

## AGREEMENT FOR SERVICES #220-S1411

### Kinship Support Services Program

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**THIS AGREEMENT** made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Lilliput Children's Services, a non-profit California Corporation, duly qualified to conduct business in the State of California (hereinafter referred to as "Contractor") whose principal place of business is 8391 Auburn Boulevard, Citrus Heights, CA 95610 and whose Agent for Service of Process is Karen Alvord 8391 Auburn Boulevard, Citrus Heights, CA 95610.

### RECITALS

**WHEREAS**, County anticipates the continuation of funding from the California Department of Social Services ("CDSS") to the County of El Dorado Health and Human Services Agency ("HSA") in the form of a grants-in-aid program for a Kinship Support Services Program ("KSSP"); and

**WHEREAS**, County has determined that, as it is a requirement of the program, it is necessary to obtain a Contractor to provide a KSSP; and

**WHEREAS**, Contractor has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

**WHEREAS**, on November 27, 2007, Contractor was formally awarded Request for Proposal ("RFP") 08-918-020 and Contractor subsequently provided services via Agreement for Services #542-S0811 for term November 27, 2007 through June 30, 2010; Agreement for Services #365-S1011 for term July 1, 2010 through June 30, 2012; and Agreement for Services 183-S1311 for term July 1, 2012 through June 30, 2013; and

**WHEREAS**, Agreement for Services #220-S1411 will provide for the continuation of the KSSP services procured through RFP 08-918-020; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable Federal, State (all references to "State" in this Agreement shall mean the State of California unless otherwise specified), and local laws; and

**WHEREAS**, County has determined that the provisions of these services provided by Contractor is in the public's best interest and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by the County of El Dorado Charter, Section 210(b)(6) or Government Code 31000.

**NOW, THEREFORE**, County and Contractor mutually agree as follows:

## **ARTICLE I**

**Scope of Services:** Contractor shall assume the duties as County's Contractor in order to provide a Kinship Support Services Program. Contractor shall continue development of said KSSP in the County of El Dorado. Contractor shall provide services in accordance with the purpose and goals of the KSSP as delineated in Exhibit "A" marked "KSSP Background, Purpose, and Goals," incorporated herein and made by reference a part hereof. Contractor shall accomplish these goals by performing the following:

- A. Contact kinship caregivers referred by HHSA within two (2) business days of the referral, informing them of KSSP services, permanency options, and available financial assistance. Additionally, Lilliput will contact the County's adoption social worker within two (2) business days of caregiver interest in permanency (guardianship/adoption).
- B. Annually prepare a mailing flyer regarding permanency options and coordinate with HHSA to send the flyer to all kinship caregivers with dependent children in their care.
- C. Provide KSSP informational packets to kinship caregivers with dependent children via mail or email if they request information by telephone or in-person upon their first visit.
- D. Deliver three (3) KSSP presentations annually to HHSA Child Protective Services ("CPS") staff in the Western and Eastern slope region.
- E. Identify and assess the need for KSSP services in the Eastern and Western Slope for at least one hundred ninety-six (196) unduplicated clients annually.
- F. Develop a family service plan and provide case management for at least sixty (60) unduplicated families annually that are in need of ongoing KSSP services.
- G. With the goal of maintaining the kinship family unit, provide social services referrals and/or interventions such as, but not limited to, counseling, housing, basic needs, homemaker services, legal services, health, mental health and dental care, daycare, tutoring, etc. for a minimum of one hundred (100) unduplicated individuals annually.
- H. Identify, assess, and arrange for or provide up to forty-eight (48) hours of respite care, as needed, for at least sixteen (16) unduplicated caregivers annually such as, but not limited to, day trips for the youth, after school programs and financial assistance for community respite resources.
- I. Establish and maintain an advisory committee consisting of kinship caregivers that meets at least semi-annually to assist with development and implementation of a plan that shall identify and address the needs of kinship caregivers and include community outreach, engagement, education, and advocacy regarding kinship services.
- J. Attend Community meetings to raise awareness and develop community partnerships regarding KSSP including the Western Slope Community Strengthening Committee meetings (Placerville), the Georgetown "Divide Ready by 5," and the South Lake Tahoe Collaborative meeting.

- K. Provide monthly community outreach activities at area schools, community meeting places, and local governmental agencies. This includes but is not limited to advertising, presentations, and workshops. Also includes the posting of flyers at a variety of community sites including but not limited to HHSA, County of El Dorado Courthouse, County of El Dorado Probate Court, schools, churches, and libraries.
- L. Provide assistance to clients with filing for legal guardianship and/or conduct workshops, as needed. Includes providing one-on-one consultation, if necessary, and attending probate court with clients as needed.
- M. Staff and coordinate a kinship caregiver support group to provide resources and support on the Western Slope with the goal of recruiting at least three (3) new KSSP families.
- N. Arrange for or provide at least three (3) recreational and/or respite activities for the caregivers and children/youth in their care at no cost to the families, and provide HHSA with copies of all activity notices. Includes providing one activity in South Lake Tahoe.
- O. Provide for or arrange youth activities and provide financial assistance for at least sixteen (16) unduplicated youth annually for items such as but not limited to school pictures, sports, activities, etc.
- P. Allow for the provision of transportation such as but not limited to providing bus passes, gas vouchers, and encouraging carpooling for support groups and recreational activities.
- Q. Provide up to 20-30 clinical and/or therapeutic sessions with a licensed therapist and/or associate under the direct supervision of a licensed clinician to provide brief, short-term therapeutic support to kinship families in crisis and in need of a higher level of intervention. Therapeutic counseling services are reimbursed at the Current Drug Medi-Cal Rate for Regular DMC Outpatient Drug Free (ODF) Individual Counseling Unit of Service Rate.
- R. Increase collaboration with South Lake Tahoe agencies and establish a need for and coordinate a kinship support group in the South Lake Tahoe area.

