

# COMPLIANCE



## AGREEMENT

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# COMPLIANCELINE AGREEMENT

**THIS AGREEMENT** (this "Agreement") is made, and entered into, effective as of the Effective Date (as defined herein) by and between ComplianceLine, LLC, a Delaware Limited Liability Company ("CL") and County of Monterey, ("Client"). CL and Client are sometimes collectively referred to herein as the "Parties."

**WHEREAS**, Client wishes to utilize the Services of CL as defined in Section 4 of this Agreement in conjunction with Client's compliance and/or ethics program to assist in the identification of possible unethical, illegal or questionable behavior; and

**WHEREAS**, CL is willing to provide these Services to Client and Client is willing to accept such Services, under the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the receipt and sufficiency of which is acknowledged by the Parties as sufficient, the Parties agree as follows:

## 1. Term.

- a) This Agreement shall be effective from May 1, 2019 ("Effective Date") and shall remain in effect until April 31, 2021.
- b) The Initial Term of this Agreement shall run from the "Effective Date" until April 31, 2021 (the "Project Specifics").

## 2. Fees.

- a) The Subscription Fee ("Fee") as set forth under Project Specifics is payable upon the Parties' execution of this Agreement.
- b) Any newly negotiated Fee amounts must be mutually agreed upon by both parties.

## 3. Payment.

The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice. Acceptable payments include cash, ACH, Bank Transfers, Checks, Purchase cards, Credit cards, or any other payment methods mutually agreed upon by both Parties. If a purchase card, credit card, or other fee-laden payment method is utilized to pay for services, a 3% charge will be added to the payment amount due from the Client. Payments must be made at the address designated on the invoice or other such place as CL may designate.

- a) Any Services not paid for within sixty (60) days of the date of invoice will be terminated by CL without prior notice. Client agrees to pay all undisputed fees due despite any such termination, and to pay all monies due and not in dispute to CL in full prior to any reinstatement of or additional services.

## 4. Services.

This section defines the Services to be provided by CL to Client under this Agreement.

### a. ComplianceLine Hotline Service

CL has developed a third-party hotline monitoring and reporting service ("ComplianceLine Hotline"), which engages in the business of providing toll-free telephonic answering, reporting and tracking of compliance concerns. This section describes the ComplianceLine Hotline Service as provided by CL.

- A. CL will provide or service a dedicated toll-free number or local number for receipt of information from Client's employees, agents, and/or other designated parties, who may have concerns or knowledge relative to illegal or unethical acts, breaches of Company policy, or any other information relating to Client's properties, employees, or operations. Should this Agreement be terminated for any reason, by either party, CL shall promptly cooperate with any request to transfer any and all dedicated toll-free numbers used to service the Client (or its designee). All rights of CL, thereafter, to the number(s) shall be terminated including responsibility charges related to such number(s). In connection therewith, CL shall execute all agreements and documents requested by any carrier or reasonably requested by Client to effect such assignment, and client shall promptly reimburse CL for any cost and expenses in connection with such number(s) and the associated account(s) following such assignment.

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- B. CL will provide telephone operators that have been trained and are knowledgeable in the areas of compliance and ethics and in interviewing and documenting information via telephone. The operator will document all relevant reported concerns and prepare a detailed, structured report for delivery to Client. The report will be submitted to Client, via an agreed upon communication method by the operator. The operator shall remain under the direction and control of CL and shall receive all salaries, compensation, insurance and benefits from CL. CL shall be solely responsible for all ComplianceLine personnel with regard to all state and federal applicable laws, rules and regulations governing CL relating to employment, labor, wages, benefits, taxes, workers' compensation, insurance and other matters affecting CL employees in connection with the services to be performed hereunder. No CL employee shall be entitled to any benefits or privileges accorded to Client's employees.
- C. ComplianceLine Hotline will operate 24 hours a day, seven days a week, for receipt of incoming calls. All incoming calls, regardless of the time of receipt, will be answered by an operator.
- D. Client will designate an individual(s) to act as the liaison in the development of reporting procedures between CL and Client and to serve as the recipient of all documented reporting from ComplianceLine Hotline. All reporting processes will be specifically defined in writing ten (10) days prior to start of services and updated, from time to time, with approval of CL. If reporting process documentation is not delivered within ten (10) days of start of service CL will initiate services with standard practices and basic profile settings. These settings can be subsequently changed in writing with approval of CL.
- E. Calls are defined as actual reports initiated by caller to include initial reports, follow-up reports and information only reports; prank, and hang-ups are not included.
- F. CL shall be responsible for all phone charges applicable to ComplianceLine Hotline, with the exception of charges for language translation and other third party services, which will be passed on at cost to Client (including cost for processing) by CL.
- G. Any additional licenses added during a term of this Agreement will be priced as defined in Section 23 and will be recorded as an amendment to this Agreement and signed by Client.
- H. Unless otherwise specified, Client will receive a maximum of a) three (3) contact points (such as a phone number, email address, or other means of contact) for severity notification, b) three (3) directives (approved by CL Support), and c) three (3) custom questions (approved by CL Support). Compound questions will not be allowed. Requests for additional customization or service standards require additional fees due from Client.

