

ORIGINAL

COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES
(NOT TO EXCEED \$100,000)

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:
Care Access Silicon Valley, Inc.,
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows:
Provide website portal access and maintenance for third-party software (AACTS).

2. **PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$ 5,460.00.

3. **TERM OF AGREEMENT.** The term of this Agreement is from July 1, 2010 to June 30, 2011, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

See List of Exhibits, Page 8 (a)

5. **PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR

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

9.02 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 the County's Purchasing Manager.

9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR 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.

Exemption/Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others 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.

Exemption/Modification (Justification attached; subject to approval).

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.

Exemption/Modification (Justification attached; subject to approval).

9.04. Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the

policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies 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. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10. RECORDS AND CONFIDENTIALITY.

10.01. Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

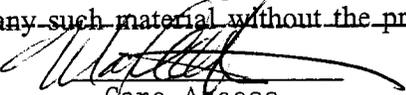
10.02. County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.

10.03. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04. Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

~~10.05. Royalties and Inventions. -- County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.~~

County


Care Access

11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.
12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.
13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this

Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Ethan Hurley, MA II	Manuel Altamirano, Chief Operating Officer
Name and Title	Name and Title
713 La Guardia Street, Suite A Salinas, CA 93905	2115 The Alameda San Jose, CA 95126
Address	Address
(831) 755-3425 fax: (831) 783-7021	(408) 350-3295 fax: (408) 249-8918
Phone	Phone

15. **MISCELLANEOUS PROVISIONS.**

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Contracts/Purchasing Officer

Date: _____

By: _____
Department Head (if applicable)

Date: _____

Approved as to Form¹

By: _____
County Counsel

Date: _____

Approved as to Fiscal Provisions²
By: _____
Auditor/Controller

Date: _____

Approved as to Liability Provisions³

By: _____
Risk Management

Date: _____

Care Access Silicon Valley, Inc.

Contractor's Business Name*

By: _____
(Signature of Chair, President, or Vice-President)*

STEPHEN SOMMOLY, PRESIDENT
Name and Title

Date: 6/22/10

By: _____
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

Kimberly R. Marklar, CFO
Name and Title

Date: 6/22/10

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

¹Approval by County Counsel is required only if changes are made to the standard provisions of the PSA

²Approval by Auditor/Controller is required

³Approval by Risk Management is required only if changes are made in paragraph 8 or 9

List of Exhibits

Exhibit A	Scope of Services
Exhibit B	DSES Additional Provisions
Exhibit C	Background/Definitions
Exhibit D	Third Party Software Selection
Exhibit E	Identified AACTS End Users
Exhibit F	Payment Provisions/Budget
Exhibit G	Monthly Claim Form
Exhibit H	Identified Subcontractors
Exhibit I	Service Level Agreement
Exhibit J	Intellectual Property
Exhibit K	Warranties
Exhibit L	Elder Abuse Certification
Exhibit M	HIPAA Agreement
Exhibit N	Privacy Policy Statement
Exhibit O	Notification of Changes Form

SCOPE OF SERVICES
AACTS
CAREACCESS, SILICON VALLEY, INC.
July 1, 2010 to June 30, 2011

I. CONTRACTOR INFORMATION

Contractor Name: CareAccess Silicon Valley, Inc.
2115 The Alameda
San Jose, California 95126

Contractor Contact Manager: Manuel Altamirano, Chief Operating Officer
CareAccess
(408) 350-3295 (telephone)
(408) 590-2939 (cell)
(408) 249-8918 (fax)
maltamirano@scccoa.org

Primary County Contact: Ethan Hurley, MA II
Monterey County Department of Social and
Employment Services
713 La Guardia Street, Suite A
Salinas, CA 93905
(831) 755-3425 (telephone)
(831) 783-7021 (fax)
hurleye@co.monterey.ca.us

County Software Contact: Bob Huss, Senior DISC
Monterey County Department of Social and
Employment Services
713 La Guardia Street, Suite H-8
Salinas, CA 93905
(831) 783-7026 (telephone)
hussr@co.monterey.ca.us

Term of Agreement: July 1, 2010 to June 30, 2011

II. SERVICES TO BE PROVIDED:

The CONTRACTOR shall provide access to the CareAccess Portal 24 hours a day for up to 13 COUNTY users for the contract period July 1, 2010 to June 30, 2011.

CONTRACTOR Services: CONTRACTOR shall implement the Third Party Software identified in Exhibit D of this Agreement. CONTRACTOR shall provide Services to COUNTY pursuant to Exhibit A of this Agreement.

Assurances: Each party hereby represents and warrants that all representations, warranties, recitals, statements and information provided to each other under this Agreement are true, correct, and accurate to the best of their knowledge.

Scope: In the event of any conflict between the terms of this Agreement and the terms of any Third Party Software Agreement accessed through the CareAccess VPP, the terms of this Agreement shall govern.

Entire Agreement: The Third Party software Agreement, together with any schedules, appendices, and other attachment thereto or other agreements (including this Agreement) which are specifically incorporated therein as part of the Third Party software shall constitute the entire agreement between COUNTY and CONTRACTOR with respect to the matters referred to therein and shall supersede all proposals, oral and written, and all other communications between the parties in relation to the subject matter of such Third Party software Schedule identified in Exhibit D which have not otherwise been incorporated in writing as a part of such Third Party software identified in Exhibit D. In all applications, though, in the event of any conflict between this Agreement and any provision of a Third Party Agreement, the provision of this Agreement shall control.

Personnel: The personnel assigned to perform Services shall be determined by Third Party Vendor and CONTRACTOR. COUNTY hereby acknowledges and agrees that CONTRACTOR may engage independent contractors, as identified in Exhibit H, to perform the Services on behalf of CONTRACTOR.

Access to COUNTY Data: COUNTY hereby authorizes CONTRACTOR to access the COUNTY'S materials and information data for purpose of performing this Agreement. COUNTY shall allow one CONTRACTOR administration profile to exist on county database for the purpose of technical support. Such access shall be subject to the confidentiality provisions hereunder and independent contractors shall sign confidentiality agreements.

COUNTY Cooperation: COUNTY hereby acknowledges that successful performance by CONTRACTOR of the Services shall require COUNTY to cooperate with CONTRACTOR in good faith and to provide information as may be requested by CONTRACTOR from time to time. COUNTY hereby agrees to provide such good faith cooperation and information.

Schedule: The Support Services shall be offered Monday through Friday, from 8:00 am to 5:00 pm, (excluding Christmas Day, Thanksgiving Day, and New Years Day).

Facilities: The Services shall be performed at the facilities of SBC Communications, located in Irvine, California, unless otherwise reasonably required.

Data Storage: Attachments H and I provide the specifications for the site location of CONTRACTOR'S servers and databases. Data will be stored a minimum of 5 years.

Backup and Usage Information: CONTRACTOR shall backup the Third Party software using commercially reasonable backup procedures as described in Attachment C. CONTRACTOR shall manage the recordation of monthly reports detailing:

- (i) All information reflecting access and usage of the Third Party software including, but not limited to, audited and unaudited visits; and
- (ii) All available information about users of the Third Party software shall maintain strict confidentiality and adhere to all privacy and data protection laws applicable to the gathering, processing, storing, and transmitting of such information.

Back up data will be stored by the following method(s): Two electronic/computer generated copies stored in separate locations, using application language capable of data recovery.

- (i) Data can be accessed by the following method: via the CareAccess FTP site for downloads on a monthly basis, or other scheduled periods.
- (ii) Back up data will be stored both on-site and off-site at the location identified in Attachment H. Data will be backed up at the end of each business day.

Security Certificate: CONTRACTOR'S Services shall include issuance to COUNTY of a Secure Sockets Layer (SSL) certificate or other equivalent security certificate to enable secure and encrypted communications between Users and the Third Party software. CONTRACTOR hereby acknowledges that all such security certificates are provided by third party certificate authorities.

Passwords: COUNTY hereby acknowledges and agrees that access to certain areas of Third Party software (as determined by CONTRACTOR) shall be subject to use of a Password mutually agreeable to COUNTY and CONTRACTOR. COUNTY acknowledges that CONTRACTOR shall not provide full or administrative access to the Third Party software or the hosting equipment. Access to the Third Party software shall be determined in the exclusive discretion of CONTRACTOR. Modification of COUNTY Password shall be subject to approval of CONTRACTOR. In the event COUNTY is enabled to issue passwords to Users ("User Passwords") for accessing the Third Party software, CONTRACTOR shall have the right to access such User Passwords and COUNTY shall cooperate with CONTRACTOR in providing information to CONTRACTOR in connection with such User Passwords for purposes of operating and maintaining the Third Party software. CONTRACTOR shall maintain all password information in strict confidence. COUNTY hereby accepts responsibility for, and shall be liable for, all access to the Third Party software in connection with User and COUNTY Passwords. COUNTY shall be responsible for the confidentiality of the COUNTY Password. COUNTY shall be responsible for maintenance of COUNTY Passwords.

Access to Third Party Software: COUNTY hereby acknowledges and agrees that access to the Third Party Software may be affected by local market telecommunication network activity, capacity and compatibility with third party communication equipment, Internet access software and browser. CONTRACTOR hereby disclaims and COUNTY hereby waives any and all CONTRACTOR responsibility for any Defect or service interruption in connection with local market telecommunication network activity, capacity and compatibility with third party communication equipment, Internet access software and browsers outside of CONTRACTOR'S control.

Privacy Policy Statement: CONTRACTOR shall comply with the Policy Statement, attached hereto as Exhibit N.

Exclusivity: COUNTY hereby acknowledges and agrees that CONTRACTOR shall be the exclusive provider of VPP access hosting for the Third Party Software. The Third Party Software shall be accessed exclusively by COUNTY for purposes of performing this Agreement. In no event shall COUNTY use third parties or permit third parties to access the Third Party Software for purposes of performing any services concerning the Third Party Software including (without limitation) third party Internet service providers, web designers, solution providers, or third-party advertising management services in connection with the Third Party Software vendors.

Contact Person: CONTRACTOR and COUNTY shall each designate a principal contact person who shall act as a liaison between CONTRACTOR and COUNTY and who shall have sufficient authority to grant or communicate the granting of all necessary approvals.

Current Technology: CONTRACTOR represents and warrants that during the Term of this Agreement, and any renewals thereof, CONTRACTOR shall continually use and integrate the most current and up to date technology utilized by other users of the same version of the Third Party Software into the Third Party Software, provided it does not limit COUNTY's access to this technology.