Contractor shall meet all CDSS KSSP requirements as specified in Exhibit "B" marked "Kinship Support Services Program (KSSP) California State Department of Social Services Requirements," incorporated herein and made by reference a part hereof. Requirements include but are not limited to target populations, site requirements, and information technology, and data reporting requirements.

Contractor ensures that its proposed facility meets CDSS requirements and those specified in Exhibit "C" marked "KSSP Project Site Information," incorporated herein and made by reference a part hereof. Contractor agrees that although regular office hours of 8 a.m. to 5 p.m. Monday through Friday are listed on Exhibit "C," KSSP activities shall occur outside those hours as required. Contractor acknowledges and agrees that assessment and case management activities shall often occur in consumers' homes. Contractor shall also actively seek KSSP office space at other locations in the County, including office space in South Lake Tahoe, in order to ensure consumer's easy access to KSSP services. Additionally, Contractor shall provide KSSP activities at other locations throughout the County.

Contractor shall provide KSSP staffing as specified in Exhibit "D" marked "KSSP - Required Services and Staffing," incorporated herein and made by reference a part hereof. Contractor



shall employ at least one (1) relative caregiver to assist in the provision of KSSP services. Any changes in staffing must be agreed to in writing by both HHSA and Contractor.

Contractor shall attend all required KSSP trainings including one (1) yearly conference in Northern California and one (1) in Southern California, at no additional cost or expense to County.

**Other Contractor Responsibilities:** Any Contractor expending \$500,000.00 or more in a year in Federal awards shall provide an annual independent audit by a certified public accounting firm.

Contractor shall maintain necessary program records documenting services performed and/or purchased and fiscal records showing expenditures made during the Agreement period. These records shall be open to inspection by representatives of County of El Dorado HHSA and the State of California at all reasonable times. Upon request, Contractor shall make these records available to all authorized County, State (including Auditor-Controller), and Federal personnel. Records shall be maintained for at least five (5) years from the end of the Agreement period or until State audits are completed, whichever is later.

Whenever possible, therapeutic counseling services shall be provided by a currently Licensed Clinical Social Worker ("LCSW") or currently licensed Marriage and Family Therapist ("MFT") whose license has been issued and is regulated by the California Department of Consumer Affairs Board of Behavioral Sciences ("BBS"). Said license must be considered clear, i.e., license renewal fees have been paid, continuing education requirements (if applicable) have been met, and there have been no actions or revocations placed against it by the BBS.

The BBS does not have reciprocity with any other state licensing board. Therefore, any LCSW or MFT who is providing HHSA approved services to a Client who is receiving services outside California must have a current, clear license issued and regulated by the appropriate certifying agency for the state in which they are practicing.

If any service is delegated to an intern, the intern must be pre-licensed by the appropriate certifying state agency and all service assignments must be under the direct supervision of a currently licensed LCSW or MFT as described above. No intern shall be the sole author of any written initial visit report or any other report that pertains to Client or Client's treatment plan. All Client related documents must be reviewed, approved, and signed by said LCSW or MFT.

## **ARTICLE II**

**Term:** This Agreement shall become effective when fully executed by all parties hereto and shall expire June 30, 2014, unless terminated earlier pursuant to the provisions contained herein this Agreement under the Article(s) titled "Default, Termination, and Cancellation" or "Fiscal Considerations."

## **ARTICLE III**

**Compensation for Services:** For services provided herein, County agrees to pay Contractor in arrears. Contractor shall submit invoice(s) no later than fifteen (15) days following the end of a



“service month.” An exception shall be made for the billing associated with the month of June, which must be received by County no later than June 10, 2014. For billing purposes, a “service month” shall be defined as a calendar month during which Contractor provides services in accordance with the purpose and goals of KSSP as delineated in Exhibit “A” marked “KSSP Background, Purpose, and Goals.”

Invoices for services rendered under the Agreement shall be submitted as demonstrated in the attached sample invoice, Exhibit “E” marked “Kinship Support Services Program Invoice” incorporated herein and made by reference a part hereof. If an alternative invoice is used, all fields noted in Exhibit “E” are mandatory.

Reports detailed herein under Article V “Reporting Responsibilities” are considered a required deliverable. Services shall be considered incomplete until such date as said reports are received and approved in writing by the HHS KSSP Coordinator located at 3057 Briw Road, Placerville, CA 95667. Compensation for services shall not be provided for incomplete services.

Payment shall be made within forty-five (45) days following County receipt and authorization of approved invoice(s).

For the purposes hereof, the billings for Fiscal Year (“FY”) 2013-14 shall be in the manner as detailed in this Article III “Compensation for Services.”