### b. **MyComplianceManagement**

CL has developed a proprietary application identified as MyComplianceManagement ("MyCM"). The application was built and designed using software developed and licensed by CL. This section describes the MyComplianceManagement Service as provided by CL.

#### A. **License Grant.**

- a. CL hereby grants to the Client, subject to the terms and conditions set out in this section and any "Additional License and Maintenance Addendum" hereto, a non-transferable and non-exclusive license to use MyCM and the related documentation ("User Documentation") for the duration of this Agreement.
- b. The grant of the license entitles the Client to utilize licenses on a named user basis.
- c. It is expressly understood that no title to or ownership of MyCM application, or any part thereof, is hereby transferred to Client. Notwithstanding the above, Client shall have the right to make available to other parties any such information about the application which is necessary for Client to conduct its daily business.

#### B. **Access to and Use of MyCM.**

- a. Upon execution and return of the ComplianceLine Agreement and completion of the subsequent implementation process, CL shall issue usernames and passwords for access to MyCM as designated by Client. The number of usernames and passwords are defined under Section 23 "Project Specifics". The number of usernames shall not exceed the number of usernames defined in Section 23 "Project Specifics", without additional costs being due from Client.
- b. Access to MyCM shall be provided twenty-four (24) hours a day, seven (7) days a week, except during Scheduled Downtimes, as defined in Section 4.2F of this Agreement, maintenance and

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reasonable downtimes, when access will not be available. CL shall endeavor to provide advance notice of Scheduled Downtimes, maintenance, or other reasonable downtimes in accordance with Section 4.2E of this Agreement.

- c. Access to MyCM requires the use of a Web browser which supports 256-bit encryption and browser Cookies, such as Internet Explorer 9 or higher, Firefox 23.x or higher, Google Chrome 45.x or higher, Safari 10.x or higher or as updated with more than 30 day advance notice to the Client via email to an administrator user or via MyCM in-browser notification.
  - d. Data transmission and computer link to MyCM via the Internet shall be the exclusive responsibility of the Client.
  - e. Client expressly undertakes not to (i) assert any proprietary rights to any portion of MyCM, or any information contained within MyCM or (ii) divulge the password(s) to unauthorized users and to promptly inform the CL in the event a password is compromised.
- C. **Product Support.** CL will provide Client telephone support from 9:00 AM to 5:00 PM ET Monday through Friday to assist in resolving problems, obtaining clarification relative to MyCM, and reporting suspected defects or errors in MyCM. **Client may report service issues 24-hours a day via the CL ticket system at [support@complianceline.com](mailto:support@complianceline.com).**
- D. **Emergency and Escalation Management.** Should MyCM become unavailable outside of regular support hours or if Client suspects a service outage Client should contact the **CL Escalation Call Center at +1 800-617-0415**. The call center will contact the "on call" CL IT support team member and a member of CL management. The on call CL IT support team member will contact Client to resolve any issues as expeditiously as possible.
- E. **Service Level Agreement (SLA).** CL understands that the Client expects MyCM to be available 24 hours a day, 7 days a week. CL agrees, during the Term of this Agreement, MyCM will be operational and available to Client at least 97% of the time each year aside from Scheduled Downtime, maintenance, and other reasonable downtimes. If CL does not meet the SLA within any given month Client may be eligible to receive a Service Credit as defined under section 4.2G of this Agreement.
- F. **Scheduled Downtime.** CL will notify Client of periods of downtime at least three (3) days prior to the commencement of such downtime. Scheduled Downtime is not considered downtime for purposes of this SLA, and will not be counted towards any downtime periods.
- G. **Service Credits.** In the unlikely event that service to MyCM is interrupted beyond the SLA, CL will credit Client 10% of 1/12<sup>th</sup> of Client's annual MyCM fee for every 1 day of outage, up to a yearly maximum of 100% of 1/12<sup>th</sup> of Client's annual MyCM fee.
- c. **MyComplianceReport**  
CL has developed an online application known as [www.MyComplianceReport.com](http://www.MyComplianceReport.com) ("MCR"), for receipt of information from Client's employees, agents, and/or other designated parties, who may have concerns or knowledge relative to potentially illegal or unethical acts, breaches of company policy, or any other information relating to Client's properties, employees, or operations. This section describes the MyComplianceReport Service as provided by CL.
- A. **License Grant.**
    - a. CL hereby grants to Client, and Client hereby accepts, a nonexclusive, nontransferable license to search, retrieve, display, print and download information contained within MCR via the Internet.
    - b. It is expressly understood that no title to or ownership of MCR, or any part thereof, is hereby transferred to Client. Notwithstanding the above, Client shall have the right to make available to other parties any such information about MCR that is reasonably necessary for Client to conduct its daily business.
  - B. **Access to and Use of MCR.**

