's Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) and the terms and conditions set forth in this Agreement, the terms and conditions set forth in COUNTY's Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) shall have priority. COUNTY's Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) can be obtained online at <https://humboldt.gov.org>.

F. Humboldt County Mental Health Performance Agreement. COMPANY hereby agrees to comply with any and all applicable provisions of the Mental Health Performance Agreement (State Standard Agreement No. 18-95244) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full. In the event, of any conflict in the terms and conditions set forth in COUNTY's Mental Health Performance Agreement (State Standard Agreement No. 18-95244) and the terms and conditions set forth in this Agreement, the terms and conditions set forth in COUNTY's Mental Health Performance Agreement (State Standard Agreement No. 18-95244) shall have priority. COUNTY's Mental Health Performance Agreement can be obtained online at <https://humboldt.gov.org>.

27. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to additional local, state and federal restrictions, limitations or conditions that may affect the terms, conditions 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 incorrectly stated, the Parties agree to amend the pertinent section to make such insertion or correction.

28. REFERENCE TO LAWS, REGULATIONS AND STANDARDS:

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

29. PROTOCOLS:

Both Parties agree that the inclusion of additional protocols may be required to make this Agreement specific. All such protocols shall be reasonably negotiated, determined and agreed upon by both Parties hereto.

30. NOTIFICATION OF LITIGATION:

COMPANY shall notify COUNTY of any claim for damages, lawsuit or other professional litigation filed against COMPANY, which relates to the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement, within forty-eight (48) hours after being informed of the commencement of such claim for damages, lawsuit or other professional litigation.

31. 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.

32. 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 COMPANY 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 either party to obtain supplies, technical support or professional services.

33. 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.

34. WAIVER OF DEFAULT:

The waiver by either party of any breach 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 which may then exist on the part of COMPANY. 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 COMPANY shall promptly refund, any funds disbursed to COMPANY, which COUNTY determines were not expended in accordance with the terms and conditions of this Agreement.

35. 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.

36. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the execution of a written amendment signed by both Parties.

37. STANDARD OF PRACTICE:

COMPANY 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. COMPANY's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

38. JURISDICTION AND VENUE:

This Agreement shall be construed under the laws of the State of California and COUNTY's contractual obligations under the Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) and the Mental Health Performance Agreement (State Standard Agreement No. 18-95244) that COUNTY has with DHCS. Any dispute arising hereunder, or relating hereto, shall be litigated in 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.



39. ADVERTISING AND MEDIA RELEASE:

Any and all informational material related to this Agreement shall receive written approval from COUNTY prior to being used as advertising or released to the media, including, without limitation, television, radio, newspapers and internet. COMPANY shall send COUNTY copies of any and 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. Any and all notices required by this provision shall be given to the Director in accordance with the notice requirements set forth herein.

40. SUBCONTRACTS:

COMPANY shall obtain prior written approval from COUNTY before subcontracting any of the Professional, Support and Maintenance Services to be provided pursuant to the terms and conditions of this Agreement. 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. COMPANY shall remain legally responsible for the performance of all terms and conditions of this Agreement, including, without limitation, any and all Professional, Support and Maintenance Services provided by third parties under subcontracts, whether approved by COUNTY or not.

41. ATTORNEYS' FEES:

If either party shall commence any legal action, including, without limitation, an action for declaratory relief, against the other by reason of the alleged failure of the other to perform any of its obligations hereunder, the party prevailing in said action shall be entitled to recover court costs and reasonable attorneys' fees, including, but not limited to, 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, the term "prevailing party" means the party who dismisses an action 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.

42. SURVIVAL OF PROVISIONS:

The obligations set forth in Section 5.E. – Compensation upon Termination, Section 10 – Audit and Retention of Performance Records, Section 11 – Inspection Rights, Section 13 – Confidential Information, Section 14 – Privacy and Data Security Requirements, Section 18 – Intellectual Property Rights and Section 23 – Indemnification shall survive the expiration or termination of this Agreement.

43. INDEPENDENT CONSTRUCTION:

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

44. 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 Parties hereby agree that the terms and conditions set forth herein shall have priority.

45. 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.

46. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control, and without the fault or negligence, of such party. Such events shall include, without limitation, acts of God, third-party labor strikes or lockouts, riots, acts of war, epidemics, pandemics, 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.