Personnel expenses shall be invoiced and reimbursed as they occur. Indirect costs may not exceed 10% of salaries and benefits annually. Actual expenses shall be invoiced and reimbursed as they occur. Total billings shall not exceed the total amount of funding available for FY 2013-14 and shall not exceed each category of expenses as follows:

<b>Personnel Expenses (including Taxes/Benefits)</b>	<b>\$86,804.24</b>
<b>Operating Expenses</b>	
Rent Facility @ \$1,501.50/mo	\$18,018.00
Utilities	\$2,400.00
Office Supplies and Postage	\$1,849.76
Travel (Staff Mileage and travel)	\$6,500.00
Publications/Outreach/Brochures/Newsletters	\$1,000.00
Professional & Consultation Services (Legal/Staff Training)	\$3,500.00
Family Emergencies/Recreation Fund/Respite, etc.	\$5,900.00
Other (Therapeutic Support, Kinship Advisory Committee, IT/Computer Support)	\$3,628.00
<b>Total Operating Expenses</b>	<b>\$42,795.76</b>
<b>Total Personnel and Operating Expenses</b>	<b>\$129,600.00</b>
Indirect Cost (10%)	\$12,960.00
<b>Total Budget</b>	<b>\$142,560.00</b>

Budget modification requests may be considered by HHS no more than one (1) time during the fiscal year and must be received by HHS no later than February 15 of that particular fiscal year.

Prior to the commencement of Therapeutic Counseling, Contractor shall determine the category that Client falls under as set forth in the chart listed below:

<b><i>Client Insurance Category</i></b>	<b><i>Procedures to Follow to Receive Reimbursement for Services</i></b>
<b>Uninsured Clients</b>	For Clients without health insurance coverage, Contractor shall bill County for authorized service(s) provided in accordance with the rates set forth below. Contractor shall not charge <u>any</u> amount whatsoever to Clients who do not have health insurance.
<b>Medi-Cal Clients with no "share of costs"</b>	Contractors who are Medi-Cal providers shall bill Medi-Cal for authorized service(s) provided. Contractor shall <u>not</u> bill Client or County for any difference between their "regular" fee and what they receive from Medi-Cal for services rendered, any co-pay(s), any deductible, or any other amount(s).
<b>Medi-Cal Clients with "share of costs"</b>	Contractors who are Medi-Cal providers shall bill Medi-Cal for authorized service(s) provided and shall bill County for Client's share of costs, up to the rate amount set forth in this Agreement. Contractor shall <u>not</u> bill Client or County for any additional costs, including but not limited to the difference between their "regular" fee and what they receive from Medi-Cal for services rendered, any co-pay(s), any deductible(s), or any other amount(s).
<b>Clients with private health insurance coverage</b>	Contractor shall bill Client's private health insurance carrier as primary insurance carrier for all authorized service(s) provided. Contractor shall only bill County for any insurance-required Client co-pay or deductible amounts. Contractor shall <u>not</u> bill Client or County for any difference between their "regular" fee and what they receive from private insurance for services rendered, any co-pay(s), any deductible(s), or any other amount(s). If Client's private health insurance company does not cover the ordered service(s), Contractor shall follow the above procedures for Uninsured Clients.

After determining the proper insurance category Client falls under, and unless as otherwise defined in this Agreement, provided services shall be billed using the County standardized rate structure, which shall use the most current California Drug Medi-Cal ("DMC") Alcohol and Drug Services Program "Regular DMC" and "Perinatal DMC" rates (collectively "DMC rates") as its benchmark and as set forth in the chart listed below. Furthermore, for the purposes of this Agreement:

- A. DMC rates are for reimbursement reference purposes only and any descriptive information contained within the DMC rate schedule shall not apply to this Agreement unless otherwise specifically addressed. California-approved Drug Medi-Cal DMC rates are located on the

California Department of Health Services at the following website address: <http://www.dhcs.ca.gov/formsandpubs/Pages/ADPBulletinsLtrs.aspx>.<sup>1</sup>

- B. DMC rates shall be subject to an annual adjustment in order to match the most current State-approved DMC rate schedule. Any adjustments to the DMC rate schedule by the State shall become effective the first day of the month that follows California's announcement that its governor has signed the Budget Bill for that particular Fiscal Year, thereby enacting the California State Budget Act.<sup>2</sup>

<i>Service</i>	<i>County Standardized Rate</i>
<i>Individual Counseling Session. 50-60 minutes per session and per individual upon written request via HHSA Authorization. Multiple Units of Service shall be allowed upon approval of appropriate HHSA staff.</i>	Current Drug Medi-Cal Rate for Regular DMC Outpatient Drug Free (ODF) Individual Counseling UOS* Rate

\*Unit of Service

Invoices and reports shall be sent as follows:

<i>Please Send Invoices to:</i>
<p>County of El Dorado  Health and Human Services Agency  Attn: KSSP Coordinator  3057 Briw Road  Placerville, CA 95667-5321</p>

The total contractual obligation under this Agreement shall not exceed \$142,560.00 for both the stated services and term.

#### **ARTICLE IV**

**Program Monitoring:** County may conduct on-site visits to the Contractor no less frequently than one (1) time per year to review compliance with this Agreement. To evaluate the performance in relation to the scope of work, unannounced site visits may be made to Contractor.

#### **ARTICLE V**

**Reporting Responsibilities:** Contractor shall use data collection systems provided by the CDSS Technical Assistant Consultant, Edgewood Center for Children & Families, to track services, and

<sup>1</sup> The California ADP Bulletin contains information on the most current DMC rates, which can be found at the CA Dept. of Health Services (<http://www.dhcs.ca.gov/formsandpubs/Pages/ADPBulletinsLtrs.aspx>). This link will open the "Alcohol and Drug Bulletins and Letters" page. Click on the link titled "Proposed Drug Medi-Cal Rates for Fiscal Year \_\_\_\_" (most current fiscal year) or click on the Exhibit link to open the DMC rate chart.

<sup>2</sup> The most current information on the status of the enactment of the California budget act may usually be found at the following website: <http://www.ebudget.ca.gov>



shall provide data to County in a timely manner and as required by CDSS. Information may include but is not limited to:

- A. Name(s), Date of Birth (“DOB”), marital status of family members;
- B. Address where family resides and phone number;
- C. Signed release of information agreement;
- D. Source of referral to Contractor;
- E. Copies of all family assessments conducted during the life of the case (i.e., needs, safety, risk, and protective capacity); and
- F. Copies of the service plan and progress notes.

