

STANDARD CONTRACT
(Purchase of Services - Long Form)

Number
Fund/Org# 1200
Account # 2310
Other #

1. **Contract Identification.**

Department: County Administrator's Office

Subject: Hospital & Health Services Sustainability Audit

2. **Parties.** The County of Contra Costa, California (County), for its Department named above, and the following named Contractor mutually agree and promise as follows:

Contractor: Health Management Associates, Inc.

Capacity: Michigan Corporation

Address: 120 N. Washington Square, #705, Lansing, MI 48933

3. **Term.** The effective date of this Contract is January 19, 2011. It terminates on June 30, 2011 unless sooner terminated as provided herein.

4. **Payment Limit.** County's total payments to Contractor under this Contract shall not exceed \$ 382,759.00.

5. **County's Obligations.** County shall make to the Contractor those payments described in the Payment Provisions attached hereto which are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. **Contractor's Obligations.** Contractor shall provide those services and carry out that work described in the Service Plan attached hereto which is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

7. **General and Special Conditions.** This Contract is subject to the General Conditions and Special Conditions (if any) attached hereto, which are incorporated herein by reference.

8. **Project.** This Contract implements in whole or in part the following described Project, the application and approval documents of which are incorporated herein by reference:

Contra Costa County Request for Proposals: Sustainability Audit of the Contra Costa Regional Medical Center and Clinics.

9. Legal Authority. This Contract is entered into under and subject to the following legal authorities:

Government Code Section 26227

10. Signatures. These signatures attest the parties' agreement hereto:

COUNTY OF CONTRA COSTA, CALIFORNIA

BOARD OF SUPERVISORS	ATTEST: Clerk of the Board of Supervisors
By _____ Chair/Designee	By _____ Deputy

CONTRACTOR

Name of business entity: Health Management Associates, Inc.	Name of business entity: Health Management Associates, Inc.
By _____ (Signature of individual or officer)	By _____ (Signature of individual or officer)
_____ (Print name and title A, if applicable)	_____ (Print name and title B, if applicable)

Note to Contractor: For Corporations (profit or nonprofit), the contract must be signed by two officers. Signature A must be that of the president or vice-president and Signature B must be that of the secretary or assistant secretary (Civil Code Section 1190 and Corporations Code Section 313). All signatures must be acknowledged as set forth on Form L-2.

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On _____, before me, _____
(insert name and title of the officer), personally appeared _____

_____ who proved to me on the basis of satisfactory
evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)
on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is
true and correct.

WITNESS MY HAND AND OFFICIAL SEAL.

Signature

(Seal)

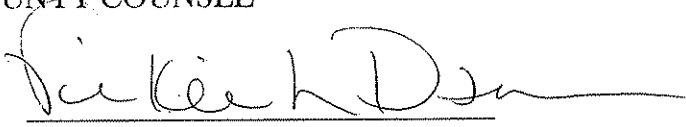
ACKNOWLEDGMENT (by Corporation, Partnership, or Individual)
(Civil Code §1189)

APPROVALS

RECOMMENDED BY DEPARTMENT

By: _____
Designee

FORM APPROVED
COUNTY COUNSEL

By: 
Deputy County Counsel

APPROVED: COUNTY ADMINISTRATOR

By: _____
Designee

Service Plan

Contractor will provide professional evaluation, consultation and advisory services concerning the policies, operations and structures of the Contra Costa Regional Medical Center (CCRMC), County Health Centers, and the Contra Costa Health Plan (CCHP). Contractor will develop recommendations designed to secure the financial sustainability of the County's health care system and to ensure the most efficient and effective delivery of medical services to County residents that are consistent with the implementation of health care reform.

Contractor's services under this contract will be delivered in three stages in order to ensure effective oversight and consultation with County staff.

I. Stage I Informational Memorandum (January 19, 2011 – March 14, 2011)

Stage I consists of data collection and interviews, resulting in an Information Memorandum. The Information Memorandum will include the following elements:

- A. Demographic and health care utilization data for the County's Medi-Cal and uninsured populations to guide decision-making.
- B. Description of the current overall capacity of Contra Costa County's facilities, programs, and services to provide an appropriate continuum of health care services to County's target populations, and collection of relevant operational data for County health care programs to enable evaluation of County's performance based on industry "best practices."
- C. Identification of areas where the County's current level of service for medically indigent and uninsured residents through the Basic Health Care (BHC) program either exceeds or is insufficient to meet legally mandated minimum service levels, as compared to comparable counties.
- D. A description of the impact of the new Federal "Low Income Health Program" (LIHP - comprised of "Medicaid Coverage Expansion" and a renewal of the existing "Health Care Coverage Initiative") on the County's ability to provide legally required health care services to medically indigent residents and other medically vulnerable residents of Contra Costa County.
- E. An estimate of the expected net effect of the new LIHP on Medi-Cal reimbursements to the County in FY 2011-12.
- F. Identification of new service capacity needs that may arise as a result of expanding access to health care services and implementing expanded managed care programs under Medi-Cal through the new LIHP;
- G. Financial and service utilization data and quality and performance indicators for CCRMC and County Health Centers that describe the efficiency, sufficiency, and cost effectiveness of County-operated health care facilities.
- H. Identification of all areas where the performance of CCRMC and County Health

Initials: _____

Centers is not comparable to overall industry averages or standards, and assessment of reasons for such variance.

