

**SOFTWARE LICENSE AND SUPPORT SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
JUMP TECHNOLOGY SERVICES, L.L.C.
FOR FISCAL YEARS 2021-2022 THROUGH 2022-2023**

This Agreement, entered into this ____ day of _____, 2023, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and JUMP Technology Services, L.L.C., an Oklahoma limited liability company, hereinafter referred to as “COMPANY,” is made upon the following considerations:

WHEREAS, COUNTY, by and through its Department of Health and Human Services, desires to retain a qualified professional organization to provide, support and maintain a web-based case management and registry 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 provide, support and maintain the web-based case management system required by COUNTY.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. GRANT OF LICENSE AND DESCRIPTION OF SERVICES:

- A. Grant of License to Use Software. Subject to the terms and conditions of this Agreement, COMPANY hereby grants to COUNTY, and its contractors, affiliates and other authorized users, a non-sublicensable, non-exclusive and non-transferable license to access and use COMPANY’s BOUNDS software modules (“Software”) as set forth in Exhibit A – Ordering Document, which is attached hereto and incorporated herein by reference as if set forth in full.
- B. Technical Support and Training Services. Subject to the terms and conditions of this Agreement, COMPANY shall provide the implementation, hosting, maintenance and training services described in Exhibit B – Scope of Services, which is attached hereto and incorporated herein by reference as if set forth in full.

2. SCOPE OF LICENSE:

Except for the limited license rights expressly provided herein, this Agreement shall not transfer any intellectual property and/or developed technology, and all rights, title and interest in and to such intellectual property and/or developed technology shall remain solely with COMPANY. COUNTY hereby agrees that it will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from the Software.

3. TERM:

This Agreement shall begin on July 1, 2021 and shall remain in full force and effect until June 30, 2023, unless extended by a valid amendment hereto or sooner terminated as set forth herein.

4. 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 a period of 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 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.
- D. Compensation upon Termination. In the event this Agreement is terminated, COMPANY shall be entitled to compensation for uncompensated license and service fees incurred pursuant to the terms and conditions set forth herein through and including the effective date of the termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this Agreement by COMPANY.

5. COMPENSATION:

- A. Maximum Amount Payable. The maximum amount payable by COUNTY for the licenses and services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is Eighty-Eight Thousand Eighteen Dollars (\$88,018.00). In no event shall the maximum amount paid under this Agreement exceed Forty-Four Thousand Nine Dollars (\$44,009.00) per fiscal year for fiscal years 2021-2022 and 2022-2023. COMPANY hereby agrees to provide any and all licenses and 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 set forth 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 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.

6. PAYMENT:

- A. Invoices. COMPANY shall submit to COUNTY quarterly invoices substantiating the costs and expenses incurred pursuant to the terms and conditions of this Agreement within thirty (30) days prior to the start of each calendar quarter in which licenses and services are provided hereunder. COMPANY shall submit a final invoice for payment within thirty (30) days following the expiration or termination of this Agreement. Invoices shall be prepared using a format that is

substantially similar to the format set forth in Exhibit C – Sample Invoice Form, which is attached hereto and incorporated herein by reference as if set forth in full. Payment for any and all costs and expenses incurred 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 to the terms and conditions of this Agreement 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 notify COMPANY no later than thirty (30) days after receipt of the disputed invoice, 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 license or service fees billed by COMPANY.

7. 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, Director
507 F Street
Eureka, California 95501

COMPANY: JUMP Technology Services, L.L.C.
Attention: Maechelle Jones, Senior Associate
1024 Iron Point Road
Folsom, California 95630

8. 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, in Microsoft Word format, of any and all reports required pursuant to the terms and conditions of this Agreement. Any and all reports required pursuant to the terms and conditions of this Agreement shall be submitted in accordance with any and all applicable timeframes.