Telephone Support: CONTRACTOR shall make available reasonable telephone support to COUNTY'S personnel to assist them in utilizing the CONTRACTOR'S VPP and third Party Licensed Software during the hours of 8:00 a.m. to 5:00 p.m. USA Pacific Time on weekdays (exclusive of holidays).

Development Support: From time to time, COUNTY may request additional enhancements which are not included in the current public release version of the Licensed Software. CONTRACTOR will coordinate its best efforts to include such enhancements under a separate Statement of Work to be developed and agreed between the portal members.

Termination Without Cause: Either party may terminate this Agreement by providing ninety (90) days advance written notice of termination to the other party.

Cancellation With Cure: If either party violates its obligations under this Agreement or a Service, the other party may cancel the Agreement or such Service because of breach by sending written notice of cancellation to the other party describing the noncompliance to the non-complying party. Upon receiving such cancellation notice, the non-complying party shall have thirty (30) days from the date of such notice to cure any such noncompliance. If such noncompliance is not cured within the required thirty-day period, the party providing cancellation notice shall have the right to cancel this Agreement or the Service Order as of the thirty-first day after the date of such cancellation notice as specified in such cancellation notice.

Termination of Contract: Upon termination of the Agreement, COUNTY shall have thirty (30) days to transfer data to another location.

Nonpayment: Notwithstanding previous section, "Cancellation with Cure," COUNTY's failure to pay an invoice when due shall be sufficient cause for cancellation of this Agreement and any Service by CONTRACTOR as provided hereunder. CONTRACTOR shall exercise such right of cancellation by submitting Nonpayment Notice to COUNTY. Upon receipt of Nonpayment Notice, COUNTY shall have thirty (30) days to cure the nonpayment. If COUNTY fails to cure

the nonpayment within the required thirty-day period, CONTRACTOR shall have the right to cancel the Agreement and any and all Service as of the thirty-first day after the date of the Nonpayment Notice.

Effect of Termination: Termination or cancellation of this Agreement shall terminate or cancel (as the case may be) this Agreement and each Service Order. Termination or cancellation of a Service shall terminate or cancel (as the case may be) such Service only.

Removal: COUNTY hereby acknowledges and agrees that CONTRACTOR shall have the right to remove (so long as such component is promptly replaced with a component of comparable quality and functionality) or modify a particular component or service, including (without limitation) the Tools, for any reason, including (without limitation) in the event use of such components is challenged or opposed by a third-party.

Access upon Termination: Upon termination or cancellation of this Agreement by CONTRACTOR, COUNTY shall immediately cease and desist any and all access to and attempt to access the Third Party Software, unless COUNTY enters into new and separate Agreements with the Third Party providers.

Litigation Expense: In the event of litigation or arbitration arising out of this Agreement, each party shall pay its own costs and expenses of litigation or arbitration.

MONTEREY COUNTY
DEPARTMENT OF SOCIAL & EMPLOYMENT SERVICES

ADDITIONAL PROVISIONS

I. PAYMENT BY COUNTY:

1.01 Monthly claims by CONTRACTOR: Not later than the tenth (10th) day of each month, CONTRACTOR shall submit to COUNTY a signed invoice, setting forth the amount claimed. The invoice shall be submitted in the form set forth in **Exhibit G**.

1.02 Allowable Costs: Allowable costs shall be the CONTRACTOR's actual costs of developing, supervising and delivering the services under this Agreement, as set forth in the budget, attached hereto as **Exhibit F**. Only the costs listed in **Exhibit F** as contract expenses may be claimed as allowable costs. Any dispute over whether costs are allowable shall be resolved in accordance with the provisions of 45 Code of Federal Regulations, Part 74, Sub-Part F and 48 Code of Federal Regulations (CFR), Chapter 1, Part 31.

1.03 Cost Control: CONTRACTOR shall not exceed by more than twenty (20) percent any contract expense line item amount in the budget without the approval of COUNTY, given by and through the Contract Administrator or Contract Administrator's designee. CONTRACTOR shall submit an amended budget with its request for such approval. Such approval shall not permit CONTRACTOR to receive more than the maximum total amount payable under this contract. Therefore, an increase in one line item will require corresponding decreases in other line items.

1.04 Payment in Full:

(a) If COUNTY certifies and pays the amount requested by CONTRACTOR, such payment shall be deemed payment in full for the month in question and may not thereafter be reviewed or modified, except to permit COUNTY's recovery of overpayments.

(b) If COUNTY certifies and pays a lesser amount than the amount requested, COUNTY shall, immediately upon certification of the lesser amount, notify CONTRACTOR in writing of such certification. If CONTRACTOR does not protest the lesser amount by delivering to COUNTY a written notice of protest within twenty (20) days after CONTRACTOR's receipt of the certification, then payment of the lesser amount shall be deemed payment in full for the month in question and may not thereafter be questioned by CONTRACTOR.

1.05 Disputed payment amount: If COUNTY pays a lesser amount than the amount requested, and if CONTRACTOR submits a written notice of protest to COUNTY within twenty (20) days after CONTRACTOR's receipt of the certification, then the

EXHIBIT B

parties shall promptly meet to review the dispute and resolve it on a mutually acceptable basis. No court action may be taken on such dispute until the parties have met and attempted to resolve the dispute in person.

II. PERFORMANCE STANDARDS & COMPLIANCE

2.01 Outcome objectives and performance standards: CONTRACTOR shall for the entire term of this Agreement provide the service outcomes set forth in **Exhibits A & I**. CONTRACTOR shall meet the contracted level of service and the specified performance standards described in **Exhibits A & I**, unless prevented from doing so by circumstances beyond CONTRACTOR's control, including but not limited to, natural disasters, fire, theft, and shortages of necessary supplies or materials due to labor disputes.

2.02 County monitoring of services: COUNTY shall monitor services provided under this Agreement in order to evaluate the effectiveness and quality of services provided.

2.03 Notice of defective performance: COUNTY shall notify CONTRACTOR in writing within thirty (30) days after discovering any defects in CONTRACTOR's performance. CONTRACTOR shall promptly take action to correct the problem and to prevent its recurrence. Such corrective action shall be completed and a written report made to the COUNTY concerning such action not later than thirty (30) days after the date of the COUNTY's written notice to CONTRACTOR.

2.04 Termination for cause: Notwithstanding Section 7.02 of the Agreement, if the corrective actions required above are not completed and the report to the COUNTY not made within thirty (30) days, the COUNTY may terminate this Agreement by giving five (5) days' written notice to CONTRACTOR.

2.05 Remedies for Inadequate Service Levels:

- a) For each month that service falls below 80% of the contracted level, CONTRACTOR shall submit to the COUNTY an analysis of the causes of the problem and any necessary actions to be taken to correct the problem. If the problem continues for another month, the COUNTY shall meet with CONTRACTOR to explore the problem and develop an appropriate written corrective action plan with appropriate time frames.
- b) If CONTRACTOR does not carry out the required corrective action within the time frame specified, sanctions shall be applied in accordance with funding source regulations.
- c) Notwithstanding Section 7.02 of the Agreement, if, after the COUNTY notifies CONTRACTOR of any sanctions to be imposed, CONTRACTOR continues in its failure to take corrective action, then COUNTY may terminate this contract by giving CONTRACTOR five (5) days' written notice.

EXHIBIT B

- d) If all appropriate corrective actions are taken but service still falls 80% or more below contracted level, COUNTY and CONTRACTOR may renegotiate the contracted level of service.

2.06 Training for Staff: CONTRACTOR shall insure that sufficient training is provided to its volunteer and paid staff, to enable them to perform effectively on the project and to increase their existing level of skills. CONTRACTOR's staff shall be required to attend all training sessions as identified by the COUNTY, including Division 21 Civil Rights training. CONTRACTOR may be excused from attendance only by prior written consent of the Department of Social and Employment Services.

2.07 Bi-lingual Services: CONTRACTOR shall ensure that qualified staff is available to accommodate non-English speaking, and limited English proficient, individuals.

2.08 Assurance of drug free-workplace: CONTRACTOR shall submit to the COUNTY evidence of compliance with the California Drug-Free Workplace Act of 1990, Government Code sections 8350 et seq., by doing the following:

- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
 - Establishing a drug-free awareness program to inform employees about all of the following:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the organization's policy of maintaining a drug-free workplace;
 - 3) any available drug counseling, rehabilitation, and employee assistance programs;
 - 4) the penalties that may be imposed upon employees for drug abuse violations;
 - 5) requiring that each employee engaged in the performance of the contract or grant be given a copy of the company's drug-free policy statement and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

III. AUDIT & RECOVERY OF OVERPAYMENTS

3.01 CPA Audit on Termination:

3.01.01 Audit Requirement

At the request of COUNTY, CONTRACTOR shall give to COUNTY an audit or audit reports covering the contract period, prepared by an independent Certified Public Accountant. The audit requirement is for the purpose of determining whether the reported costs are fair and reasonable and have been computed in accordance with

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generally accepted accounting principles, with the provisions of this Agreement, and with all applicable COUNTY requirements. Such audit shall be performed in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" as published by the Comptroller General of the United States, and in accordance with generally accepted auditing standards.

3.01.02 Audit Submission /Fiscal Year-end

CONTRACTOR shall provide COUNTY with the audit, or audit report, required herein no later than 120 days after the close of CONTRACTOR's Fiscal Year. If CONTRACTOR's fiscal records adhere to a Fiscal Year different from COUNTY's, then CONTRACTOR's audit will include a schedule(s) coinciding with COUNTY's Fiscal Year (July-June), or CONTRACTOR may submit a program specific audit coinciding with COUNTY's Fiscal Year (July-June).

In the case where providing the required audit within the specified time period represents an unreasonable hardship, CONTRACTOR shall alert COUNTY and request an extension. Additional documentation may be requested by COUNTY in order to grant the extension. The submittal of the audit will continue to be required and due **no later than six (6) months** after the close of CONTRACTOR's fiscal year-end.

3.01.03 Audit Format

CONTRACTOR may submit to COUNTY one of the following in satisfaction of this Audit requirement:

1) An annual independent audit and Management Letter conducted in accordance with Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (yellow book audit) issued by the Comptroller General of the United States. The audit should include as a footnote or supplemental schedule expenses of the grant program.

-OR-

2) If CONTRACTOR is not required to have an annual independent audit conducted in accordance with *both* Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (yellow book audit) issued by the Comptroller General of the United States, other than to comply with COUNTY's request, *then* an annual independent audit and Management Letter, conducted only in accordance with Generally Accepted Auditing Standards (GAAS) may be submitted *as long as the audit includes this grant/program as part of the testing*. The audit must include a footnote or supplemental schedule expenses of the grant program.

COUNTY reserves the right to require a program specific audit at COUNTY's discretion.