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- a. Upon execution and return of the ComplianceLine Agreement and completion subsequent to implementation procedures, CL shall grant Client access to MCR, along with company access identification.
- b. Access to MCR shall be provided twenty-four (24) hours a day, seven (7) days a week, except during Scheduled Downtimes, as defined in section 4.3F of this Agreement, maintenance and reasonable downtimes, when access will not be available. CL shall endeavor to provide advance notice of Scheduled Downtimes, maintenance, or other reasonable downtimes in accordance with section 4.3E of this Agreement.
- c. Access to MCR requires the use of a Web browser which supports 256-bit encryption and browser Cookies, such as Internet Explorer 9 or higher, Firefox 23.x or higher, Google Chrome 45.x or higher, Safari 10.x or higher or as updated with more than 30 day advance notice to the Client via email to an administrator user or via MCR in-browser notification.
- d. Data transmission and computer link to MCR via the Internet shall be the exclusive responsibility of the Client.
- e. Client expressly undertakes not to (i) assert any proprietary rights to any portion of MCR, or any information contained within MCR or (ii) divulge the password(s) to unauthorized users and to promptly inform the CL in the event a password is compromised.
- f. If additional translation is required, the cost will be passed on at cost to Client (including cost for processing) by CL.

C. **Product Support.** CL will provide Client telephone support from 9:00 AM to 5:00 PM ET Monday through Friday to assist in resolving problems, obtaining clarification relative to MCR and reporting suspected defects or errors in MCR. **Client may report service issues 24-hours a day via the CL ticket system at support.complianceline.com.**

D. **Emergency and Escalation Management.** Should MCR become unavailable outside of regular support hours or if Client suspects a service outage Client should contact the **CL Escalation Call Center at +1 800-617-0415**. The call center will contact the "on call" CL IT support team member and a member of CL management. The on call CL IT support team member will contact Client to resolve any issues as expeditiously as possible.

E. **Service Level Agreement (SLA).** CL understands that the Client expects MCR to be available 24 hours a day, 7 days a week. CL agrees, during the Term of this Agreement, MCR will be operational and available to Client at least 97% of the time each year aside from Scheduled Downtime, maintenance, and other reasonable downtimes. If CL does not meet the SLA within any given month Client may be eligible to receive a Service Credit as defined in section 4.3G of this Agreement.

F. **Scheduled Downtime.** CL will notify Client of periods of downtime at least three (3) days prior to the commencement of such downtime. Scheduled Downtime is not considered downtime for purposes of this SLA, and will not be counted towards any downtime periods.

G. **Service Credits.** In the unlikely event that service to MCR is interrupted beyond the SLA, CL will credit Client 10% of 1/12<sup>th</sup> of Client's annual MCR fee for every 1 day of outage, up to a yearly maximum of 100% of 1/12<sup>th</sup> of Client's annual MCR fee.