9. RECORD RETENTION AND INSPECTION:

- A. Maintenance and Preservation of Records. COMPANY hereby agrees to timely prepare accurate and complete financial, performance and payroll records, documents and other evidence relating to the licenses and services provided pursuant to the terms and conditions of this Agreement, and to maintain and preserve said records for at least three (3) years from the date of final payment

hereunder, 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. Such records shall be original entry books with a general ledger itemizing all debits and credits for the licenses and services provided pursuant to the terms and conditions of this Agreement.

- B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of COMPANY, and its subcontractors, related to the licenses and services provided pursuant to the terms and conditions of this Agreement, shall be subject to the examination and audit of the California State Auditor and any other duly authorized agents of the State of California for a period of three (3) years after the date of final payment hereunder. COMPANY hereby agrees to make all such records available during normal business hours to inspection, audit and reproduction by COUNTY and any other duly authorized local, state and/or federal agencies. COMPANY further agrees to allow interviews of any of its employees who might reasonably have information related to such records by COUNTY and any other duly authorized local, state and/or federal agencies. Any and all examinations and audits conducted hereunder shall be strictly confined to those matters connected with the performance of this Agreement, including, without limitation, the costs associated with the administration of this Agreement.
- C. Audit Costs. In the event of an audit exception or exceptions related to the licenses and services provided pursuant to the terms and conditions of this Agreement, the party responsible for not meeting the requirements set forth herein shall be responsible for the deficiency and for the cost of the audit. If the allowable expenditures cannot be determined because COMPANY's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by COUNTY.

10. MONITORING:

COMPANY hereby agrees that COUNTY has the right to monitor any and all activities related to this Agreement, including, without limitation, 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. However, COUNTY is not responsible, and shall not be held accountable, for overseeing or evaluating the adequacy of COMPANY's performance hereunder.

11. CONFIDENTIAL INFORMATION:

- A. Use and Disclosure of Proprietary Information. In the performance of this Agreement, each party may receive proprietary information of the other party that is not generally known to the public, including, without limitation, trade secrets, know-how, inventions, techniques, algorithms programs, documentation and data which may be designated as being confidential, or which under the circumstances surrounding disclosure, ought to be treated as confidential. Each party shall use and disclose only the minimum amount of proprietary information necessary to accomplish the intended purpose of this Agreement. Each party hereby agrees to protect any and all proprietary information obtained pursuant to the terms and conditions of this Agreement in accordance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards.
- B. Use and Disclosure of Personally Identifiable Information. In the performance of this Agreement, COMPANY may receive personally identifiable information that is confidential under local, state or federal law. COMPANY hereby agrees to protect all personally identifiable

information obtained pursuant to the terms and conditions of this Agreement in accordance with any and all applicable local, state and federal laws, regulations, policies, procedures 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 for Economic and Clinical Health Act (“HITECH Act”); the United States Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and any current and future implementing regulations promulgated thereunder, including, but not limited to, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations (“C.F.R.”) Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.

C. Use and Disclosure of Unrestricted Information. The prohibitions contained in this provision shall not apply to information which:

1. Is known by the recipient prior to its receipt from the disclosing party or is, or becomes, public knowledge without the fault of the recipient.
2. Is received from a source other than a party hereto without causing a breach of the terms and conditions of this Agreement.
3. Is independently developed by a party hereto without causing a breach of the terms and conditions of this Agreement.
4. Is required to be disclosed by court order or applicable law, including, without limitation, the California Public Records Act, provided that advance notice of the disclosure is given to the other party.

D. HIPAA Business Associate Requirements. COMPANY hereby agrees to adhere to the terms and conditions set forth in Exhibit D – County of Humboldt HIPAA Business Associate Agreement, which is attached hereto and incorporated herein by reference as if set forth in full.

E. Continuing Compliance with Confidentiality Requirements. Each party hereby acknowledges that local, state and federal laws, regulations and standards pertaining to confidentiality, electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance therewith. Each party agrees to promptly 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 or standards.