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3.01.04 Payment for Audit

CONTRACTOR shall bear all costs in connection with, or resulting from, any audit and/or inspections including, but not limited to, actual cost incurred and the payment/repayment of any expenditures disallowed by COUNTY, State or Federal government entities, including any assessed interest and penalties.

If CONTRACTOR is exempt from federal audit procedures under OMB Circular 133, then payment for this audit shall be made by CONTRACTOR with resources other than grant funds, or those used for matching purposes. If CONTRACTOR is not exempt from federal audit procedures under OMB Circular 133, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR) (48 CFR parts 30 and 31), or other applicable cost principles or regulations.

3.02 Contractor Records

Funds provided by COUNTY shall be accounted for separately in CONTRACTOR's books and records. CONTRACTOR shall keep a systematic accounting record of the receipt and disbursement of COUNTY funds. CONTRACTOR shall permit COUNTY to audit, examine and to copy excerpts and transcripts from such records and to conduct audits or reviews of all records including, but not limited to, invoices, materials, personnel records, bank account records, business records, billing statements, payroll records, business expense records, and any and all other data related to matters covered by this Agreement. CONTRACTOR shall maintain such data and records in an accessible location and condition for a period of at least four (4) years from the close of this Agreement term, or until after the conclusion of any audit, whichever occurs last. The State of California and/or any Federal agency providing funds for this Agreement shall have the same rights conferred upon COUNTY herein. CONTRACTOR shall keep records that are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been unlawfully spent. CONTRACTOR's records shall describe and support the use of funds for the agreed upon project or services outlined in this Agreement.

3.03 Recovery of Overpayments: If any audit shows that COUNTY has paid to CONTRACTOR any amount in excess of properly allowable costs, then CONTRACTOR shall reimburse COUNTY for that amount, either by a cash payment made within thirty (30) days after COUNTY notifies CONTRACTOR of the overpayment, or by an offset made by COUNTY against any payments owed by COUNTY to CONTRACTOR under this or any other contract.

IV. CONFIDENTIALITY

CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with Welfare and Institutions (W & I) Code Sec. 10850, 45 CFR Sec. 205.50, and all other applicable provisions of law which provide for the confidentiality of records and

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prohibit their being opened for examination for any purpose not directly connected with the administration of public social services. Whether or not covered by W&I Code Sec. 10850 or by 45 CFR Sec. 205.50, confidential medical or personnel records and the identities of clients and complainants shall not be disclosed unless there is proper consent to such disclosure or a court order requiring disclosure. Confidential information gained by CONTRACTOR from access to any such records, and from contact with its clients and complainants, shall be used by CONTRACTOR only in connection with its conduct of the program under this Agreement. The COUNTY, through the Director of the Department of Social and Employment Services, and his/her representatives, shall have access to such confidential information and records to the extent allowed by law, and such information and records in the hands of the COUNTY shall remain confidential and may be disclosed only as permitted by law.

V. NON-DISCRIMINATION

CONTRACTOR certifies that to the best of its ability and knowledge it will comply with the nondiscrimination program requirements set forth in this Section.

5.01 Discrimination Defined: The term “discrimination” as used in this contract, is the same term that is used in Monterey County Code, Chapter 2.80 “Procedures for Investigation and Resolution of Discrimination Complaints”; it means the illegal denial of equal employment opportunity, harassment (including sexual harassment and violent harassment), disparate treatment, favoritism, subjection to unfair or unequal working conditions, and/or other discriminatory practice by any Monterey County official, employee or agent, due to an individual’s race, color, ethnic group, national origin, ancestry, religious creed, sex, sexual orientation, age, veteran’s status, cancer-related medical condition, physical handicap (including AIDS) or disability. The term also includes any act of retaliation.

5.02 Application of Monterey COUNTY Code Chapter 2.80: The provisions of Monterey COUNTY Code Chapter 2.80 apply to activities conducted pursuant to this Agreement. Complaints of discrimination made by CONTRACTOR against the COUNTY, or by recipients of services against CONTRACTOR, may be pursued using the procedures established by Chapter 2.80. CONTRACTOR shall establish and follow its own written procedures for the prompt and fair resolution of discrimination complaints made against CONTRACTOR by its own employees and agents, and shall provide a copy of such procedures to COUNTY on demand by COUNTY.

5.03 Compliance with laws: During the performance of this Agreement, CONTRACTOR shall comply with all applicable federal, state and local laws and regulations which prohibit discrimination, including but not limited to the following:

- **California Fair Employment and Housing Act**, California Government Code Sec. 12900 et seq., see especially Section 12940 (c), (h), (1), (i), and (j); and the administrative regulations issued thereunder, 2 Calif. Code of

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Regulations Secs. 7285.0 et seq. (Division 4 - Fair Employment and Housing Commission);

- **California Government Code Secs. 11135 - 11139.5**, as amended (Title 2, Div. 3, Part 1, Chap. 1, Art. 9.5) and any applicable administrative rules and regulations issued under these sections; including **Title 22 California Code of Regulations 98000-98413**.
- **Federal Civil Rights Acts of 1964 and 1991** (see especially Title VI, 42 USC Secs. 2000d et seq.), as amended, and all administrative rules and regulations issued thereunder (see especially 45 CFR Part 80);
- **The Rehabilitation Act of 1973**, Secs. 503 and 504 (29 USC Sec. 793 and 794), as amended; all requirements imposed by the applicable HHS regulations (45 CFR Parts 80, 84 and 91); and all guidelines and interpretations issued pursuant thereto;
- **7 Code of Federal Regulations (CFR)**, Part 15 and **28 CFR** Part 42;
- **Title II of the Americans with Disabilities Act of 1990** (P.L. 101-336), 42 U.S.C. Secs. 12101 et seq. and 47 U.S.C. Secs. 225 and 611, and any federal regulations issued pursuant thereto (see 24 CFR Chapter 1; 28 CFR Parts 35 and 36; 29 CFR Parts 1602, 1627, and 1630; and 36 CFR Part 1191);
- **Unruh Civil Rights Act**, Calif. Civil Code Sec. 51 et seq., as amended;
- **Monterey COUNTY Code**, Chap. 2.80.;
- **Age Discrimination in Employment Act 1975**, as amended (**ADEA**), 29 U.S.C. Secs 621 et seq.;
- **Equal Pay Act of 1963**, 29 U.S.C. Sec. 206(d);
- **California Equal Pay Act**, Labor Code Sec.1197.5.
- **California Government Code Section 4450**;
- **The Dymally-Alatorre Bilingual Services Act; Calif. Government Code Sec. 7290 et seq.**
- **The Food Stamp Act of 1977**, as amended and in particular **Section 272.6**.
- **California Code of Regulations, Title 24, Section 3105A(e)**
- **Removal of Barriers to Inter-Ethnic Adoption Act of 1996, Section 1808**

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5.04 Written assurances: Upon request by COUNTY, CONTRACTOR will give any written assurances of compliance with the Civil Rights Acts of 1964 and 1991, the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act of 1990, as may be required by the federal government in connection with this Agreement, pursuant to 45 CFR Sec. 80.4 or 45 CFR Sec. 84.5, and 91; 7 CFR Part 15; and 28 CFR Part 35, or other applicable State or federal regulation.

5.05 Written non-discrimination policy: Contractor shall maintain a written statement of its non-discrimination policies which shall be consistent with the terms of this Agreement. Such statement shall be available to employees, recipients of services, and members of the public, upon request.

5.06 Grievance Information: CONTRACTOR shall advise applicants who are denied CONTRACTOR's services, and recipients who do receive services, of their right to present grievances, and of their right to a State hearing concerning services received under this Agreement.

5.07 Notice to Labor Unions: CONTRACTOR shall give written notice of its obligations under paragraphs 5.01 - 5.08 to labor organizations with which it has a collective bargaining or other agreement.

5.08 Access to records by government agencies: CONTRACTOR shall permit access by COUNTY and by representatives of the State Department of Fair Employment and Housing, and any state agency providing funds for this Agreement, upon reasonable notice at any time during normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, facilities, and other sources of information as the inspecting party may deem appropriate to ascertain compliance with these non-discrimination provisions.

5.09 Binding on Subcontractors: The provisions of paragraphs 5.01 - 5.08 shall also apply to all of CONTRACTOR's subcontractors. CONTRACTOR shall include the non-discrimination and compliance provisions of these paragraphs in all subcontracts to perform work or provide services under this Agreement.

VI. CONTRACT ADMINISTRATORS

6.01 Contract Administrator – CONTRACTOR: CONTRACTOR hereby designates **Manuel Altamirano** as its Contract Administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of CONTRACTOR shall be under the direction of, or shall be submitted to, the CONTRACTOR's Contract Administrator. CONTRACTOR may, in its sole discretion, change its designation of the Contract Administrator, and shall promptly give written notice to COUNTY of any such change.

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6.02 Contract Administrator – COUNTY: COUNTY hereby designates the Director of the Monterey County Department of Social and Employment Services as its Contract Administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of COUNTY shall be under the direction of, or shall be submitted to, the Director or such other COUNTY employee in the Department of Social and Employment Services as the Director may appoint. COUNTY may, in its sole discretion, change its designation of the Contract Administrator, and shall promptly give written notice to CONTRACTOR of any such change.

VII. CONTRACT DEPENDENT ON GOVERNMENT FUNDING

COUNTY's payments to CONTRACTOR under this Agreement are funded by the State and Federal governments. If funds from State and Federal sources are not obtained and continued at a level sufficient to allow for COUNTY's purchase of the indicated quantity of services, then COUNTY may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as COUNTY may specify in its notice, unless in the meanwhile the parties enter into a written Amendment modifying this Agreement.

VIII. LOBBYING CERTIFICATION

The Contractor, by signing this Agreement, hereby certifies, to the best of his/her knowledge and belief, that, on behalf of him/herself, employees, and/or agents:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subgrants, and contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

IX. APPEAL PROCESS

In the event of a dispute or grievance regarding the terms and conditions of this Agreement, both parties shall abide by the following procedures:

A. CONTRACTOR shall first discuss the problem informally with the designated DSES Contact/Program Analyst. If the problem is not resolved, CONTRACTOR must, within fifteen (15) working days of the failed attempt to resolve the dispute with DSES Contact/Program Analyst, submit a written complaint, together with any evidence, to the DSES Division Deputy Director. The complaint must include a description of the disputed issues, the legal authority/basis for each issue which supports CONTRACTOR's position, and the remedy sought. The Division Deputy Director shall, within fifteen (15) working days after receipt of CONTRACTOR's written complaint, make a determination on the dispute, and issue a written decision and reasons therefore. All written communication shall be pursuant to Section 14. NOTICES of this Agreement. Should CONTRACTOR disagree with the decision of the Division Deputy Director, CONTRACTOR may appeal the decision to the Director of the Department of Social & Employment Services.