H. Unless otherwise specified, Client will receive MCR standard questions, which can be modified with CL approval at no charge prior to implementation and setup. Requests for additional customization or service standards require additional fees due from Client.

## d. SanctionCheck- Intentionally Omitted

### 5. Confidentiality.

Each party shall protect as confidential, and shall not disclose to any third party, any Confidential Information received from the disclosing party or otherwise discovered by the receiving party during the Term of this Agreement, including, but not limited to, any information relating to the disclosing party's technology, business

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affairs, financial statements, customer lists, operational procedures, fee schedules, passwords, personnel files, internal investigations or assessments, trade secrets, data bases, computer software applications, licensed materials, and marketing or sales plans (collectively the "Confidential Information"). The parties shall use Confidential Information only for the purpose of this Agreement. The foregoing restrictions on use and disclosure of Confidential Information do not apply to information that is required to be disclosed by law, regulation, or court or governmental order or to any information that is or becomes publicly known other than as a result of a violation of this Section 5.

### 6. Destruction and Return of Client Information.

Pursuant to the Agreement, within thirty (30) days of the completion of CL services for the Client, termination of this Agreement, or such earlier time as the Client requests, and at Client's discretion, CL shall securely destroy all Client Information in their possession, or return custody and control of Client information in such a manner as to eliminate the possibility that Client information is capable of being read or reconstructed, except that CL shall be permitted to retain one copy of the information transferred pursuant to this Agreement for the purpose of establishing compliance with any applicable laws or regulations and for defending or maintaining any litigation relating to this agreement, in each case provided that such information shall remain subject to the confidentiality obligations set forth herein in accordance with the terms hereof. These actions by CL will be completed at Client's expense, at either a mutually agreed upon amount paid in advance, or at a rate of \$220 per hour of labor. In addition, upon request CL shall provide to Client a written certification by an officer of CL confirming that such return or destruction occurred. If CL cannot destroy or destruction is not practical, all Client Information as required herein due to recordkeeping law, technological constraints or the pendency of litigation requiring CL to retain the Client Information in its existing format, CL shall ensure the confidentiality of the Client information, shall not use or disclose Client Information after termination of its services and shall continue to handle Client information in a manner consistent with its obligations hereunder or the underlying Agreement, and that it will comply with its destruction obligations once the legal prohibition on destruction has expired or the technological constraints have been removed.

### 7. Standard of Care; Insurance.

CL agrees to provide the services in a careful and professional manner consistent with applicable industry standards.

Prior to commencement of this Agreement, CL shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, CL upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to County's Purchasing manager, unless otherwise directed. CL shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of CL.

Qualifying Insurers: All coverage's except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by County's Purchasing Manager.

Insurance Coverage Requirements: Without limiting CL's duty to indemnify, CL shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

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Workers' Compensation Insurance, If CL employs other in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Commercial general liability policy shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance.

### 8. Termination.

Either party may, at any time for its own convenience and without cause, terminate this Agreement and the Services in whole or in part by giving the other party at least sixty (60) days prior written notice. Upon Termination, the Client's license rights shall immediately terminate, and Client and Client's Authorized Users shall immediately cease use of CL services. If Client terminates this agreement for their convenience, CL is under no obligation to reimburse Client for any fees for Services paid by Client regardless of whether the Services have been rendered or delivered.

In the event of a breach of any provision of this Agreement, the non-breaching party shall notify the breaching party in writing of the specific nature of the breach and shall request that it be cured. If the breaching party does not cure the breach within thirty (30) days of such notice, the non-breaching party may immediately terminate this Agreement effective on the date specified in written notice to the breaching party. In the event that CL is the breaching party and was not able to cure the breach within the allotted time frame, CL shall reimburse the Client for any Fees for Service paid in advance and not rendered or delivered under the current Agreement.