12. NON-DISCRIMINATION COMPLIANCE:

A. Professional Services and Employment. In connection with the execution of this Agreement, COMPANY, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of: race; religion or religious creed; color; age, over forty (40) years of age; sex, including, without limitation, gender identity and expression, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality; national origin; ancestry; marital status; medical condition, including, without limitation, cancer and genetic characteristics; mental or physical disability, including, without limitation, HIV status and AIDS; political affiliation; military service; denial of family care leave; or any other

classifications protected by any and all applicable local, state and federal laws, regulations or standards, all as may be amended from time to time. Nothing herein shall be construed to require the employment of unqualified persons.

- B. Compliance with Anti-Discrimination Laws. COMPANY further assures that it, and its subcontractors, shall abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, *et seq.*; California Government Code Sections 4450, *et seq.*; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Executive Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state or federal laws, regulations or standards, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Sections 8101, *et seq.* of Title 2 of the California Code of Regulations are incorporated herein by reference as if set forth in full.

13. 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 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.

14. 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 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 Noncompliance. Failure to comply with the requirements set forth herein may result in termination of this Agreement and/or ineligibility for award of future contracts.

15. 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, liabilities, expenses and costs of any kind or nature, including, without limitation, attorney's fees and other costs of litigation, arising out of, or in connection with, COMPANY's negligent performance of, or failure to comply with, any of the obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.
- B. Third Party Software Indemnification. COMPANY shall hold harmless, defend and indemnify COUNTY from liability to third parties resulting from infringement by the Software of any patent or copyright or misappropriation of any trade secret, provided COMPANY is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement. COMPANY will not be responsible for any settlement it does not approve in writing. If, due to a claim of infringement, the Software or related services are held by a court of competent jurisdiction to be or are believed by COMPANY to be infringing, COMPANY may, at its option and expense, replace or modify the Software to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, obtain a license which allows COUNTY to continue using the Software or terminate this Agreement and provide COUNTY a refund of any prepaid, unused fees.
- C. 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.

16. 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 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 B – Scope of Services, COMPANY will not drive an automobile in the performance of the 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 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 notices regarding the insurance required hereunder 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: JUMP Technology Services, L.L.C.
Attention: Maechelle Jones, Senior Associate
1024 Iron Point Road
Folsom, California 95630

17. LIMITATION OF LIABILITY:

- A. Warranty and Disclaimer. COMPANY shall use reasonable efforts consistent with prevailing industry standards to maintain the Software in a manner which minimizes errors and interruptions in service, and shall perform the services required hereunder in a professional and workmanlike manner. The Software may be temporarily unavailable for scheduled or unscheduled emergency maintenance, either by COMPANY or by third-party providers, or because of other causes beyond COMPANY's reasonable control, but COMPANY shall use reasonable efforts to provide COUNTY with advance written notice of any scheduled service disruption. However, COMPANY does not warrant that the Software will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the

Software or the services provided hereunder. Except as expressly set forth herein, the Software and services required hereunder shall be provided on an “as is” basis and COMPANY disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose and non-infringement.

- B. Limitation of Damages. Notwithstanding anything to the contrary, neither party shall be responsible or liable, with respect to any terms or conditions of this Agreement, or terms or conditions related thereto, under any contract, negligence, strict liability or other theory for, any indirect, exemplary, incidental, special or consequential damages of any kind, even if informed of the possibility of such damages in advance. In no event shall the total cumulative liability of either party arising from, or in connection with, this Agreement exceed the maximum amount payable for the licenses and services provided hereunder.

18. 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 agent, servant, employee, partnership, joint venture or any other similar association. 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.

19. 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 services provided pursuant to the terms and conditions of this Agreement.
- B. Licensure Requirements. COMPANY hereby agrees to comply with any and all local, state and federal licensure, certification and accreditation standards applicable the licenses and 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, 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.

20. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any 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 incorrectly stated, the parties agree to amend the pertinent section to make such insertion or correction.

21. REFERENCE TO LAWS, REGULATIONS AND STANDARDS:

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

22. PROTOCOLS:

Each party hereby agrees that the inclusion of additional protocols may be required to make this Agreement specific. All such protocols shall be negotiated, determined and agreed upon by both parties hereto.

23. 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.