B. CONTRACTOR's appeal of the Division Deputy Director's decision must be submitted to the Department Director within ten (10) working days from the date of the decision; be in writing, state the reasons why the decision is unacceptable, and include the original complaint, the decision that is the subject of appeal, and all supporting documents. Within twenty (20) working days from the date of CONTRACTOR'S appeal, the Department Director, or his/her designee, shall meet with CONTRACTOR to review the issues raised on appeal. The Department Director shall issue a final written decision within fifteen (15) working days of such meeting.

C. CONTRACTOR may appeal the final decision of the Department Director in accordance with the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5 commencing with Section 251, or Subchapter 3 commencing with Section 300, whichever is applicable, of the California Code of Regulations).

D. CONTRACTOR shall continue to carry out the obligations under this Agreement during any dispute.

E. Costs incurred by CONTRACTOR for administrative/court review are not reimbursable by COUNTY.

BACKGROUND/DEFINITIONS

BACKGROUND:

WHEREAS, CONTRACTOR as part of its mission demonstrates new approaches in the use of technology for the elderly and persons with disabilities, and provides Internet technology solutions and independent software, for services of the health and human/social services industry through the CareAccess Virtual Private Portal (VPP), an Internet portal to a community of Human Services Software Applications created specially for the Aging Network; and,

WHEREAS, CONTRACTOR'S hardware is located at the SBC E-Services, Managed Hosted Site in Irvine California, where SBC provides the network infrastructure, and where these software applications are made accessible to organizations; and whereas, Software provided are HIPAA compliant software tools which includes functions for these same services; and,

WHEREAS, CONTRACTOR in furtherance of the project that began under the Governors Aging with Dignity Challenge Grant contracts with SBC, (under separate Agreement,) to provide the network infrastructure to the VPP. SBC E-Services will provide to CONTRACTOR managed hosted service to the VPP community from Irvine California, CONTRACTOR will oversee services to this virtual community to ensure that best industry standards of service are provided by SBC; and,

WHEREAS, CONTRACTOR provides third party software vendors such as CH Mack, Inc, developers of "Q Continuum and McWilliams-Mailliard Technology Group (MMTG), developers of "AACTS" in the VPP for use by Health and Human Services organizations; and,

WHEREAS, COUNTY desires to engage the services of CONTRACTOR to provide Internet technology solutions through its third party software vendors, and human services software applications created specifically for the Aging Network to COUNTY,

NOW THEREFORE, CONTRACTOR and COUNTY hereby agree as follows:

- I **RECITALS:** The above recitals and identification of parties are true and correct.
- II **DEFINITIONS:** The following definitions shall apply:
 - (1) AACTS (Automated Client Tracking System for Adult Protective Services): The term "AACTS" shall mean that certain third party software published by CONTRACTOR as listed in Exhibit D and incorporated herein by this reference.

- (2) AACTS Software: The term “AACTS” shall mean those certain electronic software applications developed and made available by McWilliams-Mailliard Technology Group (MMTG) to COUNTY and identified as the AACTS Software.
- (3) Acceptance Date: The term “Acceptance Date” shall mean the date the Third Party Software is deemed accepted by COUNTY as provided in Exhibit A, “Exclusivity.”
- (4) Access: The term “Access” and variants thereof (including, but not limited to, the terms “access”, “accessible “ and “accessing”) shall mean to store data in, retrieve data from or otherwise approach, display, reproduce, frame, establish a Link to, or make use of (directly or indirectly) through electronic means or otherwise.
- (5) Application Service Provider (ASP): A third-party entity that manages and distributes software-based services and solutions to customers across a wide area network from a central data center. ASP will be provided through CONTRACTOR.
- (6) Associate: The term “Associate” shall mean an employee of CONTRACTOR or an independent contractor hired by CONTRACTOR.
- (7) Authorized Person: The term “Authorized Persons” shall mean (i) employees and legal counsel of the Receiving Party with a need to know Confidential Information disclosed to Receiving Party by Disclosing Party, and (ii) persons or organizations with a need to know Confidential Information and who agree in writing to maintain the confidentiality of such Confidential Information.
- (8) CareAccess Legend: The term “CareAccess Legend” shall mean a logo, written disclaimer, and written notice that credits CONTRACTOR or a Developer in connection with the Third Party Software and a Link to the CONTRACTOR Web Site, specifically that CONTRACTOR disclaims and user hereby waives all responsibility in connection with the product and the accuracy of the information and content offered through this Web Site. Use of this Web Site is subject to the Web Site Terms of Use and any notices.
- (9) CareAccess System: The term “CareAccess System” shall mean computer systems and communication equipment designated and controlled by CONTRACTOR and used for hosting the Third Party Software, and CareAccess Web Site and providing Users access to the CONTRACTOR’S Web Site.
- (10) CareAccess Technology: The term “CareAccess Technology” shall mean any and all Technology developed by or for CONTRACTOR including (without limitation) the CareAccess Web Site.
- (11) CareAccess Web Site: The term “CareAccess Web Site” shall mean that certain CareAccess Web Site, which is located on the Internet at <https://www.CareAccess-ca.com>, as may be relocated from time to time, including any and all CareAccess Technology used, incorporated, stored or accessible therein, as implemented on the CareAccess System and made accessible to Users through the Internet.

- (12) Coding: The term "Coding" shall mean software, programming codes, models, processes, events, methods, properties, scripts or statements for developing Associate software as written in a programming language, including (without limitations) Visual Basic (VB), Active Script (ASP), C++, VB Script programming languages.
- (13) Commercially Reasonable Back-Up Procedures: Documentation for this procedure located in CareAccess Internet and Securities Manual. See *Media and Documentation*, p. 67. This manual is incorporated by reference into this Agreement. A copy of the Manual is located at the Monterey County Department of Social and Employment Services.
- (14) Confidential Information: The term "Confidential Information" shall mean all information identified in writing as confidential information and which is not: (a) already know to the Receiving Party from a source other than the Disclosing Party; (b) conveyed to the Receiving Party by a third party without any restriction as to confidentiality or use; (c) independently developed without reference to the confidential information; or (d) in the public domain.
- (15) Configuration: The term "Configuration" shall mean the computer hardware, operating system, and Internet access software and browser configuration requirements for entry to CareAccess VPP.
- (16) Consulting Services: The term "Consulting Services" shall mean Independent Services and those certain consulting, programming, conversion, analysis, training and ad hoc services provided by CONTRACTOR'S Associates – or third party vendors to COUNTY as set forth in Exhibit D.
- (17) Content: The term "Content" shall mean information, including (without limitation) provider information and consumer names provided by COUNTY to CONTRACTOR Case histories, User information, and any Technology uploaded, posted or submitted by User on Third Party Software.
- (18) COUNTY: The term "COUNTY" shall mean the individual or entity identified as "COUNTY" on the signature page of this Agreement.
- (19) COUNTY Materials: The term "COUNTY Materials" shall mean the Content and Technology disclosed or provided to CONTRACTOR for the purposes of developing the database conversions to Third Party software.
- (20) Defect: The term "Defect" shall mean programming errors and other defects in the CONTRACTOR'S System, Third Party software, or otherwise which substantially impair the performance of the Third Party software.
- (21) Defect Notice: The term "Defect Notice" shall mean that written notice from COUNTY to CONTRACTOR identifying Defects.
- (22) Deposit Materials: The term "Deposit Materials" shall mean only the source code for the CONTRACTOR'S Technology developed in connection with Third Party Software (excluding Tools), delivered by CONTRACTOR to a safe and secure location.

- (23) Developer: The term “Developer” shall mean the owner, authorized distributor, or licensee of the Tools or COUNTY Materials (as applicable).
- (24) Disclosing Party: The term “Disclosing Party” shall mean a party to this Agreement who reveals Confidential Information to the other party to this Agreement.
- (25) Documentation: The term “Documentation” shall mean the Third Party software guide describing the functions of the Third Party software as provided, or CONTRACTOR respective, in printed or electronic form.
- (26) Domain Name: The term “Domain Name” shall mean that certain alphanumeric name by which a Web Site is known on the Internet.
- (27) Effective Date: The term “Effective Date” shall mean the date this Agreement is signed by CONTRACTOR and COUNTY (whichever is later).
- (28) Graphics: The term “Graphics” shall mean graphics used in connection with the Third Party software, including (without limitations) illustrations, pictorials, animation, pictures, diagrams, representations, graphics, screen displays, letters, fonts, icons, flow-charts, and drawings.
- (29) Hardware Fee: The term “Hardware Fee” shall mean the fees for providing servers or other hardware to COUNTY as set forth in Exhibit F (Payment Provisions/Budget).
- (30) Implement: The term “Implement” and variants thereof (including, but not limited to, the terms “implementation”, “implementing”, and “implemented”) shall mean to load and make available for User access and use.
- (31) Implementation Date: The term “Implementation Date” shall mean the date the Third Party software is implemented by CONTRACTOR on the CareAccess VPP.
- (32) Internet: The term “Internet” shall mean that certain global network of computers and devices commonly referred to as the “Internet”, including (without limitation) the World Wide Web.
- (33) Link: The term “Link” shall mean text, icons or graphic symbols in web pages (visible or transparent) that upon search, selection or activation link or associate to, execute, access or retrieve an off-screen Web Site or Technology.
- (34) MMTG (McWilliams-Mailliard Technology Group): The term MMTG (McWilliams-Mailliard Technology Group) refers to that corporation that provides case management software for Adult Protective Services (APS) programs to Counties purchasing the software.
- (35) Nonpayment Notice: The term “Nonpayment Notice” shall mean that written notice from CONTRACTOR to COUNTY alleging nonpayment under this Agreement and seeking to cancel this Agreement or a Service Order unless payment is rendered by COUNTY, as provided hereunder.

