



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No. A-12704

Upon motion of Supervisor Salinas, seconded by Supervisor Parker and carried by those members present, the Board of Supervisors hereby:

Approved and authorized the Director of Health or the Assistant Director of Health to sign Amendment No. 1 to Agreement No. A-12704 with Panoramic Software Inc., adding one (1) additional year of continued monthly maintenance services for the PG-ProWeb program designed specifically for the Public Guardian and increasing the Agreement amount by \$54,000, for a new total Agreement amount of \$228,000, for the revised period July 1, 2014 through June 30, 2018.

PASSED AND ADOPTED this 27th day of June 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas Parker and Adams
NOES: None
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 80 for the meeting June 27, 2017.

Dated: June 28, 2017
File ID: A 17-263

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**AMENDMENT No. 1 TO AGREEMENT BY AND BETWEEN
COUNTY OF MONTEREY & PANORAMIC SOFTWARE, INC.**

THIS AMENDMENT No. 1 is made to the PROFESSIONAL SERVICES AGREEMENT for the provision of Monthly maintenance services for the PG-ProWeb program by and between Panoramic Software Inc, hereinafter "CONTRACTOR", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County".

WHEREAS, the County and CONTRACTOR wish to amend the AGREEMENT to reflect the County's exercise of the option to extend for one (1) additional year.

NOW THEREFORE, the County and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Paragraph 2, "PAYMENT PROVISIONS", shall be amended by removing "The total amount payable by County to CONTRACTOR under this agreement shall not exceed the sum of \$174,000", and replacing it with "The total amount payable by County to CONTRACTOR under this agreement shall not exceed the sum of \$228,000".
2. Paragraph 3, "TERM OF AGREEMENT", shall be amended by removing "The term of this Agreement is from July 01, 2014 to June 30, 2017, unless sooner terminated pursuant to the terms of this Agreement", and replacing it with "The term of this Agreement is from July 01, 2014 to June 30, 2018, unless sooner terminated pursuant to the terms of this Agreement".
3. EXHIBIT A – Scope of Services to the Agreement is hereby deleted and replaced in its entirety and attached hereto as EXHIBIT A-1.
4. The Business Associate Agreement (version dated 3/10/2014) attached to the original Agreement has been deleted and replaced with the new version dated 12/12/2014 and attached hereto as EXHIBIT B.
5. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT No. 1 and shall continue in full force and effect as set forth in the AGREEMENT.
6. A copy of this AMENDMENT No.1 shall be attached to the original AGREEMENT dated July 2, 2014.

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IN WITNESS WHEREOF, the parties have executed this AMENDMENT No.1 on the day and year written below.

MONTEREY COUNTY

CONTRACTOR

Contracts/Purchasing Officer

By: _____
Signature of Chair, President, or
Vice-President

Dated: _____

Jeff von Waldburg
Printed Name and Title

for

Department Head (if applicable)

Dated: 5/24/2017

Dated: 07/03/2017

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

Approved to Fiscal Provisions:

[Signature]

Deputy Auditor/Controller

Jeff von Waldburg
Printed Name and Title

Dated: 6-7-17

Dated: 5/24/2017

Approved as to Liability Provisions:

Risk Management

Dated: _____

Approved as to Form:

[Signature]

Deputy County Counsel

Dated: 6/7/17

*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.

EXHIBIT A-1

**To Agreement by and between
Monterey County Health Department, hereinafter referred to as "County"
AND
Panoramic Software, Inc., hereinafter referred to as "CONTRACTOR"**

Scope of Services / Payment Provisions

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

This SOFTWARE MAINTENANCE AGREEMENT (Agreement) is entered into, by and between MONTEREY COUNTY (Customer) and Panoramic Software Incorporated (PANOSOFT) for PANOSOFT's PG-Pro Web application software being used by the Monterey County Public Guardian.

General Maintenance Services: PANOSOFT will provide to Customer the following types of services under this Agreement on all week-days, Monday through Friday, from 8:30 to 4:30 Pacific Standard Time, excluding holidays:

- 1. Telephone Support:** PANOSOFT staff will be available to answer questions by telephone concerning PG-Pro Web application software.
- 2. Training Classes:** Software user training classes for PG-Pro Web will be offered from time to time by PANOSOFT. Training classes will be conducted at various locations to include the PANOSOFT Corporate headquarters, at Public Guardian Association training conferences, and at Customer's sites. The timing and location of such classes shall be at the discretion of PANOSOFT.
- 3. Software Enhancements:** Updates to PG-Pro Web will be provided to fix application software errors and to improve ease of use and performance. Such updates may include changes necessary to meet federal, state, and county mandated requirements. All software enhancements will be provided at the discretion of PANOSOFT.
- 4. Error Correction:** An error is defined as any aspect of the software performance which does not conform substantially to the operation specified in the user documentation. Customer identified errors will be corrected and brought into conformance with the user documentation.
- 5. Software Releases:** Software Enhancements and Error Corrections will be made available to Customers in Software Releases from time to time as considered necessary by PANOSOFT.

6. **New Documentation Releases:** Documentation to accompany Software Enhancements will be provided when available.
7. **Technical Services Bulletins:** PANOSOFT will provide Technical Service Bulletins to Customers from time to time. Such bulletins may include information concerning PG-Pro Web usage, third party software, and other matters considered relevant to Customers by PANOSOFT. Technical Services Bulletins will be issued at the discretion of PANOSOFT.
8. **Daily posting of Automated Clearing House (ACH) transactions:** PANOSOFT will perform postings of ACH posting to the Financial Institution holding client funds and provide reconciliation forms of said postings.