Information Memorandum Due Date

Contractor will provide the Information Memorandum to the County Administrator's Office on or before **March 14, 2011**.

**II. Stage II Preliminary Report
(March 15, 2011 – April 4, 2011)**

Stage II consists of Contractor's preliminary professional assessment, analysis, and evaluation of relevant data for the purpose of constructing policy and program alternatives and developing specific recommendations for consideration by the County, resulting in a Preliminary Report. The Preliminary Report will include the following elements:

- A. Preliminary findings, based on industry standards for "best practices" and performance measurement, concerning the overall performance, including cost effectiveness, of the County Health Services Department, CCRMC, County Health Centers, CCHP, and affiliated health care organizations and institutions within the County, in providing a comprehensive health care network for the County's low-income, uninsured and/or medically vulnerable populations.
- B. A preliminary strategic analysis of CCHP, CCRMC and County Health Centers that includes an assessment of their competitive position under health care reform in terms of local market conditions and expected increases in utilization of health care services by Medi-Cal recipients and the uninsured.
- C. Presentation of potential alternative governance models that would address any identified operational and/or financial barriers to continued financial sustainability of CCRMC, County Health Centers, and CCHP, or that would improve the efficiency and cost effectiveness of delivering health care services to patients.
- D. Recommend strategies and programs designed to maximize Federal reimbursements to the County for health care services for Medi-Cal recipients and uninsured persons, including a description of eligibility requirements for any potential new revenue sources and an evaluation of the County's ability to obtain such funding.
- E. Assess the impact of the LIHP on the financial status of CCHP, including expected changes in annual County General Fund costs for the BHC Program.
- F. Assess the prospective role of CCHP in providing comprehensive managed care to an expanded patient population under the new LIHP, in comparison with other health plans and/or other provider networks.
- G. Assess the County's ongoing labor needs for medical staff, including physicians, nurses, specialists, and other health care providers.
- H. Review the County's recruitment and retention procedures and practices for providing the required complement of professional medical staff for the County's health care operations. Develop medical staffing alternatives or proposals for County consideration that are reflective of industry "best practices" for cost containment and patient care, as health care reform is implemented.
- I. Assess the availability and capacity of other (non-profit and private) health care providers to participate in a "community-based collaborative care network" providing

Initials: _____

- “medical homes” and coordinated managed care services for Medi-Cal patients.
- J. Prepare and submit a draft outline of a work plan for the establishment of a “medical home system of care” for the expanding Medi-Cal population, the uninsured, and other medically vulnerable residents of the County.

Preliminary Report Due Date

Contractor will provide the Preliminary Report to the County Administrator’s Office on or before **April 4, 2011**.

**III. Stage III Draft Final Report and Final Report
(April 5, 2011 – May 31, 2011)**

Stage III consists of Contractor’s preparation and submission of a Final Report documenting its findings and recommendations. In the first part of Stage III, Contractor will draft and submit a draft version of the Final Report to the County Administrator’s Office on or before **May 13, 2011**. After consultation with, and feedback from, the County Administrator and his designees, Contractor will prepare a final version of the Final Report and submit it to the County Administrator on or before **May 31, 2011**.

The Final Report will include the following elements:

- A. A final work plan for the establishment of a “medical home system of care” of sufficient depth and specificity to enable the County to plan and implement a “medical home system of care” and comprehensive managed care network for the target populations.
- B. A management review of Health Services Department programs, including CCRMC and County Health Centers, that identifies structural, organizational, and program changes needed to contain costs and maximize return on County investments (including potential changes in service lines or methods of program or service delivery).
- C. An evaluation of alternative governance structures (such as a hospital district or community-based collaborative care network) that could enhance the County’s ability to provide appropriate, accessible, and effective health care services to its customers.
- D. An evaluation of local labor market conditions, medical staff recruitment and retention strategies, labor agreements, and the use of contracted vendors, in order to ensure access by Contra Costa residents and others to appropriate and effective medical services at CCRMC and County Health Centers (or through alternative service delivery options) at the least cost to the County.
- E. Recommendations for changes in the County’s current procedures for data collection and analysis, and in the use of performance indicators, program outcomes, and customer satisfaction reports for CCRMC and County Health Center operations that will enhance the County’s oversight and management of its health care programs and support sustainability.

Initials: _____

- F. Recommendations for changes and/or enhancements to the County's organizational capacity for ongoing strategic planning, evaluation, and oversight of the County's health care programs and policies that would enhance the County's oversight and management of its health care programs and support sustainability.