### 9. Indemnification.

- a. Client agrees to indemnify and hold harmless CL and its respective affiliates, directors, officers, employees, agents, and insurers from and against any and all claims, demands, actions, losses, expenses, damages, liabilities, costs (including, without limitation, interest, penalties and reasonable experts' and attorneys' fees) and judgments, in whatever jurisdiction brought, under either federal or state law, from (a) any and all actions, liabilities, damages, claims or expenses of any kind, including reasonable attorneys' fees, to which the indemnified party may become subject and which arise out of any failure on the part of the indemnifying party to perform its obligations under this Agreement, (b) the alleged direct or contributory infringement of any intellectual property right, including any patent, trademark, copyright or trade secret right, by CL's products or services.
- b. CL shall not be responsible to Client for any consequential, speculative, punitive, or other similar types of damages arising from a breach or alleged breach of this Agreement or arising from a negligent omission or commission by a party.
- c. Client agrees to indemnify and hold harmless CL for of Client's use or misuse of any information appropriately obtained and conveyed by CL during the normal course of business. CL does not guarantee the veracity of information reported to CL, and CL is not responsible and shall not be liable for any action or inaction Client may take based on information accurately reported to Client by CL.
- d. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, (I) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR LOST PROFITS, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES WHATSOEVER ARISING OUT

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OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE BASIS OF THE CLAIM; AND (II) EACH PARTY'S AGGREGATE LIABILITY HEREUNDER FOR ANY SERVICES PERFORMED HEREUNDER AND ALL CAUSES OF ACTION RELATING TO THIS AGREEMENT SHALL IN NO EVENT EXCEED AMOUNTS PAID BY CLIENT TO CL HEREUNDER; PROVIDED, HOWEVER, THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO DAMAGES ARISING FROM CL'S BREACH OF ITS OBLIGATIONS PURSUANT TO SECTION 5 (CONFIDENTIALITY) HEREUNDER.

### 10. **Governing Law.**

### 11. **Arbitration.**

Any controversy, dispute or disagreement arising out of or relating to this Agreement, the breach thereof or the subject matter thereof, shall be settled exclusively by binding arbitration, which shall be administered in Charlotte, North Carolina by the American Arbitration Association under its Commercial Arbitration Rules, as presently in effect, and which to the extent of the subject matter of the arbitration shall be binding not only on all parties to the Agreement but also on any other entity controlled by, in control of or under common control with the party to the extent that such affiliate joins in the arbitration, and judgment on the decision rendered by the arbitrator may be entered in any court having jurisdiction thereof. Each party shall bear their own costs and expenses incurred in connection with any such arbitration.

### 12. **Force Majeure.**

A party will not be deemed to be in breach of its obligations under this Agreement to the extent that a failure to perform is due, in any substantial part, to factors beyond its reasonable control, including, without limitation, civil disorder, disruptions of telecommunications services, labor disputes, governmental restrictions, fires, explosions, earthquakes, drought, tidal waves and floods, war, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition, embargo, rebellion, revolution, insurrection, or military or usurped power, civil war, contamination, riot, commotion, strikes, go slows, lock outs disorder, acts or threats of terrorism or other events beyond the control of a party (each a "Force Majeure").

### 13. **Notices and Amendments.**

All amendments pursuant to this Agreement must be in writing and executed by and authorized representative from the Client and an authorized representative of CL. The Amendment shall be deemed effective upon delivery to the addresses specified under "Contact Information," with the costs of delivery being borne by the party requesting the Amendment. Notices shall be delivered by any commercially reasonable means available. CL will proceed with work only when such amendment has been executed by both parties. Fees for new Services under any amendment shall be prorated to the Renewal Date of the current Agreement, and then shall follow the same Renewal Term as the Agreement.

### 14. **Independent Contractors.**

Client is retaining CL as an independent contractor, and nothing in this Agreement shall be construed to create any relationship of employer and employee between the parties or between Client and any of CL's employees or subcontractors. Unless otherwise expressly provided by written agreement, neither party shall be liable for any of the obligations, liabilities or debts of the other party. Nothing in this Agreement shall be interpreted to provide that CL is an agent of Client.

### 15. **Information Sent via Internet.**

In no event shall CL be liable for any lost or delayed e-mail messages or attachments, or damages caused by viruses or other harmful components.

### 16. **Warranties/Guarantees.**

CL, its employees, agents, successor, and/or assigns, make no warranties, expressed or implied, or assume any legal liability or responsibility for the accuracy, completeness or usefulness of any information received by CL and eventually forwarded to Client.