Contractor is responsible to provide any other information that may be requested or required by the Federal, State, or County government regarding KSSP.

Contractor shall provide monthly reports to County on KSSP development and services provided. Reports shall include but are not limited to:

- A. Address progress made on service items A through Q listed in Article I, Scope of Services; and
- B. Document and demonstrate that services provided address the purpose and goals of the KSSP as defined in Exhibit “A;” and
- C. These reports shall be due to HHSA by the 15<sup>th</sup> of the month following each service month.

Contractor shall collect client satisfaction surveys (“Report Cards”) as an evaluation tool to be completed by KSSP participants to help in identifying strengths, weaknesses, and benefits of the program, as perceived by the clients being served. Contractor shall provide County with a quarterly report summarizing client responses on the Report Cards. Said report is to be received by County no later than 30 days after the end of each quarter that this Agreement is in force (i.e., due no later than December 30, March 30, June 30 and September 30).

Contractor shall participate, as requested by County, at no charge to County, in any research and/or evaluative studies designed to show the effectiveness and/or efficiency of KSSP.

Annually, Contractor shall submit to County a list of all trainings attended during the fiscal year by Contractor’s staff members who provide services under this Agreement. This list shall be due to County no later than July 31 of each year that this Agreement is in force.

## **ARTICLE VI**

**Assurances:** As a condition of Contractor performing services for the County of El Dorado, Contractor shall complete and execute Exhibit “F” marked “Assurance of Compliance with the County of El Dorado Health and Human Services Agency – Nondiscrimination in State and Federally Assisted Programs,” incorporated herein and made by reference a part hereof, and Exhibit “G” marked “County of El Dorado Assurances Kinship Support Services Program (KSSP),” incorporated herein and made by reference a part hereof. Exhibits “F” shall be completed, executed, and submitted to the attention of Agreement’s Contract Administrator along with all required documents described therein, within thirty (30) days of the formal

approval and execution of Agreement by Contractor. Contractor shall submit items listed on Exhibit "G" to the attention of Agreement's Contract Administrator within thirty (30) days of the formal approval and execution of Agreement by County.

#### **ARTICLE VII**

**Mandated Reporter Requirements:** Contractor acknowledges and agrees to comply with mandated reporter requirements pursuant to the provisions of Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the California Penal Code, also known as The Child Abuse and Neglect Reporting Act, and the Welfare and Institutions Code 15630 et seq. related to elder and dependent adults, as applicable.

Contractor further agrees and shall ensure that all employees, volunteers, consultants, and agents performing services under this Agreement on behalf of Contractor and for the benefit of County's KSSP shall report child abuse or neglect to a child protective agency as defined in Penal Code Section 11165.9. Further, Contractor shall require each employee, volunteer, consultant, and agent to sign a statement acknowledging that they know of and acknowledge the reporting requirements as defined in Penal Code Section 11166 and that they shall fully comply with the provisions said Code Section. Contractor shall provide a copy of said employee, volunteer, consultant, or agent signed mandated reporter statement(s) to County within five (5) days of County's written request for same.

#### **ARTICLE VIII**

**Medi-Cal Screening:** If applicable, Contractor shall screen 100% of referred Clients for Medi-Cal eligibility. The screening shall include, but not be limited, to:

- A. Verifying that the Medi-Cal beneficiary is eligible to receive Medi-Cal services at the time Client is referred for service; and
- B. Verifying the County of El Dorado as the responsible County; and
- C. Assessing for valid full scope aid codes; and
- D. Monthly verification of Client eligibility during the time that Contractor provides services to Client.

#### **ARTICLE IX**

**Fingerprinting:** Pursuant to California Penal Code §11105.3(a), "Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (1) of §15660 of the Welfare and Institutions Code of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care." Therefore, Contractor warrants that its employees, subcontractors, assignees, volunteers and any other persons who, while providing services under this Agreement, have or may have supervisory or disciplinary power over any person or minor under his or her care, have been fingerprinted in order to determine whether they have a criminal history that would compromise the safety of persons or minors with whom they have contact in the course of provision of services under this Agreement.

Contractor further warrants that said employees, subcontractors, assignees, volunteers and other persons have been cleared by Contractor to perform the services described in this Agreement. All fingerprinting services shall be at Contractor's sole expense. More specifically, Contractor agrees that:

- A. Each applicant for paid or volunteer employment by Contractor who shall or may have a supervisory or disciplinary power over a minor or any person under his or her care shall be fingerprinted in order to determine whether they have a criminal history, which would compromise the safety of such minor, or person(s) under his or her care. All fingerprinting shall be at Contractor's sole expense.
- B. The fingerprinting process as set forth above shall be completed and the results of the process shall be obtained before any of the Contractor's employees, subcontractors, assignees or volunteers are assigned or permitted to work with any minor or person referred to Contractor by County. Alternatively, the Contractor may set a hire date prior to obtaining fingerprinting results contingent on the applicant certifying that: (1) his or her employment application truthfully and completely discloses whether he or she has ever been convicted of a felony or misdemeanor or been on parole or probation and (2) that the applicant understands that a background check shall be conducted and that he or she shall be immediately dismissed from employment if he or she has failed to provide information regarding convictions, has provided incomplete information regarding convictions, has omitted information regarding convictions or if the fingerprinting results reveal any conviction incompatible with employment with Contractor.
- C. Contractor shall maintain, and make immediately available to County upon request, a written fingerprint certification for each employee, volunteer or applicant for paid or volunteer employment for whom fingerprinting is required as detailed above. Such certification shall state that the individual has been fingerprinted, shall provide the date of said fingerprinting, and shall state whether the process has disclosed any criminal history of the individual, which may compromise the safety of minors or other persons with whom that individual has contact. Fingerprint information received from Department of Justice ("DOJ") by Contractor shall be retained or disposed of pursuant to current DOJ directives.