IV. General Provisions

In providing the above-described services, Contractor agrees to:

- (1) Coordinate with the County Administrator's Office for obtaining records, scheduling meetings with departmental administrative and/or fiscal staff, and resolving problems or challenges as they arise;
- (2) Provide an oral progress report, or status update on any issue or matter of inquiry related to this contract, upon request of the County Administrator's Office; and,
- (3) Perform other related services as are requested by the County Administrator or his designee, that are mutually agreed to be necessary in fulfilling the requirements of this contract.

V. HIPAA Requirements.

Contractor must comply with the applicable requirements and procedures set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any modifications thereto, including, but not limited to, the attached HIPAA Business Associate Attachment, which is incorporated herein by this reference.

Initials: _____

PAYMENT PROVISIONS
(Fee Basis Contracts - Long and Short Form)

Number _____

1. **Payment Amounts.** Subject to the Payment Limit of this Contract and subject to the following Payment Provisions, County will pay Contractor the following fee as full compensation for all services, work, expenses or costs provided or incurred by Contractor:

[Check one alternative only.]

- ☐ a. \$ _____ monthly, or
- ☐ b. \$ _____ per unit, as defined in the Service Plan, or
- ☐ c. \$ _____ after completion of all obligations and conditions herein.
- ☒ d. Other: As set forth in Exhibit A, attached hereto.

2. **Payment Demands.** Contractor shall submit written demands for payment on County Demand Form D-15 in the manner and form prescribed by County. Contractor shall submit said demands for payment no later than 30 days from the end of the month in which the contract services upon which such demand is based were actually rendered. Upon approval of payment demands by the head of the County Department for which this Contract is made, or his designee, County will make payments as specified in Paragraph 1. (Payment Amounts) above.
3. **Penalty for Late Submission.** If County is unable to obtain reimbursement from the State of California as a result of Contractor's failure to submit to County a timely demand for payment as specified in Paragraph 2. (Payment Demands) above, County shall not pay Contractor for such services to the extent County's recovery of funding is prejudiced by the delay even though such services were fully provided.
4. **Right to Withhold.** County has the right to withhold payment to Contractor when, in the opinion of County expressed in writing to Contractor, (a) Contractor's performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Contractor has failed to sufficiently itemize or document its demand(s) for payment.
5. **Audit Exceptions.** Contractor agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate county, state or federal audit agencies resulting from its performance of this Contract. Within 30 days of demand, Contractor shall pay County the full amount of County's obligation, if any, to the state and/or federal government resulting from any audit exceptions, to the extent such are attributable to Contractor's failure to perform properly any of its obligations under this Contract.

Initials: _____
Contractor County Dept.

“EXHIBIT A”
To PAYMENT PROVISIONS (FORM P-1)

A. County will pay Contractor as follows:

1. Upon receipt of the Information Memorandum required by Stage I of the Service Plan, County will pay Contractor its allowable costs in an amount not to exceed \$74,498.
2. Upon receipt of the Preliminary Report required by Stage II of the Service Plan, County will pay Contractor its allowable costs in an amount not to exceed \$74,498. Notwithstanding the \$74,498 payment limit, any unused funds from Stage I may also be used to pay Contractor for work performed in Stage II, if those unused funds are needed.
3. Upon receipt of the draft Final Report required by Stage III of the Service Plan, County will pay Contractor its allowable costs in an amount not to exceed \$119,197. Notwithstanding the \$119,197 payment limit, any unused funds from Stages I and II may also be used to pay Contractor for work performed on the draft Final Report, if those unused funds are needed.
4. Upon acceptance and approval of the final Final Report required by Stage III of the Service Plan, County will pay Contractor its allowable costs in an amount not to exceed \$29,799. Notwithstanding the \$29,799 payment limit, any unused funds remaining after all payments have been made to Contractor pursuant to Paragraphs 1, 2, and 3, above, may also be used to pay Contractor for work performed on the final Final Report, if those unused funds are needed.
5. In addition to the above payments, County will pay Contractor, on an hourly basis and in an amount not to exceed \$10,000, for advisory and professional consultation services regarding the County’s health care delivery system, programs, and/or policies, that are provided by Contractor upon the request of the County Administrator or his designee.

B. Contractor’s hourly rates are as follows:

Name	Job Title	Hourly Rate
Theresa Sachs	Managing Principal	\$264
Mary Roos	Managing Principal	\$308
Doug Elwell	Managing Principal	\$308
Stan Rosenstein	Principal Advisory	\$308
Dave Ferguson	Managing Principal	\$264

Name	Job Title	Hourly Rate
Jack Raba	Principal	\$332
Greg Vachon	Principal	\$320
Deb Zahn	Principal	\$264
Lisa Maiuro	Senior Consultant	\$228
Jane Longo	Senior Consultant	\$228
Brenda Klutz	Senior Consultant	\$228
Laura Bustos	Consultant	\$120
Ann Zerr		\$300
Mike Carr		\$300

C. County will also pay Contractor for travel time and expenses, subject to the following limitations:

1. Total travel time payable to Contractor for the term of this contract may not exceed \$49,123.
2. Payments for travel time by Consultant's staff will be based on the actual travel time of the staff person multiplied by 50% of that staff person's hourly rate set forth in the table in Section B, above.
3. Travel expenses and all other costs incurred by Contractor may not exceed the total of \$25,644, and all such expenses must be supported by appropriate documentation, i.e. receipts and invoices.