### 17. **Entire Agreement; Waiver; Survival.**



## C COMPLIANCELINE AGREEMENT

This Agreement and any attached Addendum(s) and Exhibit(s) set forth the entire understanding of the parties with respect to the subject matter hereof. This Agreement supersedes and cancels all prior agreements between the parties, whether written or oral, relating to the subject matter hereof. The parties' obligations under sections Confidentiality, Insurance, Indemnification; HIPAA, and Information Sent via Internet will survive the termination of this agreement.

**18. General.**

Headings and captions contained herein are for convenience only and shall not affect the interpretation of the Agreement. This Agreement may be executed in counterparts. When executed by all parties, this Agreement shall be deemed effective as of the Effective Date.

**19. Severability.**

If any part of this Agreement shall be determined to be invalid, illegal or unenforceable by any valid Act of Congress or act of any legislature or by any regulation duly promulgated by the United States or a state acting in accordance with the law, or declared null and void by any court of competent jurisdiction, then such part shall be reformed, if possible, to conform to the law and, in any event, the remaining parts of this Agreement shall be fully effective and operative insofar as reasonably possible.

**20. HIPAA.**

CL represents and warrants that all Services and products that it provides to Client will comply in all material respects with the Health Insurance Portability and Accountability Act ("HIPAA") and related regulations, including the EDI Standards, from and after each applicable compliance date. CL represents that when handling confidential health information it will maintain the level of protection required of business associates under HIPAA regulations, from and after each applicable compliance date. Upon Client's request, CL agrees to provide such written assurances or other documentation as Client may reasonably require in order to maintain compliance with HIPAA. If at any time it is reasonably determined by Client that Services provided under this Agreement are not HIPAA compliant, and makes written notice of such determination, CL agrees to correct such problem at no additional charge within thirty days after receiving written notice thereof from Client.

**21. Assignment.**

Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party, except that CL shall be permitted to fully assign this Agreement (and any Addendum hereto) to the purchaser of all or substantially all of its assets or to any successor by merger, consolidation or similar corporate action.

**22. Contact Information:**

<b>For Client:</b>	Shiba Sumeshwar	<b>For CL:</b>	Giovanni Gallo
Title:	Compliance Officer	Title:	Co-CEO
Street:	1270 Natividad Road Salinas, CA 93906	Street:	301 McCullough Dr. Suite 520 Charlotte, NC 28262
E-mail:	sumeshwarsd@co.monterey.ca.us	E-mail:	ggallo@complianceline.com
Phone:	831-755-4018	Phone:	800-617-2111
<b>Invoices To:</b>	<b>Accounts Payable</b>	<b>Payments To:</b>	Accounts Payable
Street:	1270 Natividad Road Salinas, CA 93906	Street:	301 McCullough Dr. Suite 520 Charlotte, NC 28262
E-mail:	4000- Accounting@co.monterey.ca.us	E-mail:	teambilling@complianceline.com
Phone:	831-755-4018	Phone:	800-617-0415

## COMPLIANCeline AGREEMENT

### 23. Project Specifics:

This section describes the Agreement Term and Fees for the services provided in this Agreement.

<b>ComplianceLine Hotline</b>		
Toll-Free Number	866-262-8618	
Line Access Base Population	1,200	
Annual Utilization Level (AUL)	65	
Subscription Billing Cycle	Annual	
ComplianceLine Notes:	<i>If call volume exceeds AUL during the Initial Term or a Renewal Term, all additional compliance calls will be billed at \$40 per call, billable quarterly.</i> <i>Line Access Base Population includes 1,200 Employees</i>	
<b>Fees:</b>	<b>One Time Fees</b>	<b>Annual Fees</b>
Set-Up Fee	\$600	
System Integration Fee		N/A
Subscription Fee		\$3,410
<b>Hotline Subtotal:</b>	<b>\$600</b>	<b>\$3,410</b>