## **ARTICLE X**

**Non-Discrimination:** Assurance of compliance with the County of El Dorado Health and Human Services Agency non-discrimination in State and Federally assisted programs requirements as follows:

Contractor hereby agrees that they shall comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended, and in particular Section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code section 11135-11139.5, as amended; California Government Code section 12940 (c), (h) (1), (i), and (j); California Government Code section 4450; Title 22, California Code of Regulations section 98000 – 98413; Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable Federal and State



laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84 and 91, 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are non-discriminatory, to the effect that no person shall, because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, or political belief, be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving Federal or State financial assistance; and hereby give assurance that it shall immediately take any measures necessary to effectuate this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal and State assistance; and Contractor hereby gives assurance that administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of the California Department of Social Services Manual of Policies and Procedures (“MPP”) Chapter 21, shall be prohibited.

By accepting this assurance, Contractor agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of the aforementioned laws, rules, and regulations, and permit authorized CDSS or Federal government personnel, during normal working hours, to review such records, books, and accounts as needed to ascertain compliance. If there are any violations of this assurance, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code Section 10605, or Government Code section 11135-11139.5, or any other laws, or the issue may be referred to the appropriate Federal agency for further compliance action and enforcement of this assurance.

This assurance is binding on Contractor directly or through contract, license, or other provider services, as long as it receives Federal or State assistance.

County policy is intended to be consistent with the provisions of all applicable State and Federal laws.

## **ARTICLE XI**

**Confidentiality and Information Security Provisions:** Contractor shall comply with applicable laws and regulations, including but not limited to The Code of Federal Regulations, Title CFR45, parts 160-164, regarding the confidentiality and security of Personally Identifiable Information (“PII”).

Personally Identifiable Information (PII) means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver’s license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

### **A. Permitted Uses and Disclosures of PII by Contractor.**

1. Permitted Uses and Disclosures. Contractor shall develop and maintain an information

privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Contractor, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.

2. Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, Contractor shall:
  - a. Use and disclose PII for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, provided that such use and disclosures are permitted by law; and
  - b. Take all reasonable steps to destroy, or arrange for the destruction of a customer's records within its custody or control containing personal information that is no longer to be retained by Contractor by (1) shredding, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

**B. Responsibilities of Contractor.**

1. Contractor agrees to safeguards:
  - a. To prevent use or disclosure of PII other than as provided for by this Agreement. Contractor shall provide County with information concerning such safeguards as County may reasonably request from time to time; and
  - b. Contractor shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
  - c. Contractor shall implement appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Contractor shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.
2. Contractor shall implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
  - a. Network based firewall or personal firewall; and
  - b. Continuously updated anti-virus software; and
  - c. Patch-management process including installation of all operating system/software vendor security patches.
3. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PII by Contractor or its subcontractors in violation of the requirements of this Agreement.
4. Agents and Subcontractors of Contractor. To ensure that any agent, including a subcontractor to which Contractor provides PII received from County, or created or received by Contractor, for the purposes of this Agreement shall comply with the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.

5. **Notification of Electronic Breach or Improper Disclosure.** During the term of this Agreement, Contractor shall notify County immediately upon discovery of any breach of PII or data, where the information or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to County Privacy Officer, within two business days of discovery, at (530) 621-5852. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to County Privacy Officer, postmarked within thirty (30) working days of the discovery of the breach.

## **ARTICLE XII**

**HIPAA Compliance:** As a condition of Contractor performing services for the County of El Dorado, Contractor agrees to comply with County's Business Associate Agreement, for all intents and purposes, attached hereto as Exhibit "H" (incorporated herein and made by reference a part hereof).

## **ARTICLE XIII**

**Release of Information:** Contractor shall ensure that the County of El Dorado Health and Human Services Agency is included as a receiving party on all Release of Information forms used in the performance of services under this Agreement.

## **ARTICLE XIV**

**Debarment and Suspension Certification:** By signing this Agreement, the Contractor agrees to comply with applicable Federal suspension and debarment regulations including, but not limited to 45 CFR 76 and Contractor further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-Contractor utilized under the Agreement:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- B. Have not within a three (3)-year period preceding this application/proposal/Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the above Paragraph B;
- D. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
- E. Shall not knowingly enter in to any lower tier or Contractor covered transaction with any person(s) who are proposed for debarment under Federal regulations (i.e., 48 CFR part 9,



- subpart 9.4) or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
- F. Shall include a clause titled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or Contractor covered transactions in accordance with 45 C.F.R. Part 76.

If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation in writing to County.

The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549 (<http://www.archives.gov/federal-register/codification/executive-order/12549.html>).

If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal and State Governments, County may immediately terminate this Agreement for cause or default.