D. In addition to the County Demand Form D-15 required by Paragraph 2. of the Payment Provisions, Contractor must also submit an itemized statement of all work performed during the billing period, including a description of the work activity and associated time expended (in not less than quarter hour increments) for each member of Contractor's staff, payable at each staff member's hourly rate set forth in the table in Section B, above.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

1. **Compliance with Law.** Contractor is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Contract, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment, including nondiscrimination.
2. **Inspection.** Contractor's performance, place of business, and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.
3. **Records.** Contractor must keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the County.
 - a. **Retention of Records.** Contractor must retain all documents pertaining to this Contract for five years from the date of submission of Contractor's final payment demand or final Cost Report; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this Contract's funding period. Upon request, Contractor must make these records available to authorized representatives of the County, the State of California, and the United States Government.
 - b. **Access to Books and Records of Contractor, Subcontractor.** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Contract, make available to the County, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and books, documents, and records of Contractor necessary to certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to the County, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor.

4. **Reporting Requirements.** Pursuant to Government Code Section 7550, Contractor must include in all documents and written reports completed and submitted to County in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section applies only if the Payment Limit of this Contract exceeds \$5,000.

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

5. **Termination and Cancellation.**

- a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-day advance written notice thereof to the other, and may be cancelled immediately by written mutual consent.
- b. **Failure to Perform.** County, upon written notice to Contractor, may immediately terminate this Contract should Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, County may proceed with the work in any reasonable manner it chooses. The cost to County of completing Contractor's performance will be deducted from any sum due Contractor under this Contract, without prejudice to County's rights to recover damages.
- c. **Cessation of Funding.** Notwithstanding any contrary language in Paragraphs 5 and 11, in the event that federal, state, or other non-County funding for this Contract ceases, this Contract is terminated without notice.

6. **Entire Agreement.** This Contract contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract will be deemed to exist or to bind any of the parties hereto.

7. **Further Specifications for Operating Procedures.** Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be clarified in a written letter signed by Contractor and the department head, or designee, of the county department on whose behalf this Contract is made. No written clarification prepared pursuant to this Section will operate as an amendment to, or be considered to be a part of, this Contract.

8. **Modifications and Amendments.**

- a. **General Amendments.** In the event that the Payment Limit of this Contract is \$100,000 or less, this Contract may be modified or amended only by a written document executed by Contractor and the County's Purchasing Agent or the Contra Costa County Board of Supervisors, subject to any required state or federal approval. In the event that the Payment Limit of this Contract exceeds \$100,000, this Contract may be modified or amended only by a written document executed by Contractor and the Contra Costa County Board of Supervisors or, after Board approval, by its designee, subject to any required state or federal approval.
- b. **Minor Amendments.** The Payment Provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, provided that such administrative amendment may not increase the Payment Limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.

9. **Disputes.** Disagreements between County and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final written determination by the head of the county department for which this Contract is made, or his designee, or in accordance with the applicable procedures (if any) required by the state or federal government.

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

10. Choice of Law and Personal Jurisdiction.

- a. This Contract is made in Contra Costa County and is governed by, and must be construed in accordance with, the laws of the State of California.
- b. Any action relating to this Contract must be instituted and prosecuted in the courts of Contra Costa County, State of California.

11. Conformance with Federal and State Regulations and Laws. Should federal or state regulations or laws touching upon the subject of this Contract be adopted or revised during the term hereof, this Contract will be deemed amended to assure conformance with such federal or state requirements.

12. No Waiver by County. Subject to Paragraph 9. (Disputes) of these General Conditions, inspections or approvals, or statements by any officer, agent or employee of County indicating Contractor's performance or any part thereof complies with the requirements of this Contract, or acceptance of the whole or any part of said performance, or payments therefor, or any combination of these acts, do not relieve Contractor's obligation to fulfill this Contract as prescribed; nor is the County thereby prevented from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.

13. Subcontract and Assignment. This Contract binds the heirs, successors, assigns and representatives of Contractor. Prior written consent of the County Administrator or his designee, subject to any required state or federal approval, is required before the Contractor may enter into subcontracts for any work contemplated under this Contract, or before the Contractor may assign this Contract or monies due or to become due, by operation of law or otherwise.

14. Independent Contractor Status. The parties intend that Contractor, in performing the services specified herein, is acting as an independent contractor and that Contractor will control the work and the manner in which it is performed. This Contract is not to be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association. Additionally, Contractor is not entitled to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits County provides to its employees. In the event that County exercises its right to terminate this Contract, Contractor expressly agrees that it will have no recourse or right of appeal under any rules, regulations, ordinances, or laws applicable to employees.