47. 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 terms and conditions contained in prior agreements, government price quotations, 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 and conditions of this Agreement are hereby ratified.

48. COUNTERPART EXECUTION:

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

49. 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.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the last date written below.

**TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:**

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

**CARASOFT TECHNOLOGY CORPORATION:**

By: Craig P. Abod

Date: Jul 14, 2022

Name: Craig Abod

Title: President

By: Robert J. Moore

Date: Jul 14, 2022

Name: Robert Moore

Title: Vice President

**COUNTY OF HUMBOLDT:**

By: Virginia Bass, Chair of the Board of Supervisors

Date: \_\_\_\_\_

**INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:**

By: Risk Management

Date: 07/19/2022

**LIST OF EXHIBITS:**

- Exhibit A – Ordering Document
- Exhibit B – County of Humboldt HIPAA Business Associate Agreement

**EXHIBIT A**  
**ORDERING DOCUMENT**  
Carahsoft Technology Corporation  
For Fiscal Year 2022-2023

COUNTY shall compensate COMPANY for the licenses and Professional, Support and Maintenance Services provided pursuant to the terms and conditions of this Agreement based on the maximum rates set forth herein.

1. SOFTWARE LICENSES:

<b>Description</b>	<b>QTY</b>	<b>Unit Price</b>	<b>Ext Price</b>
Creator – License – 1 Year Tableau Software	40	\$840.00	\$33,600.00
Server – Core Term License - 1 Year Tableau Software	1	\$175,008.00	\$113,716.31

2. SERVICE RESTRICTIONS:

COMPANY will not drive an automobile in the performance of the Professional, Support and Maintenance Services required pursuant to the terms and conditions of this Agreement. If COMPANY’s responsibilities are changed in such a way that driving will be required during the performance of the Professional, Support and Maintenance Services required hereunder, COMPANY will 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 prior to the commencement of any such driving. 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).

**EXHIBIT B**  
**COUNTY OF HUMBOLDT HIPAA BUSINESS ASSOCIATE AGREEMENT**  
Carahsoft Technology Corporation  
For Fiscal Year 2022-2023

**RECITALS:**

**WHEREAS**, COUNTY, as a “Covered Entity” (defined below) wishes to disclose certain information to COMPANY, 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).

**WHEREAS**, 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.

**WHEREAS**, pursuant to HIPAA Regulations, the Privacy Rule and Security Rule (defined below) COUNTY is required 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.

**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 Rule and the Security Rule, including, but not limited to, 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 COUNTY to BUSINESS ASSOCIATE or created, maintained, received, or transmitted by BUSINESS ASSOCIATE on COUNTY’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.

## 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 2.1. 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 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 records that BUSINESS ASSOCIATE provides to the Secretary concurrently with providing such Protected Information 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.
- 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)]. Any and all notices required pursuant to the terms and conditions of this provision shall be submitted to COUNTY at the following address:

**COUNTY:** 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 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 (1) 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 the intent of HIPAA, the HITECH Act, and the HIPAA regulations.









# Requesting Signature for Tableau EOM Deal

Final Audit Report

2022-07-14

Created:	2022-07-14
By:	Robert Moore (robert.moore@carahsoft.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAu-aq0NUiHwJSD8-6EQ53Myr-jt1WSQV2

## "Requesting Signature for Tableau EOM Deal" History

-  Document created by Robert Moore (robert.moore@carahsoft.com)  
2022-07-14 - 9:04:48 PM GMT
-  Document emailed to Craig Abod (cpa@carahsoft.com) for signature  
2022-07-14 - 9:08:29 PM GMT
-  Email viewed by Craig Abod (cpa@carahsoft.com)  
2022-07-14 - 9:14:49 PM GMT
-  Document e-signed by Craig Abod (cpa@carahsoft.com)  
Signature Date: 2022-07-14 - 9:15:19 PM GMT - Time Source: server
-  Document emailed to Robert Moore (robert.moore@carahsoft.com) for signature  
2022-07-14 - 9:15:21 PM GMT
-  Email viewed by Robert Moore (robert.moore@carahsoft.com)  
2022-07-14 - 9:23:42 PM GMT
-  Document e-signed by Robert Moore (robert.moore@carahsoft.com)  
Signature Date: 2022-07-14 - 9:24:24 PM GMT - Time Source: server
-  Agreement completed.  
2022-07-14 - 9:24:24 PM GMT