#### **ARTICLE XV**

**Accounting Systems and Financial Records:** Contractor shall be required to establish and maintain accounting systems and financial records that accurately account for and reflect all federal funds received, including all matching funds from the State, County and any other local or private organizations. Contractor's records shall reflect the expenditure and accounting of said funds in accordance with all State laws and procedures for expending and accounting for all funds and receivables, as well as meet the financial management standards in 45 Code of Federal Regulations (CFR), Part 92 and all current revisions of OMB Circular A-122. More particularly, Contractors are responsible for complying with OMB Circular A-122 and 45 CFR Part 92, and the allowability of the costs covered therein. Contractor must obtain written approval from a member of the HHS Executive Management prior to the expenditure of any "special" or unusual costs in order to avoid possible disallowances or disputes based on any potential unreasonableness or unallowability of expenditures as detailed under the specific cost principles of OMB Circular A-122. In order to obtain the most current regulations, the user should consult not only the latest version of the CFR, but also the List of (CFR) Sections Affected (LSA) issued in the current month. The *Federal Register* home page (<http://www.gpoaccess.gov/nara/index.html>) offers links to both the *Federal Register* and the CFR. An electronic CFR (e-CFR) is available at <http://www.gpoaccess.gov/ecfr/>. The e-CFR is an unofficial editorial compilation of CFR material and *Federal Register* amendments. It is a current, daily updated version of the CFR; however, it is not an official legal edition of the CFR. Please note that on-line versions of the CFR may not be the most current available.

#### **ARTICLE XVI**

**Annual Audit:** Pursuant to the Single Audit Act and the Office of Management and Budget (OMB) Circular A-133, any entity that receives a total of \$500,000 or more per year in federal funds for the purposes of carrying out federal programs must complete an annual audit. The funding threshold is aggregate funds from all sources. Contractor shall mail a certified copy of said completed annual audit to County's Health and Human Services Agency at the address

listed in Agreement's "Notice to parties" Article within thirty (30) days of Contractor's receipt of same. All adverse audit findings must be documented and included with completed annual audit. Certified evidence of correction(s) of adverse audit findings shall be provided to County at the HHSa address listed in Agreement's Article titled "Notice to Parties."

#### **ARTICLE XVII**

**Access To Records:** Contractor shall provide Federal, State, or County authorities with access to any books, documents, papers and records of Contractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions. Contractor further acknowledges that contracts involving the expenditure of public funds in excess of \$10,000 are subject to examination and audit by the California State Auditor pursuant to Government Code Section 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain all books, documents, papers, and records necessary to demonstrate performance under this Agreement for a period of at least three years after final payment or for any longer period required by law.

#### **ARTICLE XVIII**

**Transfer of Records:** In the event that Contractor ceases operation, all files that are subject to audit shall be transferred to the County for proper storage of physical records and electronic data. Contractor shall notify County of impending closure as soon as such closure has been determined, and provide County with a complete list of records in its possession pertaining to County Clients and operational costs under this Agreement. County shall promptly advise Contractor which records are to be transferred to the custody of County. Contractor shall properly destroy records not transferred to custody of County, and Contractor shall provide documentation of proper destruction of all such records to County.

#### **ARTICLE XIX**

**Compliance with All Federal, State and Local Laws and Regulations:** Contractor shall comply with all Federal, State and local laws including, but not limited to, the Americans with Disabilities Act (ADA) of 1990 (42USC12101 et. seq.) and California Government Code Sections 11135-11139.5, and all regulations, requirements, and directives pertinent to its operations. Contractor shall abide by manuals, directives and other guidance issued by the State of California. All appropriate manuals and updates shall be available for review or reference by Contractor from County's Health and Human Services Agency.

Contractor shall further comply with all applicable laws relating to wages and hours of employment and occupational safety and to fire, safety, and health and sanitation regulations. Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

Contractor further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, the County of El Dorado and all other appropriate governmental agencies and shall maintain these throughout the term of the Agreement.

#### **ARTICLE XX**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and shall not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination, and Cancellation."

#### **ARTICLE XXI**

**Contractor to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during term hereof.

#### **ARTICLE XXII**

**Assignment and Delegation:** Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

#### **ARTICLE XXIII**

**Independent Contractor/Liability:** Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and

negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

#### **ARTICLE XXIV**

**Continuous Operation:** Contractor shall operate continuously throughout the term of this Agreement with at least the minimum number and type of staff required to meet applicable Federal, State, and County requirements, and which are necessary for the provision of services hereunder.

#### **ARTICLE XXV**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, the County of El Dorado is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

#### **ARTICLE XXVI**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE XXVII**

**Default, Termination, and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default with ten (10) days of the date of notice (time to cure),



then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date on which the extension of time to cure expires. Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired.

- B. **Bankruptcy:** This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. **Ceasing Performance:** County may terminate this Agreement in the event the other party ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation Without Cause:** County may terminate this Agreement in whole or in part upon seven (7) calendar days upon written notice by County without cause to the other party for any reason. If such prior termination is effected, County shall pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

**ARTICLE XXVIII:**

**Change of Address:** In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing pursuant to the provisions contained herein this Agreement under the Article titled "Notice to Parties." Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

**ARTICLE XXIX**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing, served by depositing same in the United States Post Office, postage prepaid, and return receipt requested.

Notice to County shall be in duplicate and addressed as follows:

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COUNTY OF EL DORADO  
HEALTH AND HUMAN SERVICES AGENCY  
3057 BRIW ROAD  
PLACERVILLE, CA 95667-5321  
ATTN: CONTRACTS UNIT

Or to such other location as County directs with a copy to

COUNTY OF EL DORADO  
CHIEF ADMINISTRATIVE OFFICE  
PROCUREMENT AND CONTRACTS DIVISION  
360 FAIR LANE, LOWER LEVEL  
PLACERVILLE, CA 95667-5321  
ATTN: TERRI DALY, PURCHASING AGENT

Notices to Contractor shall be addressed as follows:

LILLIPUT CHILDREN'S SERVICES  
8391 AUBURN BOULEVARD,  
CITRUS HEIGHTS, CA 95610  
ATTN: KAREN ALVORD, EXECUTIVE DIRECTOR, OR SUCCESSOR

Or to such other location as Contractor directs.