ADDITIONAL MAINTENANCE SERVICES: PANOSOFT will provide additional maintenance service at an additional charge. PANOSOFT will require Customer authorization in writing and a Customer Purchase Order before any service which results in billable costs is performed. Additional Maintenance Services includes, but is not limited to, the following:

1. **Additional Training:** Additional software training is available at Customer sites.
2. **Data and Systems Corrections:** Data and Systems corrections include any corrective actions accomplished by PANOSOFT staff on-site or via electronic access which may be necessary due to Customer error(s) or unauthorized data access by Customer. Unauthorized data access by Customer is defined as any Customer editing or entering of data other than through normal system usage as described in the user documentation.
3. **Customer Site Visits:** Visits to Customer sites requested by Customer for reasons such as, but not limited to: (1) additional system training on hardware or software usage; (2) resolution of system difficulties not resulting from actions by, or otherwise the responsibility of, PANOSOFT (as determined by mutual agreement between PANOSOFT and Customer); (3) installation of software releases;
4. **New Software Modules:** Software Modules are developed to address areas of information management not currently or significantly addressed by PG-Pro Web. The License for any such new software modules will be available for Customer to purchase under separate contractual agreement with PANOSOFT.
5. **Custom Programming:** Requests for supplemental programming or customization of system features will be available for Customers. Such requests will be reviewed by PANOSOFT and, if accepted for implementation by PANOSOFT, will be subject to the then current hourly programming rate.

CUSTOMER SYSTEM RESPONSIBILITIES: Customer is responsible for performing the following duties relating to the successful operation of PG-Pro Web.

1. **System Operation:** System Operation is the general operation of Customer's desktop hardware and all software including, but not limited to, system restarts, configuration and operation of system peripherals (such as printers and workstations).
2. **Customer Desktop Hardware Repair:** Customer is responsible for resolving all desktop hardware problems, reinstalling repaired equipment, and all other actions necessary to complete the repair process.
3. **Software Maintenance Agreement:** This Agreement must be in effect for Customer to receive from PANOSOFT any of the services listed in this Agreement. Services listed in this Agreement will be unavailable to Customers who are not under a current Software Maintenance Agreement. In the event Customer discontinues this Agreement and subsequently desires to reinstate the Agreement in order to receive any of the services listed in this Agreement, Customer will be required to pay the normal monthly charge for all months during which the service was discontinued before service will be reinstated.

All written reports required under this Agreement must be delivered to Fabricio Chombo, County's Contract Manager, in accordance with the schedule above.

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed \$228,000 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

General Maintenance Services: Support Costs are; \$4,500 per month for a total of \$54,000 per year for the term of the contract.

Additional Maintenance Services: The rate for all Additional Maintenance Services is \$1,200.00 per day on site, with a one-day minimum. Travel costs will be billed to Customer in accordance with Monterey County Travel Policy.

The rate for all Additional Maintenance Services off site will be billed at the rate of \$150.00 per hour.

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the "County Travel Policy". A copy of the policy is available online at www.co.monterey.ca.us/auditor/policies.htm To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

Taxes: All maintenance charges under this Agreement are exclusive of any taxes legally imposed on the licensing, delivery, and use of PG-Pro Web. Customer shall pay, or reimburse PANOSOFT, for any such taxes, and PANOSOFT may add such taxes to the invoices submitted to Customer by PANOSOFT.

Changes in Charges: PANOSOFT may request a change the charges for "Additional Maintenance Services" by submitting written notice 90 days prior to the effective date, to allow time for Customer to amend Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

B.2 CONTRACTORS BILLING PROCEDURES

NOTE: Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement"), effective July 1, 2017 ("Effective Date"), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department ("Covered Entity") and Panoramic Software, Inc. ("Business Associate") (each a "Party" and collectively the "Parties").

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

The Parties agree as follows:

1. DEFINITIONS

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

2. PERMITTED USES AND DISCLOSURES OF PHI

2.1 Unless otherwise limited herein, Business Associate may:

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

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

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

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

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

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

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

3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

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

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

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

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

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

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

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

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

(g) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

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

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

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

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

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

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

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

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

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

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

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

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

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

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

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

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

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

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

4. TERMS AND TERMINATION

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

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

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

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

5. MISCELLANEOUS

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

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

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

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

If to Business Associate, to:

Panoramic Software, Inc.
32932 Pacific Coast Highway, #14-482
Dana Point, CA 92629
Attn: Jeff von Waldburg, President & CEO
Tel: 949-510-4552
Fax: _____

If to Covered Entity, to:

Monterey County Health Dept.
Public Guardian
1441 Schilling Place, North
Salinas, CA 93901
Attn: Elsa Jimenez, Director of Health
Tel: 831-755-4526
Fax: 831-755-4797

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

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

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

5.7 Indemnification. Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter County), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including the County's reasonable cost of providing notification of and of mitigating any acquisition, access, use or disclosure of PHI in a manner not permitted by this BAA, arising out of, or in connection with, performance of this BAA by Contractor and/or its agents, members, employees, or sub-contractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this BAA to provide the broadest possible indemnification for the County. Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred by the County with respect to any investigation, enforcement proceeding or litigation in which Contractor is obligated to indemnify, defend, and hold harmless the County under this BAA. This provision is in addition to and independent of any indemnification provision in any related or other agreement between the Covered Entity and the Business Associate.

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

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

[BUSINESS ASSOCIATE]

By: 

Print Name: Ezequiel Vega

Print Title: Asst. Director of Health

Date: 07/06/2017

By: 

Print Name: Jeff von Waldburg

Print Title: President & CEO

Date: 5/24/2017