- (36) Password: The term "Password" shall mean that certain password and user name assigned to Users for accessing the Third Party Software according to the Policy Statement and CONTRACTOR guidelines and practices.
- (37) Policy Statement: The term "Policy Statement" shall mean those certain written statements of policies, terms of use and legal notices concerning access to the Third Party Software as may be adopted by CONTRACTOR and as modified by CONTRACTOR from time to time.
- (38) Portal Subscription Fee: The term "Portal Subscription Fee" shall mean the fees for providing Internet access and other usage requirements of COUNTY as set forth in the Fee Schedule as set forth in Exhibit F (Payment Provisions/Budget).
- (39) Receiving Party: The term "Receiving Party" shall mean a party to this Agreement who receives Confidential Information from the other party to this Agreement.
- (40) Registration Company: The term "Registration Company" shall mean an entity that administers the registration and maintenance of Domain Names, including (without limitations) Network Solutions, Inc.
- (41) Restatements: The term "Restatements" shall mean Section 757 of the Restatement of Torts, Section 39 of the Restatement (Third) of Unfair Competition, 18 U.S.C. §1839 and Section 1 of the Uniform Trade Secrets Act.
- (42) Scoping Document: The term "Scoping Document" shall mean a document specifying and describing desirable functional and technical specifications for the Third Party Software.
- (43) Secure Sockets Layer (SSL): The term "Secure Sockets Layer" (SSL) shall mean a protocol for transmitting private documents via the Internet. By convention, URLs that require an SSL connection start with https: instead of http. SSL creates a secure connection between a client and a server, over which any amount of data can be sent securely. This protocol has been approved by the Internet Engineering Task Force (IETF) as a standard.
- (44) Service Level Agreement (SLA): The term "Service Level Agreement" or "SLA" shall mean an Agreement between CareAccess and the COUNTY that defines a level of performance or a quality of service.
- (45) Services: The term "Services" shall mean the CareAccess Services, Third Party Vendor Services, the Consulting Services, CareAccess Services and the Promotion Services (as applicable).
- (46) Support Fees: The term "Support Fees" shall mean telephone support, software updates and any back up and recovery support as required.
- (47) Technology: The term "Technology" shall mean (i) evaluation, technical, scientific, engineering, marketing, catalog, financial and business reports, plans, studies, diagrams, or flow charts; (ii) all forms and types of scientific, technical, economic, or engineering information; and (iii) information, data, ideas, works of authorship, computer software, source code, object code, executable code, software libraries, documentation, databases, database

designs, data dictionaries, data models, fields, records, scripts, texts, list server email logs, interface designs, protocols, screen displays, Web Sites, web pages, Links, Coding, Documentation, patterns, compilations, formulas, methodologies, techniques, processes, procedures, adaptations, derivative works, computers, machines, articles of manufacture, improvements, hardware, peripherals, components and networks, whether tangible or intangible, and whether stored, compiled, or memorialized (without limitation) physically, electronically, graphically, photographically, or in writing.

- (48) Third Party Software: The term “Third Party Software” shall mean software that has been developed by a vendor other than the principals of CareAccess. CareAccess uses two main parties identified as “third-party”- CH Mack- developers of Q Continuum Software, and MMTG- developers of ACCTS Software.
- (49) Third Party Software Services: The term “Third Party Software Services” shall mean services to maintain, enhance or correct the function of the third party software.
- (50) Tools: The term “Tools” shall mean Third Party Technology incorporated in whole or in part into the Third Party software.
- (51) Upgrade Services: The term “Upgrade Services” refers to those certain services provided to COUNTY for adding information to the Third Party software, or modifying the Third Party software to improve the features, performance or functionality of the Third Party software.
- (52) Users: The term “Users” shall mean COUNTY, individuals or entities accessing the Third Party software to the terms and conditions of this Agreement.
- (53) Virtual Private Portal (VPP): The term “Virtual Private Portal (VPP)” shall mean the internet based virtual community of service application software. Users can securely access a portal via any standard Web browser, gaining access to their data, applications, and Web services. Portals have authentication and identity-management technologies at their core.

THIRD PARTY SOFTWARE SELECTION

The following Third Party Software Services have been selected and initialed by COUNTY.

Vendor	Description	Selected by COUNTY name/date
McWilliams Mailliard Technology Group, Inc	AACTS	

AACTS User List

AACTS Users: Please list all users requiring access to AACTS. This list should include the following: APS Manager/Senior Supervisor, APS Supervisors, APS Workers, APS Intake Workers, APS Clerks and IT Administrators.

User #	Login ID	Last Name	First Name	Worker #	Unit/Office	Role	Supervisor or Manager	Phone/Email
	Example: asmith	Smith	Annie	325	Downtown	Worker	rdonaldson	555-555-5555 asmith@co.example.ca.us
1.	Sappel	Appel	Sue	-	Salinas	Program Mngr.	N/A	831-755-4904 appelsh@co.monterey.ca.us
2.	rlewis	Lewis	Ritch	400	Marina	Supervisor	sappel	831-899-8046 lewism@co.monterey.ca.us
3.	Lricks	Ricks	Lynda	803	Salinas	Worker	rlewis	831-755-3462 ricksLM@co.monterey.ca.us
4.	fmackey	Mackey	Fawn	401	Marina	Worker	rlewis	831-899-8063 mackeyfa@co.monterey.ca.us
5.	gjelleson	Jelleson	Greta	412	Marina	Worker	rlewis	831-899-8060 jellesongl@co.monterey.ca.us
6.	amoore	Moore	Andrea	405	Marina	Worker	rlewis	831-899-8064 mooreal@co.monterey.ca.us
7.	ssullivan	Sullivan	Susan	807	Marina	Worker	rlewis	831-883-7531 sullivans@co.monterey.ca.us
8.	smudd	Mudd	Steve	411	Marina	Worker	rlewis	831-883-7540 muddsm@co.monterey.ca.us
9.	jallen	Allen	John	-	Salinas	System Support	N/A	831-783-7012 allenj1@co.monterey.ca.us
10.	rbryant	Bryant	Robert	415	Marina	Worker	rlewis	831-883-7540 bryantr@co.monterey.ca.us
11.	rhuss	Huss	Robert	-	Salinas	System Support	N/A	831-783-7013 hussr@co.monterey.ca.us
12.	rlrodriguez	Rodriguez	Robin	-	Salinas	QA	N/A	831-796-1516 rodriguezrl@co.monterey.ca.us
13.	alomboy	Lomboy	Arthur	-	Salinas	Data	N/A	831-796-3557 lomboyAB@co.monterey.ca.us

PAYMENT PROVISIONS/BUDGETPORTAL SUBSCRIPTION FEE:

COUNTY hereby acknowledges and agrees that access to the Third Party Software, AACTS, for Users shall not be enabled for Users (excluding COUNTY) until COUNTY pays CONTRACTOR the Portal Subscription Fee.

COUNTY shall pay CONTRACTOR the Portal Subscription Fee as follows:

COUNTY is a current subscriber, and as such, shall pay the Portal Subscription Fee of \$35 per month per User, as identified in Exhibit E, payable quarterly in advance.

The bill submitted by CONTRACTOR each month will be compared to actual users. Payment of the current bill will reflect usage for the month billed.

Until further notice, as evidenced by an amendment to this contract, portal access fees shall be the entire fees billed under this contract.

Up to 13 identified users may utilize the contract. However, portal access fees shall be determined by the actual number of identified users during the billing period. Identified users shall be identified by Worker Number on Exhibit E. If more than one person utilizes a worker number during the billing period, billing will occur for only one worker number.

AUDITING:

CONTRACTOR shall have the right at a time and place reasonably acceptable to COUNTY and CONTRACTOR but in no event more than once per year, to audit the Third Party Software, COUNTY'S, records, data and correspondence and any other information as reasonably necessary, related to the Third Party Software for purposes of validating the accuracy of fees due CONTRACTOR under this Agreement. The audit shall be conducted at CONTRACTOR'S sole cost and expense.

BUDGET:

Monthly portal subscription fee, per identified AACTS User:	\$35.00
Maximum Number of Identified AACTS Users:	<u>13</u>
Total Monthly Fee (\$35.00 x 13)	\$455.00
Term of Agreement:	<u>12 months</u>
Budget (\$455.00 x 12 months):	\$5,460.00

The maximum amount to be paid by COUNTY to CONTRACTOR under this contract **shall not exceed Five Thousand Four Hundred and Sixty Dollars (\$5,460.00).**

INVOICE

Date:

Invoice #: _____

Customer No.:
MONTER

Customer:

County of Monterey
Social Services Agency
1000 South Main Street, Suite 306
Salinas, CA 93901
Attn: Eugene Shabano

Mail Payment to:

CareAccess
Attn: Accounts Payable
2115 The Alameda
San Jose, CA 95126

Description	Quantity	Period	Rate	Amount
CareAccess Portal Maint Fees - <i>thru</i>				

Invoice Total:

Terms: Net 30
Reference:

CareAccess

IDENTIFIED SUBCONTRACTORS

CONTRACTOR utilizes the following subcontractors in the performance of its contract with COUNTY. CONTRACTOR will notify COUNTY in writing within 72 hours of any change of subcontractors.

DATE	NAME	ADDRESS	PURPOSE
January 2004	USWired Inc.	2109 O'Toole Ave., Ste. E San Jose, CA 95131-1338	Host Management of Applications

CHANGE OF SUBCONTRACTOR:

DATE	FROM (NAME)	To (NAME)	ADDRESS

SERVICE LEVEL AGREEMENT (SLA)/APPLICATION
SERVICE PROVIDER LEVEL

I. SERVICE LEVEL AGREEMENT

The Managed Hosting Solution provides a vault-like facility with abundant reliable bandwidth provided through a Cisco powered network and always-on power where CONTRACTOR will house their mission-critical servers and databases. The CONTRACTOR'S Data Centers are staffed 24 X 7 X 365 by highly trained and certified engineers who monitor all security, network, and power systems to ensure maximum uptime. County gets a solution that is optimized for their business needs. This document provides information regarding the Data Centers comprehensive service level commitments.

Definitions:

For purposes of this Agreement, the following definitions shall apply:

- (i) "Ambient Room Temperature" shall mean the temperature as measured by ambient room probes mounted on the columns and walls of the IDC.
- (ii) "Core Network" – shall mean the network from port at the Data Centers serving switch to outbound port on the MegaPOP border router. The SLA will cover all links in between. In a private port scenario, core network is defined as server A's port on serving switch through the IDC network to Server B's port on serving switch. Redundant ports will have diverse paths and terminate on separate switches.
- (iii) "COUNTY Site Environment" – shall mean the platform from which COUNTY operates its applications within the Internet Data Center.
- (iv) "Downtime"—shall mean failure to meet the standards set forth below with respect to latency, packet loss, core network, and power availability. Downtime shall not include any packet loss, power unavailability or network unavailability during SBC's scheduled maintenance of the Internet Data Centers, network and Service(s), as described herein, or due to Force Majeure.
- (v) "End to End" shall mean from COUNTY'S ports on serving switch to outbound ports on MegaPOP border routers.
- (vi) "Latency" shall mean transmission time between the COUNTY'S port on serving switch to outbound port on the MegaPOP border router and back.
- (vii) "Packet Loss" shall mean a single packet of data that does not reach the router at the POP(s) designated by SBC from the IDC, but shall not include intentionally dropped packets due to COUNTY'S sending data faster than the Internet bandwidth that it is provided with, i.e. T1, DSL, or dial-up service.
- (viii) "Power Availability" shall mean Electrical Power to outbound port on COUNTY serving Power Distribution Unit.
- (ix) "Uptime" – sync port process access.