24. ASSIGNMENT:

Neither party shall delegate its duties nor assign its rights hereunder, either in whole or in part, without the other party's prior written consent. Any assignment 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.

25. 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.

26. 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 any breach or default. COUNTY shall have the right to demand repayment of, and COMPANY shall promptly refund, any funds which COUNTY determines were not expended in accordance with the terms and conditions of this Agreement.

27. 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.

28. AMENDMENT:

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

29. 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.

30. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

31. ADVERTISING AND MEDIA RELEASE:

Any and all informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media, including, without limitation, television, radio, newspapers and internet. COMPANY shall inform COUNTY of any and all requests for interviews by the media related to the licenses and services provided pursuant to the terms and conditions of this Agreement before such interviews take place. COUNTY shall be entitled to have a representative present at any and all interviews concerning the subject matter of this Agreement. Any and all notices required by this provision shall be given in accordance with the notice provisions set forth herein.

32. SUBCONTRACTS:

COMPANY shall obtain prior written approval from COUNTY before subcontracting any of the 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 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 services provided by third parties under subcontracts, whether approved by COUNTY or not.

33. 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.

34. SURVIVAL OF PROVISIONS:

The duties and obligations of the parties set forth in Section 4(D) – Compensation upon Termination, Section 9 – Record Retention and Inspection, Section 11 – Confidential Information and Section 15 – Indemnification shall survive the expiration or termination of this Agreement.

35. CONFLICTING TERMS OR CONDITIONS:

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

36. 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.

37. 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.

38. 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, strikes, 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.

39. ENTIRE AGREEMENT:

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

40. 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.

41. AUTHORITY TO EXECUTE:

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

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

TWO SIGNATURES ARE REQUIRED FOR LIMITED LIABILITY COMPANIES PURSUANT TO THE CALIFORNIA CORPORATIONS CODE:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER; OR
- (3) ANY OTHER PROPERLY AUTHORIZED OFFICIAL OR EMPLOYEE.

JUMP TECHNOLOGY SERVICES, L.L.C.:

By: *Denise Brinkmeyer*
Denise Brinkmeyer, President

Date: _____

By: *Alan Brinkmeyer*
Alan Brinkmeyer, Vice President

Date: _____

COUNTY OF HUMBOLDT:

By: _____
Chair
Humboldt County Board of Supervisors

Date: _____

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: *Krista Freeman*
Risk Management

Date: _____

LIST OF EXHIBITS:

- Exhibit A – Ordering Document
- Exhibit B – Scope of Services
- Exhibit C – Sample Invoice Form
- Exhibit D – County of Humboldt Business Associate Agreement

EXHIBIT A
ORDERING DOCUMENT
 JUMP Technology Services, L.L.C.
 For Fiscal Years 2021-2022 through 2022-2023

COUNTY shall compensate COMPANY for the licenses and services provided pursuant to the terms and conditions of this Agreement at the following maximum rates of compensation:

Item	Description	Quantity	Price Per Unit	Total
LEAPS 21 - 30	Licensing and hosting for 21-30 users 2021-2023	8	\$5,967.00	\$47,736.00
Provider Portal / Registry	BOUNDS Provider Portal 2021-2023	2	\$8,000.00	\$16,000.00
Systems Modification Block Time	System enhancements at the request of the County 2021-2022	44	\$90.00	\$3,960.00
Training - Web Based	Web based training	18	\$424.00	\$7,632.00
Home Safe Support Pilot Extension ('21-22)	Includes Home Safe data element set up, mapping tools, data correct screens, shared portal for community partners, HSAPS19, HMIS export	1	\$2,308.00	\$2,308.00
Home Safe Support Module ('22-23)	Includes Home Safe data element set up, mapping tools, data correct screens, shared portal for community partners, HSAPS19, HMIS export	24	\$320.57	\$7,693.68
Structured Decision Making functionality	On-going support ('22-23)	24	\$112.00	\$2,688.00
Total Budget:				\$88,017.68

EXHIBIT B
SCOPE OF SERVICES
JUMP Technology Services, L.C.C.
For the Fiscal Years 2021-2022 through 2022-2023

1. SERVICES:

A. Provision of Software Services. The Software services provided by COMPANY pursuant to the terms and conditions of the Agreement shall include, without limitation, the following:

1. Adult Protective Services System Software Maintenance and Support;
2. Application hosting and hosting environment support, customer support portal;
3. SSL certificate and web address domain;
4. System enhancement for upgrades to meet SOC reporting requirements
5. Quarterly database backups available for download via ftps; and
6. Up to 75 GB storage.