15. Conflicts of Interest. Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Contract, no person having any such interests will be employed by Contractor. If requested to do so by County, Contractor will complete a "Statement of Economic Interest" form and file it with County and will require any other person doing work under this Contract to complete a "Statement of Economic Interest" form and file it with County. Contractor covenants that Contractor, its employees and officials, are not now employed by County and have not been so employed by County within twelve months immediately preceding this Contract; or, if so employed, did not then and do not now occupy a position that would create a conflict of interest under Government Code section 1090. In addition to any indemnity provided by Contractor in this Contract, Contractor will indemnify,

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

defend, and hold the County harmless from any and all claims, investigations, liabilities, or damages resulting from or related to any and all alleged conflicts of interest.

16. **Confidentiality.** Contractor agrees to comply and to require its officers, partners, associates, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that:

- a. All applications and records concerning any individual made or kept by Contractor or any public officer or agency in connection with the administration of or relating to services provided under this Contract will be confidential, and will not be open to examination for any purpose not directly connected with the administration of such service.
- b. No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.

17. **Nondiscriminatory Services.** Contractor agrees that all goods and services under this Contract will be available to all qualified persons regardless of age, gender, race, religion, color, national origin, ethnic background, disability, or sexual orientation, and that none will be used, in whole or in part, for religious worship.

18. **Indemnification.** Contractor will defend, indemnify, save, and hold harmless County and its officers and employees from any and all claims, demands, losses, costs, expenses, and liabilities for any damages, fines, sickness, death, or injury to person(s) or property, including any and all administrative fines, penalties or costs imposed as a result of an administrative or quasi-judicial proceeding, arising directly or indirectly from or connected with the services provided hereunder that are caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by County, Contractor will defend any such suits at its sole cost and expense. If County elects to provide its own defense, Contractor will reimburse County for any expenditures, including reasonable attorney's fees and costs. Contractor's obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor is not required to indemnify County for the proportion of liability a court determines is attributable to the sole negligence or willful misconduct of the County, its officers and employees. This provision will survive the expiration or termination of this Contract.

19. **Insurance.** During the entire term of this Contract and any extension or modification thereof, Contractor shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:

- a. **Commercial General Liability Insurance.** For all contracts where the total payment limit of the contract is \$500,000 or less, Contractor will provide commercial general liability insurance, including coverage for business

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

losses and for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance must be endorsed to include County and its officers and employees as additional insureds as to all services performed by Contractor under this Contract. Said policies must constitute primary insurance as to County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) will not be required to contribute to any loss covered under Contractor's insurance policy or policies. For all contracts where the total payment limit is greater than \$500,000, the aforementioned insurance coverage to be provided by Contractor must have a minimum combined single limit coverage of \$1,000,000, and Contractor must provide County with a copy of the endorsement making the County an additional insured on all commercial general liability, worker's compensation, and, if applicable, all professional liability insurance policies as required herein no later than the effective date of this Contract.

b. **Workers' Compensation.** Contractor must provide workers' compensation insurance coverage for its employees.

c. **Certificate of Insurance.** The Contractor must provide County with (a) certificate(s) of insurance evidencing liability and worker's compensation insurance as required herein no later than the effective date of this Contract. If Contractor should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor must provide (a) current certificate(s) of insurance.

d. **Additional Insurance Provisions.** The insurance policies provided by Contractor must include a provision for thirty (30) days written notice to County before cancellation or material change of the above-specified coverage.

20. **Notices.** All notices provided for by this Contract must be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to County must be addressed to the head of the county department for which this Contract is made. Notices to Contractor must be addressed to the Contractor's address designated herein. The effective date of notice is the date of deposit in the mails or of other delivery, except that the effective date of notice to County is the date of receipt by the head of the county department for which this Contract is made.

21. **Primacy of General Conditions.** In the event of a conflict between the General Conditions and the Special Conditions, the General Conditions govern unless the Special Conditions or Service Plan expressly provide otherwise.

22. **Nonrenewal.** Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased by County under a new contract following expiration or termination of this Contract, and Contractor waives all rights or claims to notice or hearing respecting any failure to continue purchasing all or any such services from Contractor.

23. **Possessory Interest.** If this Contract results in Contractor having possession of, claim or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

Contract results in the placement of taxable improvements on tax exempt land (Revenue & Taxation Code Section 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest. Contractor agrees that this provision complies with the notice requirements of Revenue & Taxation Code Section 107.6, and waives all rights to further notice or to damages under that or any comparable statute.

24. **No Third-Party Beneficiaries.** Nothing in this Contract may be construed to create, and the parties do not intend to create, any rights in third parties.