Service Levels:

Dedicated Hosting:

- (i) *Availability* – COUNTY’S Site Environment will be available 99.9% (excluding exceptions).
- (ii) *Response Time* – Data Center will respond to any service impacting issue within 15 minutes.
- (iii) *Network Availability* – Core Network will be at 100% availability.
- (iv) *Power Availability* – Power at the Data Center will be at 100% availability.
- (v) *HVAC Availability* - Ambient Room Temperature will not exceed 75° Fahrenheit in the server area. Relative humidity in the IDC will not exceed 55% in the server area.
- (vi) *Latency* - Average latency will not exceed 30 milliseconds roundtrip from end to end in any given 30-day period.

CONTRACTOR is responsible for all content and applications that reside on the server. Downtime caused by content, applications or COUNTY are not expressly covered.

Exceptions:

Although scheduled maintenance is not expected to impact the network, power or other service levels, the Service Level Agreement is not effective as to those periods, in conditions of Force Majeure, or for COUNTY enabled faults. CONTRACTOR is responsible for all content and applications that reside on the server, therefore, any downtime or failure to meet an SLA that is directly or indirectly caused by content, applications, or CONTRACTOR actions or inaction will not be covered by these SLAs.

Core Failure:

Within 15 minutes of core IDC component failure, CONTRACTOR and COUNTY will be notified via bulk email or public web site regarding any potential downtime. Core component failure is defined as a failure of any component of the IDC that has the potential of effecting more than one COUNTY.

Individual COUNTY Failure:

Any individual COUNTY failure will be notified via fax, pager, email, or phone within fifteen minutes of failure. Individual COUNTY failure is defined as a failure of any component of the IDC that will only affects an individual COUNTY (cabling, port, etc). This will include any failure resulting in inability of IDC operations to “test” COUNTY server via a ping watch (including reasons outside of IDC control, i.e. COUNTY server failure, etc).

II. APPLICATION SERVICE PROVIDER LEVEL

Co-Location Data Center will provide a managed production environment for CareAccess, including:

- (i) Managed Firewall: Netscreen 25 w/ VPN access
- (ii) Managed Switches: x1 Cisco 2948g-L3 and x2 Cisco 2950-24’s
- (iii) Managed Tape Backup: 100 GB per month of tape backup with one weekly and daily incremental backups (on 4 servers).

- (iv) Hardware and System Management: pro-active and predictive analysis of system and environment performance including, but not limited to:
 - O/S Harding and Performance Tuning.
 - Application Licensing:
 - Veritas SQL Hot Back-up Agent 2 Processor Edition
- (v) One (1) Mbps dedicated Internet Bandwidth.

Monitoring requirements:

- (i) Application Monitoring would include but not be limited to:
 - Operating Systems (Windows)
 - Response Time (15 m/s threshold before service is down)
- (ii) Operating System Monitoring/Management
 - Disk Space Available (alert if below 200 MB)
 - SNMP daemon Up/Down
 - Monitoring of Security/Application/System Event Logs for errors and warnings
 - Memory Monitoring
 - Monitoring amount memory page hits per second
 - Monitoring of memory page swapping
 - Processor Monitoring
 - Number of Active Threads
 - Length of Work Queue (Threshold > 2)
 - % utilization (above 80% - investigation as to why)
 - Any daemon that are requirement by the application can and will be monitored with the appropriate thresholds
 - Patch Revisions – o/s, web, and continual review of operating system exploits. All testing of patches will be conducted in the staging environment prior to implementation into production environment.
 - Out of Band Management – CO-Location Data Center will have out-of-band management capabilities via console port to be able to address management from hardware abstraction layer to applications.
 - Business Continuity through Managed Tape Back-up and Restoration
 - Weekly full back-ups, daily incremental.
 - Back-ups will be achieved through Veritas SQL Hot Back-up Agent.
- (iii) Network Monitoring / Management
 - Bandwidth utilization / Transfer Rate
 - Network Availability including latency and packet-loss (< 30 ms across SBC IDC backbone, < 1000th percent packet-loss)
 - SNMP polling of all network devices (switches, load-balancers) – throughput, CPU processing, memory utilization, numbers of hits/misses, etc.
- (iv) Physical Monitoring/Management
 - Server Hardware – proactive/predictive analysis of hardware components including up/down status and potential failure analysis
 - Temperature & Humidity via Andover/NetCool Event Handling System – (+- 5° of 70° Fahrenheit, +- 10% of 45%)

- Fire, Flood, Moisture, Power monitoring
- (v) Security Monitoring / Management (Physical/Network/Server/Application)
 - Physical Site Security – secured in SBC’s Internet Center.
 - Firewall – Management / Monitoring of Firewalls via SBC Security Network Operations Center. Includes Change Management, Up/Down, and Performance.
 - System Security – Patch Management and Event Log Monitoring.

INTELLECTUAL PROPERTY

CareAccess Technology: Title to CareAccess Technology (excluding the Tools), including all ownership rights to patents, copyrights, trademarks and trade secrets in connection therewith shall be the exclusive property of CONTRACTOR. COUNTY hereby acknowledges that the CareAccess Technology shall not be deemed “works made for hire” under the U.S. Copyright Act [17 U.S.C. § 101 et seq.]. COUNTY hereby assigns, transfers and conveys any and all rights, title and interests; COUNTY may have or accrue in connection with development or use of the CareAccess Technology, including (without limitation) any and all ownership rights to patents, trademarks, copyrights and trade secrets in connection therewith.

COUNTY Materials: Title to COUNTY Materials, including all ownership rights to patents, copyrights, trademarks and trade secrets in connection therewith shall be the exclusive property of COUNTY.

Content License: All Content (except the User and COUNTY Password) uploaded, posted or submitted by User on the Third Party Software shall be deemed confidential. Passwords may be known by CONTRACTOR for the purpose of technical support. CONTRACTOR will not use, reproduce, create derivative works, display, perform, release, distribute, sell, and disclose such Content, in whole or in part, in any manner and for any purpose, and will not allow Third Party Vendors to do so.

Authorization: COUNTY hereby represents and warrants that COUNTY has obtained all necessary authorizations, permissions or licenses from the State or local government to distribute and provide the COUNTY Data to CONTRACTOR. COUNTY hereby represents and warrants that COUNTY has the authority to grant the license granted by COUNTY to CONTRACTOR under this Agreement. COUNTY hereby represents and warrants that use, reproduction, display and performance of COUNTY data by CONTRACTOR shall not infringe upon or violate any patent, copyright, trade secrets or trademark rights of any third party or violate any laws, including (without limitation) the United States export laws (Export Administration Act, 15 CFR 730-774) and import laws.

Confidentiality: The Receiving Party shall not disclose Confidential Information except to Authorized Persons. The Receiving Party shall hold Confidential Information in confidence and shall not duplicate, use or disclose Confidential Information except as permitted under this Agreement. Receiving Party shall require Authorized Persons (CareAccess Technical Support) who receive Confidential Information from the Receiving Party to hold and maintain such Confidential Information in confidence and not use or reproduce such Confidential Information except as permitted under this Agreement. The CONTRACTOR Technology (excluding the Tools and CONTRACTOR Technology authorized by CONTRACTOR for access through the Internet without a Password) shall be deemed Confidential Information of CONTRACTOR. This Section, “Confidentiality,” shall survive termination and cancellation of this Agreement.

Unauthorized Use: COUNTY shall not (directly or indirectly) copy or download the Third Party Software, or CONTRACTOR Web Site without the prior written consent of CONTRACTOR. COUNTY shall not modify, reverse engineer, reproduce, display, perform or distribute, establish

a Link to, associate (directly or indirectly) itself with, or cause confusion, including (without limitation) by framing, metatags or similar means, the Third Party Software, or CONTRACTOR Web Site and shall not allow the Third Party Software to be reverse engineered.

Unauthorized Access: COUNTY shall prevent any individual to access the Third Party Software except for individuals and employees of Users authorized to access the Third Party Software for the exclusive purpose of accessing the areas of the Third Party Software designated by CONTRACTOR in the exclusive discretion of CONTRACTOR solely for purposes of viewing, browsing, retrieving, uploading and posting information on the Third Party Software according to the Documentation during the Term of this Agreement using a Password (as may be required) subject to the terms and conditions of this Agreement.

Non-compete: COUNTY hereby acknowledges and agrees that COUNTY will receive Confidential Information and trade secrets during the Term of this Agreement. COUNTY acknowledges that CONTRACTOR has a legitimate business interest in placing reasonable limits on the use of such information. Accordingly, during the Term and for a two-year period following the Term, COUNTY shall not use the CareAccess Technology (directly or indirectly) to develop, promote, advertise, market, or provide any Web Site similar to or competitive with the Third Party Vendors.

No Contest: COUNTY shall not contest or aid in contesting the ownership or validity of the copyrights, trademarks, service marks and trade secrets (as applicable) of CONTRACTOR in connection with the Third Party Software.

Trademarks: CONTRACTOR shall retain all rights, title, and ownership interests in trademarks, trade names, service marks and trade dress of CONTRACTOR and goodwill associated therewith. COUNTY acknowledges that, excepting the trademarks of CONTRACTOR all other product, service and company names mentioned in the Third Party Software may be trademarks of their respective owners.

WARRANTIES

- (1) Services Warranty: The Services to be provided by CONTRACTOR under this Agreement shall be performed using reasonable commercial efforts, shall conform to the standards generally observed in the industry for similar services and shall be subject to Sections (2,) (3,) (4,) (5,) and (6) of this Exhibit K.

- (2) Third Party Software Warranty: Subject to the terms and conditions of this Agreement, CONTRACTOR represents and warrants the following:
 - (i) The Third Party Software will appear and operate in substantial conformance with best industry standards, and the Third Party Software guidelines set forth herein;

 - (ii) The Third Party Software will be accessible by users of the Internet twenty-four (24) hours per day, seven (7) days per week except for scheduled maintenance and up to a maximum of 2 hours per year of unscheduled unavailability which is not caused by COUNTY technology, information or equipment;

 - (iii) CONTRACTOR has full authority to enter into this Agreement;

 - (iv) CONTRACTOR is the owner of or otherwise has the right to use and distribute the CONTRACTOR Technology and any other materials or methodologies used in connection with providing the Third Party Software and Services hereunder.