<b>MyComplianceManagement (MyCM)</b>				
MyCM Notes:	<i>Additional User Licenses can be purchased [by written notice to CL by an authorized representative] for (per term + 15% annual maintenance): Administrator \$440; Standard \$300; Lite \$150</i>			
<b>Fees:</b>	<b>Unit Price</b>	<b>Units</b>	<b>One Time Fees</b>	<b>Annual Fees</b>
Setup Fee				
MyCM Profile	\$2,000	1		Waived
User Licenses	<b>Total:</b>	<b>2</b>		
Administrator	\$440	1		\$440
Standard	\$300	0		\$0
Lite	\$150	1		\$ (1 waived)
Annual Support, Upgrades, Maintenance	15%			\$66
<b>MyCM SUBTOTAL</b>			<b>\$0</b>	<b>\$506</b>

<b>MyComplianceReport (MCR)</b>		
Report Limit	50	reports per year (to include all types, follow ups, etc.)
Additional Languages (English included):	Spanish	
MCR Notes:	<i>Report Limit includes all reports per term (to include all types, follow ups, etc.)</i> <i>MCR Review Standard includes No Review for Severity (No notification)</i>	
<b>Fees:</b>	<b>One Time Fees</b>	<b>Annual Fees</b>
Subscription Fee		\$1,155
<b>MCR Subtotal:</b>	<b>--</b>	<b>\$1,155</b>

<b>Services</b>		
Dates	Contract Effective <b>5/07/2019</b>	Service Begins <b>5/07/2019</b>
Contract Term	<b>2-year Term</b>	
<b>Service Totals</b>	<b>One Time Fees</b>	<b>Annual Fees</b>
<b>For all Contracted Services</b>	<b>\$600</b>	<b>\$5,071</b>

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## Acknowledged and agreed:

### CLIENT:

Authorized Signature: *EV*

Printed Name: Ezequiel Vega

Title: Assistant Director of Health

Date: 05/29/2019

### CL:

Authorized Signature: *G. Gallo*

Printed Name: Giovanni Gallo

Title: Co CEO

Date: 4/5/2019

Approved as to  
Legal Form  
*Stacy Saetta*  
STACY L. SAETTA  
Dep County Council

Approved as to fiscal provisions  
*Blair* 4/22/2019  
Chief Deputy Auditor - Controller

## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement"), effective May 1, 2019 ("Effective Date"), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department ("Covered Entity") and ComplianceLine, LLC. ("Business Associate") (each a "Party" and collectively the "Parties").

Business Associate provides certain services for Covered Entity ("Services") that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity ("PHI"). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the "Privacy Rule"), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the "Security Rule"), under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations ("HITECH"). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et seq.* applies to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* ("CMIA"), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 ("Red Flag Rules"). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information ("EPHI"), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

1. **DEFINITIONS**

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

2. **PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

### **3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within two (2) business days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents

agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within two (2) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) to Section 4.4 below, return to Covered Entity within ninety (90) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies; If the Covered Entity wants copies of the records, there shall be an additional cost that will be passed to the Covered Entity;

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) if all or any portion of the PHI is maintained in a Designated Record Set:

(j) upon ten (10) days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(k) upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(l) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(m) notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(n) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within Five (5) days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

#### 4. TERMS AND TERMINATION

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

#### 5. MISCELLANEOUS

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.



5.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

301 McCullough Dr., Ste 520

Charlotte, NC 28262

Attn: Co CEO

Tel:

Fax:

If to Covered Entity, to:

1270 Natividad Road

Salinas, CA 93906

Attn: Elsa Jimenez

Tel: 831-755-4018

Fax:

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter County), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including the County's reasonable cost of providing notification of and of mitigating any acquisition, access, use or disclosure of PHI in a manner not permitted by this BAA, arising out of, or in connection with, performance of this BAA by Contractor and/or its agents, members, employees, or sub-contractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this BAA to provide the broadest possible indemnification for the County.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

**COUNTY OF MONTEREY, ON BEHALF OF  
THE HEALTH DEPARTMENT**

**[BUSINESS ASSOCIATE]  
ComplianceLine, LLC**

By:



Print Name: Ezequiel Vega

Print Title: Assistant Director of Health

Date: 05/29/2019

By:

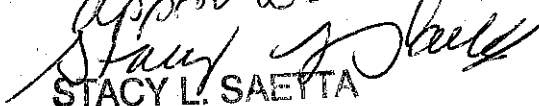


Print Name: Giovanni Gallo

Print Title: Co CEO

Date:

4/5/2019

Approved as to form  
  
STACY L. SAETTA  
Dep County Counsel