25. **Copyrights and Rights in Data.** Contractor will not publish or transfer any materials produced or resulting from activities supported by this Contract without the express written consent of the County Administrator. If any material is subject to copyright, County reserves the right to copyright, and Contractor agrees not to copyright such material. If the material is copyrighted, County reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so.

26. **Endorsements.** In its capacity as a contractor with Contra Costa County, Contractor will not publicly endorse or oppose the use of any particular brand name or commercial product without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely accepted scientific basis for such claims or without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not participate or appear in any commercially produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of Contra Costa County. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Supervisors, County officers, or others who may be authorized by the Board of Supervisors or by law to receive such views.

27. **Required Audit.** (A) If Contractor is funded by \$500,000 or more in federal grant funds in any fiscal year from any source, Contractor must provide to County, at Contractor's expense, an audit conforming to the requirements set forth in the most current version of Office of Management and Budget Circular A-133. (B) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, but such grant imposes specific audit requirements, Contractor must provide County with an audit conforming to those requirements. (C) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, Contractor is exempt from federal audit requirements for that year; however, Contractor's records must be available for and an audit may be required by, appropriate officials of the federal awarding agency, the General Accounting Office (GAO), the pass-through entity and/or the County. If any such audit is required, Contractor must provide County with such audit. With respect to the audits specified in (A), (B) and (C) above, Contractor is solely responsible for arranging for the conduct of the audit, and for its cost. County may withhold the estimated cost of the audit or 10 percent of the contract amount, whichever is greater, or the final payment, from Contractor until County receives the audit from Contractor.

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

28. **Authorization.** Contractor, or the representative(s) signing this Contract on behalf of Contractor, represents and warrants that it has full power and authority to enter into this Contract and to perform the obligations set forth herein.
29. **No Implied Waiver.** The waiver by County of any breach of any term or provision of this Contract will not be deemed to be a waiver of such term or provision or of any subsequent breach of the same or any other term or provision contained herein.

Contractor

County Dept.

HIPAA BUSINESS ASSOCIATE ATTACHMENT

To the extent, and as long as required by the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act, this HIPAA Business Associate Attachment ("Attachment") supplements and is made a part of the Contract identified as Number _____ (hereinafter referred to as "Agreement") by and between a Covered Entity (Contra Costa County for its Health Services Department, hereinafter referred to as "County") and Business Associate (the Contractor identified in the Agreement, hereinafter referred to as "Associate").

- A. County wishes to disclose certain information to Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"), defined below.
- B. County and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to the Agreement as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), and the regulations promulgated thereunder (collectively, the "HIPAA Regulations"), and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule, defined below, require County to enter into a contract containing specific requirements with 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 and contained in this Attachment.

In consideration of the mutual promises below and the exchange of information pursuant to this Attachment, the parties agree as follows:

1. **Definitions.** As used in this Attachment, the following terms have the following meanings:
 - a. **Breach** has the meaning given to such term under the HITECH Act set forth at 42 U.S.C. Section 17921.
 - b. **Business Associate** ("Associate") means an individual or entity that provides services, arranges, performs or assists in the performance of activities on behalf of the County and who uses or discloses PHI, pursuant to the HIPAA Regulations including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
 - c. **Covered Entity** ("County") means Contra Costa County for its Health Services Department.
 - d. **Data Aggregation** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
 - e. **Designated Record Set** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
 - f. **Electronic Media** is:
 - (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or
 - (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media.

Initials: _____
 Contractor County Dept.

- g. **Electronic Protected Health Information (ePHI)** is any Protected Health Information that is stored in or transmitted by electronic media.
- h. **Electronic Health Record** has the meaning given to such term under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- i. **Health Care Operations** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
- j. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information set forth in 45 C.F.R. Parts 160 and 164, as in effect or as amended.
- k. **Protected Health Information ("PHI")** means any information in any form or medium, including oral, paper, or electronic: (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 such 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).
- l. **Protected Information** means PHI provided by County to Associate or created or received by Associate on behalf of the County in connection with the Agreement.
- m. **Required by Law** has the same meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.103.
- n. **Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- o. **Security Rule** means the standards for protecting the security of electronic Protected Health Information in 45 C.F.R. Parts 160 and 164, as in effect or as amended.
- p. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to said Act including, but not limited to, 42 U.S.C. Section 17932(h).

Terms used, but not defined, in this Attachment will have the same meanings as those terms are given in the HIPAA Privacy Rule.

2. Obligations of Associate.

- a. **Permitted Uses.** Associate shall not use Protected Information except for the purpose of performing Associate's obligations under the Agreement and as permitted under the Agreement and this Attachment, or as Required by Law. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act.
- b. **Permitted Disclosures.** 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, Associate may disclose Protected Information (i) in a manner permitted pursuant to the Agreement and this Attachment, (ii) for the proper management and administration of Associate, (iii) as Required by Law, or (iv) for Data Aggregation purposes for the Health Care Operations of County. To the extent that Associate discloses Protected Information to a third party, 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 Attachment and only disclosed 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

Initials: _____
 Contractor County Dept.

to immediately notify Associate or any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach.