- (3) Performance Warranties: Subject to the terms and conditions of this Agreement, CONTRACTOR represents and warrants the following:
 - (i) Except as otherwise agreed in writing by the parties, the Third Party Software shall be accessible to Internet Users twenty four (24) hours per day, seven (7) days per week, with the exception of scheduled maintenance periods, which shall last no longer than 2 hours per day and which shall take place each evening between the hours of 1 a.m. and 3 a.m., Pacific Standard Time, and a maximum of 2 hours of unscheduled unavailability per year which is not caused by technology, information or equipment provided by COUNTY;

 - (ii) If the server becomes unavailable to Users, other than for scheduled maintenance, CONTRACTOR shall have qualified personnel respond in the form of a service call in person to the server location within 1 hour of notification of such unavailability and shall, to the extent reasonably practical, remedy such unavailability at such time;

- (iii) CONTRACTOR agrees to meet the service levels set forth in the Service Level Agreement (“SLA”) in Exhibit I. CONTRACTOR agrees that in the event of failure to adhere to the Service Levels set forth therein, COUNTY shall be entitled to receive, upon COUNTY’S request in accordance with this Agreement, a Service Credit to COUNTY’S account as described in Section 15 of this Exhibit K. The Service Level Agreement shall not apply to performance issues (a) caused by factors outside of CONTRACTOR’S reasonable control; (b) that resulted from any actions or inactions of COUNTY or any third parties that are not under the sole control of CONTRACTOR; or (c) that resulted from COUNTY’S equipment and/or third party equipment (not within the sole control of CONTRACTOR);
- (iv) CONTRACTOR agrees to monitor detailed predictive reports daily, weekly and monthly through infrastructure web portal. CONTRACTOR through its third party provider of the infrastructure, (SBC) warrants 99.99% platform availability;
- (v) CONTRACTOR will provide a copy of customer data upon request either through electronic mail (FTP) or hard media.

The foregoing warranties in Sections (1), (2), and this Section (3) do not cover or extend to Tools. COUNTY hereby accepts and adopts all third party license terms and conditions and assumes all of the rights and obligations of such licenses, including any and all warranties and limitations contained therein.

- (4) Express Warranties: Except for the CONTRACTOR service warranty in Section (1), the Third Party Software warranty in Section (2), and the performance warranties in Section (3), COUNTY hereby acknowledges and agrees that CONTRACTOR (including officers, directors, agents, and Associates of CONTRACTOR) has not made or granted any express warranties concerning the Services, the Third Party Software, or any products and services offered through the Third Party Software.
- (5) Disclaimer: The warranties set forth in sections (1), (2), and (3) are in lieu of all other warranties, express or implied, including but not limited to, implied warranties of merchantability and fitness for a particular purpose.

CONTRACTOR, including officers, directors, agents and associates of CONTRACTOR, hereby disclaims and users hereby waive all warranties, express or implied, including, but not limited to, all implied warranties of fitness for a particular purpose and all implied warranties of merchantability, except those set forth in sections (1), (2) and (3).

Except as set forth herein to the contrary, CONTRACTOR does not warrant and users hereby waive any warranty that use of or access to the Third Party Software by users will be uninterrupted or error free.

Except as set forth herein to the contrary, CONTRACTOR does not make any warranty and users hereby waive any and all warranties as to the results obtained from use of the Third Party Software or as to the accuracy, completeness, timeliness or reliability of the third party software.

Users hereby acknowledge and agree that use of the internet and Third Party sSoftware shall be at the sole and exclusive risk of users and subject to the restrictions, terms and conditions, rules, regulations, policies, applicable laws and codes of conduct governing the internet, the Third Party Software or otherwise applicable.

- (6) Limitation of Damages: CONTRACTOR shall not be liable for any loss, consequential, exemplary, incidental or punitive damages in connection with or relating to (i) the use, performance and operation of the Third Party Software that was caused or related to acts of others, (ii) use, performance or operations of the Internet or use of the Internet by Users; (iii) loss of data; and (iv) Content, products and services offered through the Third Party Software regardless of the form of action, whether in contract or in tort, including negligence, except the extent attributable to the action or inaction of the CONTRACTOR.
- (7) Mutual Indemnification:
- (i) CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, agents and employees from and against the following:
 - (a) Any and all third party claims and liabilities for compensation (together with any expenses related thereto, including but not limited to damages, court costs, and attorneys' fees) on account of CONTRACTOR's non-payment for any work, services, materials, or supplies furnished or supplied by such third parties to or for CONTRACTOR or CONTRACTOR's subcontractors in connection with the performance of this Agreement; and
 - (b) Any and all claims, liabilities and losses whatsoever (together with any expenses related thereto, including but not limited to damages, court costs, and attorneys' fees) occurring or resulting to any person, firm, or corporation for damage, injury or death, to the extent that such claims, liabilities, or losses arise out of, are alleged to arise out of, or are connected with the wrongful, willful, or negligent act or omission of the CONTRACTOR, its officers, employees, agents, or subcontractors in the performance of this agreement.
 - (ii) COUNTY agrees to indemnify, defend, and hold harmless CONTRACTOR, its officers, agents and employees from and against the following:
 - (a) Any and all third party claims and liabilities for compensation (together with any expenses related thereto, including but not limited to damages, court costs, and attorneys' fees) on account of COUNTY's non-payment for any work, services, materials, or supplies furnished or supplied by such third parties to or for COUNTY or COUNTY's subcontractors in connection with the performance of this Agreement; and
 - (b) Any and all claims, liabilities and losses whatsoever (together with any expenses related thereto, including but not limited to damages, court

costs, and attorneys' fees) occurring or resulting to any person, firm, or corporation for damage, injury or death, to the extent that such claims, liabilities, or losses arise out of, are alleged to arise out of, or are connected with the wrongful, willful, or negligent act or omission of the COUNTY, its officers, employees, agents, or subcontractors in the performance of this agreement.

- (8) Integrity: COUNTY hereby represents and warrants that COUNTY Materials and any and all media provided to CONTRACTOR by COUNTY shall not contain any material defects, authorization code routines, viruses, disabling routines or Technology or defect causing failures in the Third Party Software.
- (9) Infringement: COUNTY shall release, defend, indemnify and hold harmless CONTRACTOR (including officers, directors, agents and Associates of CONTRACTOR) from and against any and all claims, damages, liability, expenses, fees, costs and attorney and paralegal fees arising in connection with or relating to any third party claims of infringement or violation of any ownership rights to patents, copyrights, trademarks or trade secrets in connection with any use of COUNTY Materials by CONTRACTOR. COUNTY shall defend and settle at its sole expense all suits or proceeding arising in connection with any such third party claim. COUNTY shall not enter into any agreement, which impairs the right of CONTRACTOR to use COUNTY Materials and Links in accordance with this Agreement. In all events, CONTRACTOR shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. If use of COUNTY Materials or Links is disrupted as a result of a third party claim, CONTRACTOR shall have the right to remove COUNTY Materials or Links as provided under Section (8). The foregoing remedy shall be non-exclusive and in addition to any other legal or equitable remedies CONTRACTOR may have or accrue.
- (10) Contractor's Involvement in Claims/Litigation: If a final judgment from a court of competent jurisdiction is entered against CONTRACTOR upholding claims that the CONTRACTOR Technology violates a United States patent, copyright, trade secret or other proprietary rights of a third party, provided that COUNTY gives CONTRACTOR prompt written notice of any such claim, permits CONTRACTOR to answer and defend (at CONTRACTOR'S option) such claim or action and provides CONTRACTOR with such reasonable information, assistance and authority as requested by CONTRACTOR to assist CONTRACTOR in the defense of such claim or action, CONTRACTOR shall perform one or more of the following actions (as determined by CONTRACTOR) within one year of the date final judgment in favor of such third party's claim is rendered by a court of competent jurisdiction:
- (i) Modification: Modify the CONTRACTOR Technology to avoid the infringement without substantially eliminating the functional and performance capabilities of the CONTRACTOR Technology;
 - (ii) Obtain License: Obtain a license for use of the CONTRACTOR Technology from the third party claiming infringement for use of the CONTRACTOR Technology.

CONTRACTOR shall have the right to participate and COUNTY shall permit and authorize CONTRACTOR to participate in the defense of any such claim or action through legal counsel. The foregoing remedy does not apply and CONTRACTOR shall have no obligation in connection with or relating to any third party infringement claim resulting from (a) User's modification of the Third Party Software, (b) User's failure to use the Third Party Software substantially in accordance with the Documentation in effect; (c) User's failure to use the most current release or version of the Third Party Software; (d) Users combination, interface, operation or use of the Third Party Software with the Content or third party Technology (excluding the Tools).

- (11) Force Majeure: CONTRACTOR shall not be liable for any failure to perform its obligations under this Agreement or any failure of the Third Party Software because of circumstances beyond the control of CONTRACTOR which such circumstances shall include (without limitation) natural disaster, terrorism, riot, sabotage, war, any acts or omissions of any government or governmental authority, declarations of governments, laws, court orders, transportation delays, power failure, computer failure, failure of COUNTY computer system, CONTRACTOR System reasonable downtime for routine maintenance, network problems, telecommunications failure, failure of Users to cooperate with the reasonable requests of CONTRACTOR, misuse of the Third Party Software by Users, or a third party and User's breach of their obligations.
- (12) Compliance: COUNTY shall be solely responsible for (i) the truthfulness, accuracy, integrity, and lawfulness of COUNTY Materials; (ii) fulfillment of all orders placed by Users through the Third Party Software, (iii) maintenance of the Third Party Software subject to the terms and conditions of this Agreement; (iv) the products and services made available to Users; and (v) compliance with applicable laws and regulations with respect COUNTY'S products and services.
- (13) Laws: CONTRACTOR represents and warrants that the products and services offered through the Third Party Software shall be lawful. COUNTY represents and warrants that the Third Party Software shall not be used (directly or indirectly) to conduct or solicit the performance of any business or activity which is tortuous, prohibited by law, or violates the Policy Statement, any restrictions, terms and conditions, rules, regulations, policies or laws of any state or federal governmental body or agency, and codes of conduct. COUNTY shall require Users to comply with the Policy Statement, any restrictions, terms and conditions, rules, regulations, policies, laws and codes of conduct.
- (14) Continuation: Excepting Sections (1), (2), and (3) described in first three paragraphs in this Exhibit K, the terms and provisions of this Exhibit K shall survive termination and cancellation of this Agreement.
- (15) Service Credit: shall mean an amount equal to the pro-rata recurring charges for one monthly billing statement for Services for one (1) day of Service. In the event COUNTY experiences Downtime, as defined in the SLA, COUNTY shall be eligible to receive from CONTRACTOR a Service Credit for each Downtime period with a maximum aggregate Service Credit of one-month's billing charges for all Downtime for incidents occurring during such month.