B. Definition of Support Services. COUNTY may contact COMPANY via the customer support portal or assigned after hours phone numbers. COMPANY will respond to Program inquiries, coordinate resolution of Program problems, including, without limitation, verification of any reported errors, provide acceptable problem workarounds and communicate with designated COUNTY contacts on status and/or for additional problem information and supply the Error Corrections and/or Update Release, as necessary.

C. Support Plan. COUNTY may access support through the customer support portal or by calling 918-624-5867 during normal business hours. Normal business hours are between 7 a.m. and 7 p.m. (Central Time), Monday through Friday, excluding national and COMPANY holidays. The total number of COMPANY holidays is not to exceed ten (10) days per year. For after-hours contacts, COMPANY will provide two (2) emergency contact numbers.

1. Service includes all of the following:

- a. Access to support service through customer support portal or after-hours phone number;
- b. Access to support services by up to three (3) designated COUNTY contacts; and
- c. Access to available Update Release documentation.

2. Web access provides the following:

- a. Submitting Program inquiries or reporting Program problems;
- b. Access to Program technical tips;
- c. Access to Program problem and solution list(s);

- d. Access to available Patches;
- e. Review issue and status; and
- f. Review maintenance contract status.

D. COUNTY Inquiries. All COUNTY inquiries submitted to COMPANY (HDT) will generally fall into one (1) of following categories:

- 1. Request for a tool or feature that is not included in the current set of COMPANY produced or licensed software or features. COMPANY will review COUNTY’s requests for feature enhancement during normal COMPANY systems update cycles. Enhancements not identified as requirements for SOC reporting may be purchased by COUNTY at an hourly rate for development services. COUNTY may request a quote for the additional services.
- 2. Lack of information or clarity in COUNTY documentation.

E. Reporting Cases to the Support Services Center. All COUNTY inquiries submitted to COMPANY (HDT) must be made by a designated COUNTY contact. All HDT shall be made in the form of an issue report and shall include the following:

- 1. Contact information for the designated COUNTY contact reporting the problem;
- 2. The name and version number of the system being used;
- 3. A general description of the operating environment in which the issue was discovered, as applicable;
- 4. A description of relevant hardware components in the environment;
- 5. A description of relevant software components in the environment and their versions;
- 6. A description of the problem and expected results; and
- 7. System generated error messages or diagnostics where available.

F. HDT Priorities. COMPANY and COUNTY will work jointly to assign the appropriate priority to all HDT based on the following criteria:

Priority	Conditions
1 – High	Critical business impact. COUNTY has complete loss of service and work cannot reasonably continue; experiences real or perceived data loss or corruption; an essential part of the system is unusable for COUNTY, which results in the inability to use a mission critical application.
2 – Medium	Some business impact. The problem seriously affects the functionality of the Program but can be circumvented so that the Program can be used; or that the Program as a whole functions but that a certain function is somewhat disabled, gives incorrect results or does not conform to the specifications.
3 – Low	Minimal business impact. COUNTY can circumvent the problem and use the system with only slight inconvenience. The error can be considered insignificant and has no significant effect on the usability of the software, e.g., a small system error or error in the documentation. This priority is also used for questions, comments, and requests for enhancements to the Software.