- c. **Prohibited Uses and Disclosures.** Associate shall not use or disclose Protected Information for fundraising or marketing purposes. 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 services to which the PHI solely relates (42 U.S.C. Section 17935(a)). Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of County and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by County to Associate for services provided pursuant to the Agreement.
- d. **Appropriate Safeguards.** Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Protected Information that it creates, receives, maintains, or transmits on behalf of County as required by the Agreement or this Attachment and in accordance with 42 C.F.R. Sections 164.308, 164.310, and 164.312. Associate shall comply with the policies and procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316.
- e. **Reporting of Improper Use or Disclosure.** Associate will notify County in writing within twenty-four (24) hours of its discovery of any security incident or any other use or disclosure of Protected Information not permitted by the Agreement or this Attachment of which Associate or its officers, employees or agents become aware, without unreasonable delay, and in no case later than ten (10) calendar days after discovery. Associate will take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- f. **Associate's Agents.** Associate agrees to ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Associate with respect to such Protected Information and implement the safeguards required by paragraph c, above, with respect to ePHI. Associate agrees to implement and maintain sanctions against agents and subcontractors who violate such restrictions and will mitigate the effects of any such violation.
- g. **Access to Protected Information.** Associate agrees to make Protected Information maintained by Associate or its agents or subcontractors in Designated Record Sets available to County for inspection and copying within ten (10) days of request by County to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.524. If Associate maintains an Electronic Health Records, Associate shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of Protected Information.** Within ten (10) days of receipt of a request from County for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors will make such Protected Information available to County for amendment and incorporate any such amendment to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or subcontractors, Associate must notify County within five (5) calendar days of the request, without unreasonable delay. County, and not Associate, will determine if and when to deny a request for an amendment of Protected Information maintained by Associate.
- i. **Availability and Accounting of Information.** Within ten (10) calendar days of notice by County of a request for an accounting of disclosure of Protected Information, Associate and its agents or 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 set forth at 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. As set

Initials: _____
Contractor County Dept.

forth in, and as limited by, 45 C. F. R. Section 164.528, Associate need not provide an accounting to County of disclosures: (i) to carry out treatment, payment or health care operations, as set forth in 45 C.F.R. Section 164.502; (ii) to individuals of PHI about them as set forth in 45 C. F. R. 164.502; (iii) to persons involved in the individual's care or other notification purposes as set forth in 45 C. F. R. Section 164.510; (iv) for national security or intelligence purposes as set forth in 45 C.F.R. Section 164.512(k)(2); or (v) to correctional institutions or law enforcement officials as set forth in 45 C.F.R. Section 164.512(k)(5). Associate agrees to implement a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule. 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 Associate maintains an electronic health record and is subject to this requirement. At a minimum, such information must 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 the 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. In the event that the request for an accounting is delivered directly to Associate or its agents or subcontractors, Associate will send the request, in writing, to County within five (5) calendar days of receipt. It will then be County's responsibility to prepare and deliver or otherwise respond to the accounting request. Associate will not disclose any Protected Information except as set forth in Section 2.b. of this Attachment.

- j. **Governmental Access to Records.** Associate agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Associate's compliance with the HIPAA Privacy Rule. Associate agrees to provide County with copies of any Protected Information that Associate provides to the Secretary of the U.S. Department of Health and Human Services at the same time Associate provides such Protected Information to the Secretary of the U.S. Department of Health and Human Services.
- k. **Minimum Necessary.** Associate and its agents and subcontractors will only request, use, and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. 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."
- l. **Data Ownership.** Associate acknowledges that Associate has no ownership rights with respect to Protected Information.
- m. **Retention of Protected Information.** Except as provided in Section 3.c. of this Attachment, Associate and its subcontractors and agents must retain all Protected Information throughout the term of the Agreement and must continue to maintain the information required by Section 2.h. of this Attachment for a period of six (6) years after termination or expiration of the Agreement. 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 Associate maintains an electronic health record and is subject to this requirement.
- n. **Associate's Insurance.** In addition to any other insurance requirements specified in the Agreement, Associate will, at its sole cost and expense, insure its activities in connection with this Attachment. Associate will obtain, keep in force and maintain insurance or equivalent program(s) of self-insurance with appropriate limits, as determined by County, at its sole discretion, that will cover losses that may arise from any breach of this Attachment, breach of security, or any unauthorized use or disclosure of Protected

Initials: _____
Contractor County Dept.

Information. It is expressly understood and agreed that the insurance required herein does not in any way limit the liability of Associate with respect to its activities in connection with this Attachment.