- (i) Time related to Service Credit requests (including Downtime) will be measured from the issuance of a trouble ticket to trouble resolution. Trouble tickets will be issued upon COUNTY's call to CONTRACTOR to report Downtime.

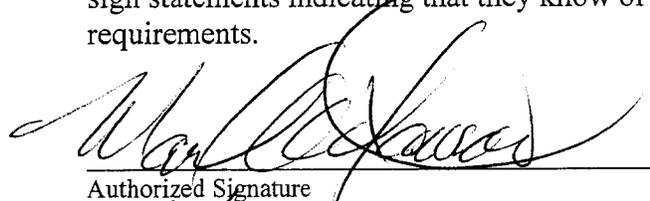
COUNTY *Must Request Service Credit*. In order to receive any of the Service Credits described in this Section, COUNTY must notify CONTRACTOR within five (5) days from the event COUNTY becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit COUNTY's right to receive a Service Credit.

**ELDER & DEPENDENT ADULT
ABUSE & NEGLECT REPORTING
CERTIFICATION**

Care Access Silicon Valley, Inc.

HEREBY acknowledges that this contract for services will bring CONTRACTOR in contact with elders or dependent adults, and that CONTRACTOR has received from COUNTY a copy of Welfare & Institutions Code Section 15659 as required by the Elder Abuse and Dependent Adult Civil Protection Act (Welfare & Institutions Code Sections 15600, et seq). CONTRACTOR certifies that it has knowledge of the provisions of the Act, and will comply with its provisions which define a mandated reporter, and requires that reports of abuse or neglect be made by a mandated reporter when, in his or her professional capacity, or within the scope of his or her employment, he/she observes or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, isolation, financial abuse, or neglect.

CONTRACTOR further gives assurance that all of its employees, consultants, and agents performing services under this Agreement, who are mandated reporters under the Act, sign statements indicating that they know of and will comply with the Act's reporting requirements.



Authorized Signature

6/21/2010
Date

Attachment: Welfare & Institutions Code Section 15659

Elder/Adult Abuse Reporting
During Regular Business hours (831) 755-3403
After hours – Call 911

BUSINESS ASSOCIATE AGREEMENT

This Agreement is made effective the 1st day of July, 2010, by and between **MONTEREY COUNTY**, hereinafter referred to as "Covered Entity", and **Care Access Silicon Valley, Inc.**, hereinafter referred to as "Business Associate", (individually, a "Party" and collectively, the "Parties").

WITNESSETH:

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, known as "the Administrative Simplification provisions," direct the Department of Health and Human Services to develop standards to protect the security, confidentiality and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services has issued regulations modifying 45 CFR Parts 160 and 164 (the "HIPAA Privacy Rule"); and

WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby Business Associate will provide certain services to Covered Entity, and, pursuant to such arrangement, Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Privacy Rule (the agreement evidencing such arrangement is entitled **agreement to provide website portal access to third-party software (AACTS), dated July 1, 2010**, and is hereby referred to as the "Arrangement Agreement"); and

WHEREAS, Business Associate may have access to Protected Health Information (as defined below) in fulfilling its responsibilities under such arrangement;

THEREFORE, in consideration of the Parties' continuing obligations under the Arrangement Agreement, compliance with the HIPAA Privacy Rule, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the requirements of the HIPAA Privacy Rule and to protect the interests of both Parties.

I. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms in this Section shall have the definitions set forth in the HIPAA Privacy Rule. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy Rule, as amended, the HIPAA Privacy Rule shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy Rule, but are nonetheless permitted by the HIPAA Privacy Rule, the provisions of this Agreement shall control.

The term "Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or 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 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.

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Business Associate acknowledges and agrees that all Protected Health Information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

II. CONFIDENTIALITY REQUIREMENTS

(a) Business Associate agrees:

(i) to use or disclose any Protected Health Information solely: (1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship or (2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom Covered Entity is required to disclose such information or as otherwise permitted under this Agreement, the Arrangement Agreement (if consistent with this Agreement and the HIPAA Privacy Rule), or the HIPAA Privacy Rule, and (3) as would be permitted by the HIPAA Privacy Rule if such use or disclosure were made by Covered Entity;

(ii) at termination of this Agreement, the Arrangement Agreement (or any similar documentation of the business relationship of the Parties), or upon request of Covered Entity, whichever occurs first, if feasible, Business Associate will return or destroy all Protected Health Information received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information, or if such return or destruction is not feasible, Business Associate will extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information not feasible; and

(iii) to ensure that its agents, including a subcontractor, to whom it provides Protected Health Information received from or created by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply to Business Associate with respect to such information. In addition, Business Associate agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement.

(b) Notwithstanding the prohibitions set forth in this Agreement, Business Associate may use and disclose Protected Health Information as follows:

(i) if necessary, for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure, the following requirements are met:

(A) the disclosure is required by law; or

(B) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(ii) for data aggregation services, if to be provided by Business Associate for the health care operations of Covered Entity pursuant to any agreements between the Parties evidencing their business relationship. For purposes of this Agreement, data aggregation services means the combining of Protected Health Information by Business Associate with the protected health information received by Business Associate in its

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capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

(c) Business Associate will implement appropriate safeguards to prevent use or disclosure of Protected Health Information other than as permitted in this Agreement. The Secretary of Health and Human Services shall have the right to audit Business Associate's records and practices related to use and disclosure of Protected Health Information to ensure Covered Entity's compliance with the terms of the HIPAA Privacy Rule. Business Associate shall report to Covered Entity any use or disclosure of Protected Health Information which is not in compliance with the terms of this Agreement of which it becomes aware. In addition, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

III. AVAILABILITY OF PHI

Business Associate agrees to make available Protected Health Information to the extent and in the manner required by Section 164.524 of the HIPAA Privacy Rule. Business Associate agrees to make Protected Health Information available for amendment and incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Privacy Rule. In addition, Business Associate agrees to make Protected Health Information available for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy Rule.

IV. TERMINATION

Notwithstanding anything in this Agreement to the contrary, Covered Entity shall have the right to terminate this Agreement and the Arrangement Agreement immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement. If Covered Entity reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, Covered Entity gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to Covered Entity that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then Covered Entity shall have the right to terminate this Agreement and the Arrangement Agreement immediately.

V. MISCELLANEOUS

Except as expressly stated herein or the HIPAA Privacy Rule, the parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Arrangement Agreement and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. This Agreement will be governed by the laws of the State of California. No change, waiver or discharge of any liability or obligation hereunder

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on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

The parties agree that, in the event that any documentation of the arrangement pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the use or disclosure of Protected Health Information which are more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of Protected Health Information.

In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Privacy Rule, such party shall notify the other party in writing. For a period of up to thirty days, the parties shall address in good faith such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, after such thirty-day period, the Agreement fails to comply with the HIPAA Privacy Rule, then either party has the right to terminate upon written notice to the other party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

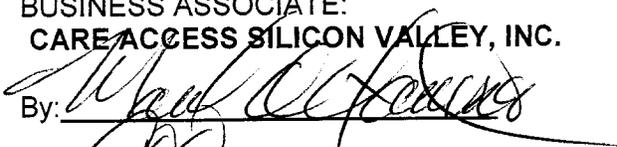
**COVERED ENTITY:
MONTEREY COUNTY**

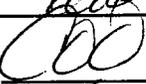
By: _____

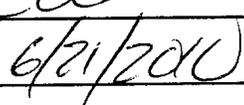
Title: DSES Director

Date: _____

**BUSINESS ASSOCIATE:
CARE ACCESS SILICON VALLEY, INC.**

By:  _____

Title:  _____

Date:  _____

PRIVACY POLICY STATEMENT

This is the web site of CareAccess, which is located on the Internet at <https://www.CareAccess-ca.com>

Our postal address is
2115 The Alameda
San Jose, California, 95126

We can be reached via e-mail at support@careaccess.org
or you can reach us by telephone at 1-877-COA-WEBB

For each visitor to our Web page, our Web server automatically recognizes no information regarding the domain or e-mail address.

We collect no information on consumers who browse our Web page. The information we collect is not shared with other organizations for commercial purposes.

With respect to cookies: We do not set any cookies.

With respect to Ad Servers: We do not partner with or have special relationships with any ad server companies.

With respect to security:

- We always use industry-standard encryption technologies when transferring and receiving consumer data exchanged with our site.
- When we transfer and receive certain types of sensitive information such as financial or health information, we are using a secure server and will notify visitors through a pop-up screen on our site.
- We have appropriate security measures in place in our physical facilities to protect against the loss, misuse or alteration of information that we have collected from you at our site.

If you feel that this site is not following its stated information policy, you may contact us at the above addresses or phone number.

CARE ACCESS PORTAL
NOTIFICATION OF CHANGES FORM

Identified AACTS End Users: The following is a list of unduplicated ACCTS End Users receiving access and/or support privileges during the month/year of: _____. All changes must be acknowledged by return hardcopy or email of the Exhibit O before access privileges are changed.

COUNTY Site	End User	Telephone/E Mail	A-Changed Identified User to B-Changed Office Location to C - Other....
1000 S. Main Street Salinas, CA 93901	Robin Rodriguez Management Analyst	(831) 796-1516 rodriguez@co.monterey.ca.us	
1000 S. Main Street Salinas, CA 93901	Sue Appel Program Manager	(831) 755-4435 appels@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Linda Ricks APS Worker 803	(831) 883-7541 ricksLM@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Steven Mudd APS Worker 411	(831) 883-7557 muddsm@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Robert Bryant APS Worker 415	(831) 883-7540 bryantr@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Ritch Lewis APS Supervisor 400	(831) 883-7552 lewism@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Fawn Mackey APS Worker 401	(831) 883-7529 mackeyfa@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Andrea Moore APS Worker 405	(831) 883-7538 mooreal@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Greta Jelleson APS Worker 412	(831) 883-7545 jellesongl@co.monterey.ca.us	
2620 First Avenue Marina, CA 93933	Susan Sullivan APS Worker 807	(831) 883-7531 sullivans@co.monterey.ca.us	
713 La Guardia, Ste. H-8 Salinas, CA 93905	Robert Huss Systems Support	(831) 783-7013 hussr@co.monterey.ca.us	
713 La Guardia, Ste. H- 8 Salinas, CA 93905	John Allen Systems Support	(831) 783-7020 allenj1@co.monterey.ca.us	