G. HDT acknowledgement and Response Times. COMPANY's HDT acknowledgement and response time goals are as follows:

1. Acknowledgment Time is the time between COUNTY reporting the HDT to COMPANY and the time COMPANY gives COUNTY notice that it acknowledges the situation. These response times apply to HDT reported via the customer support portal during normal business hours (CST), or via the SCC chat line. HDT reported outside of normal business hours (CST) will adhere to the above times from the start of the next business day.
2. Response Time is the time between COUNTY reporting the HDT and the time that a PMO or SSC Analyst is assigned and actively working on the HDT.
3. COMPANY will respond to HDT within COMPANY's published response time goals as follows for all issues categories excluding enhancement requests:

Priority	Acknowledgment	Response
1 – High	2 business hours	4 business hours
2 – Medium	1 business day	3 business days
3 – Low	3 business days	5 business days

H. COMPANY's HDT Responsibilities. For each HDT reported by COUNTY, COMPANY shall take all of the following actions:

1. Maintain a web portal for COUNTY to report a problem and receive assistance;
2. Provide COUNTY with written confirmation of receipt of the issue report which contains an identifying ticket number assigned by COMPANY that will be used in all subsequent communications and a time-frame in which a response from COMPANY can be expected;
3. Analyze the report and verify the existence of the problem; and
4. Give COUNTY direction and assistance in resolving technical issues.

I. COUNTY's HDT Responsibilities. Before escalating a HDT to COMPANY, COUNTY shall take all of the following actions:

1. Appoint designated COUNTY contacts for all matters relating to the support issues for COMPANY systems;
2. Obtain all necessary information as outlined above;
3. Include COMPANY's identifying HDT number in all subsequent communications with COMPANY regarding the HDT; and
4. Maintain an accurate record of all HDT actions, based on feedback from COMPANY.

J. HDT Resolution. HDT will be considered resolved and will be closed under the following conditions:

1. COUNTY receives an error correction, a workaround or information that resolves the issue.
2. Issue is identified as not a problem with the product provided by COMPANY.

3. If the HDT results in a defect correction or enhancement request being entered and COUNTY has been advised of this and has been notified of the defect/enhancement ID for future reference.
4. COUNTY has not responded to COMPANY within ten (10) business days after information was provided via portal. The HDT can be reopened if the issue has not been resolved.

K. Defect/Failure Correction Goals. HDT that result in the identification of a software system defect/failure will cause a Defect to be logged. COUNTY will be notified that the defect/failure was received and will be provided with an HDT number. COMPANY will respond to defect reports as indicated in the table below. The response time goals do not apply in situations where it is verified that the source of the failure is a third-party product.

Priority	Interim Solution	Final Solution
1 – High	All commercially reasonable effort until the defect is repaired.	Permanent correction within 30 business days of identification of the cause of the defect.
2 – Medium	N/A	Permanent correction within 45 business days of identification of the cause of the defect.
3 – Low	N/A	Permanent correction with next schedule Major Release or Update Release.

L. Software Releases. COUNTY’s project manager will publish release information at release planning and implementation. COUNTY will also be provided with a link to iteration plans that include requested or planned future enhancements. All updates implemented will require COUNTY approval.

2. SERVICE RESTRICTIONS:

COMPANY will not drive an automobile in the performance of the 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 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 C
SAMPLE INVOICE FORM
 JUMP Technology Services, L.L.C.
 For the Fiscal Years 2021-2022 through 2022-2023

INVOICE

(Place on company letterhead)

Company Name:
 Contract Reference:
 Company Remit To/Mailing Address:

Invoice Date:
 Invoice Period:
 Invoice Number:

Contact Name:
 Contact Phone Number:
 Contact Email:

Date	Quantity	Description	Rate	Total

Total Invoiced Amount: _____

EXHIBIT D
COUNTY OF HUMBOLDT HIPAA BUSINESS ASSOCIATE AGREEMENT
JUMP Technology Services, L.L.C.
For Fiscal Years 2021-2022 through 2022-2023

RECITALS:

WHEREAS, COUNTY, as a “Covered Entity” wishes to disclose certain information to COMPANY, hereafter known as the “BUSINESS ASSOCIATE” pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”).

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 HIPAA, the HITECH Act, and the HIPAA regulations.