- o. **Notification of Breach.** During the term of the Agreement, Associate shall notify County within twenty-four (24) hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall take (i) prompt corrective action to cure any such deficiencies; and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. In the event the breach was caused, directly or indirectly, by negligent misconduct on the part of Associate, Associate's agents or subcontractors, Associate will be solely responsible for all damages resulting from the breach.
- p. **Breach Pattern or Practice by County.** Pursuant to 42 U.S.C. Section 17934(b), if the Associate knows of a pattern of activity or practice of County that constitutes a material breach of violation of the County's obligations under the Agreement or Attachment, the Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Associate must terminate the Agreement, if feasible, or if termination is not feasible, report the problem to the Secretary of the U.S. Department of Health and Human Services. Associate shall provide written notice to County of any pattern of activity or practice of County that Associate believes constitutes a material breach or violation of the County's obligations under the Agreement or Attachment within five (5) days of discovery and shall meet with County to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- q. **Certification and Enforcement.** At any time during the term of the Agreement, and without advance notice, County and its authorized agents or contractors may examine Associate's facilities, systems, procedures and records as may be necessary to determine the extent to which Associate's security safeguards comply with HIPAA, HITECH Act, other HIPAA Regulations, and this Attachment.

3. Termination.

- a. **Material Breach.** A breach by Associate of any material provision of this Attachment, as determined by County, constitutes grounds for termination of the Agreement pursuant to General Conditions Paragraph 5. (Termination and Cancellation), Subsection b. (Failure to Perform), of the Agreement.
- b. **Reasonable Steps to Cure Breach.** If County knows of an activity or practice of Associate that constitutes a material breach or violation of Associate's obligations under the provisions of this Attachment, County may, in its sole discretion, terminate the Agreement pursuant to Section 3.a., above, or provide Associate an opportunity to cure such breach or end such violation. If Associate's efforts to cure such breach or end such violation are unsuccessful, County will either (i) terminate the Agreement, if feasible or (ii) if termination of the Agreement is not feasible, County will report Associate's breach or violation to the Secretary of the U.S. Department of Health and Human Services.
- c. **Effect of Termination.** Upon termination of the Agreement for any reason, Associate must return or destroy, at the exclusive option of County, all Protected Information that Associate, its agents and subcontractors, still maintain in any form, and Associate may not retain any copies of such Protected Information. If return or destruction is not feasible, Associate may retain the Protected Information and must continue to extend the protections of Sections 2.a., 2.b., 2.c., and 2.d. of this Attachment to such information and limit further use of such Protected Information to those purposes that make the return or destruction of such Protected Information infeasible. If Associate destroys the Protected Information, Associate must verify in writing to County that such Protected Information has been destroyed.

Initials: _____
Contractor County Dept.

4. **Disclaimer.** County makes no warranty or representation that compliance by Associate with this Attachment, HIPAA, HITECH Act, or the HIPAA Regulations, will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.
5. **Changes to HIPAA and its regulations.**
- a. **Compliance with Law.** The parties acknowledge that state and federal laws relating to electronic data security and privacy are evolving and that changes to this Attachment may be required to ensure compliance with such developments. The parties agree to take such action(s) as may be necessary to implement the standards and requirements of HIPAA, HITECH Act, the HIPAA Regulations, and other applicable state and federal laws relating to the security and/or confidentiality of PHI.
 - b. **Negotiations.** In the event that a state or federal law, statute, or regulation materially affects the Agreement or this Attachment, the parties agree to negotiate immediately and in good faith any necessary or appropriate revisions to the Agreement or this Attachment. If the parties are unable to reach an agreement concerning such revisions within the earlier of thirty (30) calendar days after the date of notice seeking negotiations or the effective date of a change in law or regulations, or if the change is effective immediately, then County may, in its sole discretion, immediately terminate the Agreement upon written notice to Associate.
6. **Miscellaneous Provisions.**
- a. **Assistance in Litigation or Administrative Proceedings.** Associate will make itself, and any subcontractors, employees or agent assisting Associate in the performance of its obligations under the Agreement, available to County, at no cost to County, to testify as witnesses or otherwise, in the event of litigation or administrative proceedings against County, its officers or employees, based upon a claimed violation of HIPAA, HITECH Act, the HIPAA Regulations, or other laws relating to security and privacy and arising out of the Agreement or this Attachment.
 - b. **No Third Party Beneficiaries.** Nothing express or implied in this Attachment is intended to confer, nor shall anything herein confer, upon any person other than County, Associate, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
 - c. **Interpretation.** The provisions of this Attachment prevail over any provisions in the Agreement that may conflict, or appear to be inconsistent with, any provision of this Attachment. This Attachment and the Agreement will be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The parties agree that any ambiguity in this Attachment will be resolved in favor of a meaning that complies, and is consistent, with HIPAA and the Privacy Rule.
 - d. **Notice to Secretary.** Associate understands and agrees that if County knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of Associate's obligations under this Attachment and the breach or violation continues and termination of the Agreement is not feasible, County will report the problem to the Secretary of the U.S. Department of Health and Human Services, as required by HIPAA, HITECH Act, and the HIPAA regulations.
 - e. **Survival.** The obligations of Associate pursuant to Sections 2.1. and 3.c. of this Attachment survive the termination or expiration of the Agreement.