#### **ARTICLE XXX**

**Indemnity:** Contractor shall defend, indemnify and hold County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees and the public, or damage to property or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with Contractor's services, operations or performance hereunder, regardless of the existence or degree of fault or negligence on the part of County, Contractor, subcontractor(s) and employee(s) or any of these, except for the sole or active negligence of County, its officers and employees, or as expressly proscribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

#### **ARTICLE XXXI**

**Insurance:** Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager ("Risk Manager") and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.

1. If Contractor has no employees, they shall not be required to obtain Worker's Compensation and Employer's Liability insurance. Should, during the term of this Agreement, Contractor hire one or more employees who will provide any services related to this Agreement, Contractor shall immediately obtain full Workers' Compensation and Employers' Liability insurance and furnish County with certificate(s) for same.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event Contractor uses motor vehicles in the performance of the Agreement.
- D. In the event Contractor is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the Risk Manager as evidence that the above-required insurance is being maintained.
- F. The insurance shall be issued by an insurance company acceptable to the County of El Dorado Risk Management Department ("Risk Management") or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement for breach pursuant to the provisions contained herein this Agreement under the Article titled "Default, Termination, and Cancellation."
- H. The certificate of insurance must include the following provisions stating that:
  1. The insurer shall not cancel the insured's coverage without prior written notice to County, and;
  2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an "Additional Insured Endorsement" page, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Contractor's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. Either:
  1. Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or
  2. Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.

- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide both insurance and evidence of insurance to County that shall cover claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of County.

#### **ARTICLE XXXII**

**Interest of Public Official:** No official or employee of the County of El Dorado who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership or association in which he/she is directly or indirectly interested; nor shall any such official or employee of the County of El Dorado have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XXXIII**

**Interest of Contractor:** Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement.

Contractor further covenants that in the performance of this Agreement Contractor shall employ no person having any such interest.

#### **ARTICLE XXXIV**

**Lobbying Certification:** The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

- A. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, 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.



- B. 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 Contractor shall complete and submit Standard Form SF-LLL, OMB Number 0348-0046 "Disclosure of Lobbying Activities" in accordance with its instructions.

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.

#### **ARTICLE XXXV**

**California Residency (Form 590):** If Contractor is a California resident, Contractor must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. Contractor shall be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to Contractor during term of the Agreement. This requirement applies to any Agreement exceeding \$1,500.00.

#### **ARTICLE XXXVI**

**Nonresident Withholding:** If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

#### **ARTICLE XXXVII**

**Taxpayer Identification Number (Form W-9) and County Payee Data Record Form:** All independent Contractors or Corporations providing services to County must file a Department of the Treasury Internal Revenue Service Form W-9 with County, which certifies their Taxpayer Identification Number. All independent Contractors or Corporations providing services to County may also be required to file a County-issued "Payee Data Record" form with County.

#### **ARTICLE XXXVIII**

**Taxes:** Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County.

**ARTICLE XXXIX**

**County Business License:** It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of the County of El Dorado without possessing a County business license unless exempt under County Code Section 5.08.070.

**ARTICLE XL**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Mark Contois, Assistant Director, or successor.

**ARTICLE XLI**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

**ARTICLE XLII**

**Waivers:** Failure of County to enforce any provision of this Agreement shall in no event be considered a waiver of any part of such provision or any other provision contained herein. No waiver by County of any breach or default by Contractor shall operate as a waiver of any succeeding breach of the same terms in the Agreement or other default or breach of any of Contractor's obligations under the Agreement. No waiver shall have any effect unless it is specific, irrevocable, and in writing.

**ARTICLE XLIII**

**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidate in any way.

**ARTICLE XLIV**

**Venue:** Any dispute resolution action rising out of this Agreement, including, but not limited to litigation, mediation or arbitration, shall be brought in the County of El Dorado, California, and shall be resolved in accordance with the laws, of the State of California.

**ARTICLE XLV**

**Litigation:** County, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the County or State of California or its officers or employees for which the Contractor must provide indemnification under this Agreement. The failure of the County to give such notice, information, authorization, or assistance shall not relieve the Contractor of its indemnification obligations.

Contractor, promptly after receiving notice thereof, shall immediately notify the County in writing of any claim or action against it which affects, or may affect, this Agreement, the terms and conditions hereunder, or the County or State of California, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of the County and State.

**ARTICLE XLVI**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

**ARTICLE XLVII**

**Entire Agreement:** This Agreement for Services #220-S1411 and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral agreements or understandings.

**REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:**

By: Mark V. Contois Dated: 9-20-2013  
Mark Contois  
Assistant Director  
Health and Human Services Agency

**REQUESTING DEPARTMENT HEAD CONCURRENCE:**

By: Don Ashton Dated: 9/19/2013  
Don Ashton, M.P.A.  
Interim Director  
Health and Human Services Agency

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Services #220-S1411 on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: 10/8/13

By:   
Ron Briggs, Chair  
Board of Supervisors  
"County"


ATTEST:  
James S. Mitrising  
Clerk of the Board of Supervisors

By:   
Deputy Clerk

Dated: 10/8/13

-- CONTRACTOR --

LILLIPUT CHILDREN'S SERVICES  
A CALIFORNIA CORPORATION

By:   
Karen Alvord  
Executive Director  
"Contractor"

Dated: 9/23/13

By: \_\_\_\_\_  
Corporate Secretary

Dated: \_\_\_\_\_

HL



# EXHIBIT "A"

## *KSSP Background, Purpose, and Goals*

### **Kinship Support Services Program (KSSP) Background**

Assembly Bill 1193 (Statutes of 1997, Chapter 794) appropriated funds for the California Department of Social Services ("CDSS") to conduct a Kinship Support Services Program. This program provides funds for the planning, start-up, and expansion of kinship support services programs in California counties. These programs are required to provide community-based family support services to relative caregivers, to court-dependent children placed in their homes, and to relative caregivers of children who are at risk of dependency or delinquency. The program is also mandated to provide post-permanency services to relative caregivers who have become the legal guardian or adoptive parent of formerly dependent children. The legislation provides for Technical Assistance ("TA") to the KSSP and funds for State administration of the program.

### **The Purpose and Goals of the KSSP are to:**

- A. Establish a family support program of services for the following target population:
  1. Relative caregivers and the children/teens placed in their homes by the juvenile court; and/or
  2. Relative caregivers and the children/teens that are living with them who are at risk of dependency or delinquency; and/or
  3. Relative caregivers who are the legal guardian or adoptive parent of formerly dependent children/teens; and/or
  4. Relative caregivers with children/teens in voluntary placements.
- B. These services should:
  1. Result in improved outcomes related to safety, permanence, and well-being for the children receiving the services; and
  2. Reduce or eliminate the need for juvenile court jurisdiction; and
  3. Ensure caregivers understand options for permanency, such as guardianship or adoption, and the resources available to support permanency such as the Kinship Guardianship Assistance Payment ("Kin-Gap") Program and the Adoption Assistance Program; and
  4. Ensure that children/teens receive necessary services to transition to adulthood, [i.e., Independent Living Program ("ILP") services]; and
  5. Ensure that family ties are maintained by:
    - a. Maintaining children in the home of relatives when they cannot live safely with their parents; and
    - b. Supporting placement of siblings together; and
    - c. Placing American Indian children with caregivers prioritized by the Indian Child Welfare Act ("ICWA"); and
    - d. Increase a relative caregiver's capacity to obtain and maintain employment by the provision of supportive services.
- C. Create incentives for blended funding and increased collaboration among service providers, stakeholders, and the County's Child Welfare Agency that result in:
  1. Testing the feasibility of new financing and reimbursement mechanisms; and/or
  2. Reduced foster care caseloads; and/or
  3. Reduced public funding for such services.
- D. Collect and report data regarding the provision of KSSP services that achieve improved outcome goals related to safety, permanence, and well-being.

## EXHIBIT "B"

### *Kinship Support Services Program ("KSSP") California State Department of Social Services Requirements*

#### Target Populations

Subrecipient and Providers shall serve the KSSP target population including:

- o Relative caregivers and the children/teens placed in their homes by the juvenile court.
- o Relative caregivers and the children/teens that are living with them who are at risk of dependency or delinquency.
- o Relative caregivers who are the legal guardian or adoptive parent(s) of formerly dependent children/teens.
- o Relative caregivers with children/teens in voluntary placements.

#### Site Requirements:

KSSP services shall be provided in at least one (1) dedicated facility<sup>1</sup> in the community to be served. All site(s) **must have sufficient space** to deliver required services (e.g., support groups, activities, tutoring, counseling, etc.) and be located in an area that is easily accessible to the target population.

KSSP site(s) is/are **required** to meet the following criteria:

The area is safe	Americans with Disabilities Act ("ADA") requirements
Access to public transportation	Adequate parking available
Office space for director/community workers	Visible identification that site offers KSSP services
Well lighted, windows	Zoning Requirements

KSSP site(s) is/are **recommended** to meet the following criteria:

Indoor space for small/large group activities such as conference/training rooms	Outdoor space (preferably fenced) or access to park/play area
Welcoming reception area comfortable for family/child/teen	Space for clothes and/or food closets, library (if possible)
Kitchen space	Storage space

Funds may be used for staffing, rent, equipment, and other operating expenses that are directly related to the planning or operation of the KSSP project. Funds also may be used to purchase the required computer(s). Funds used for supplies may not exceed 10% of the allocation.

Funds may not be used to renovate or purchase the facility.

#### Information Technology and Data Reporting Requirements:

Subrecipient must have a Windows-compatible personal computer that is capable of running Microsoft Access 7.0 (or above) software, specifically, Intel or AMD processor running at a minimum of 166 MHz, 256 MB RAM (512 MB recommended); hard drive with a minimum of 500 MB of free space; Microsoft Windows 2000, XP, or above; Microsoft Office 2000, XP, or above, with Microsoft Access included; backup capability (CD or DVD burner, flash drive, Zip drive, or via a network or the Internet).

- A. Software for program data collection and training on the use of this software will be provided to Subrecipient by the State's Technical Assistance ("TA") consultant.
- B. In order to be funded, Subrecipient **must** provide data to CDSS or its agent for evaluation purposes.
- C. A designated staff person shall be responsible for collecting and providing KSSP Data to CDSS or its agents.

<sup>1</sup> Dedicated Facility is a building that has one or more offices dedicated only to KSSP services.

# EXHIBIT "C"

## KSSP PROJECT SITE INFORMATION

Address of KSSP site:	Lilliput Children's Services 1190 Suncastr Lane, Suite 2 El Dorado Hills, CA 95685				
Put a check mark on the days that will be served and the hours of operation for each day.					
	Monday	Tuesday	Wednesday	Thursday	Friday
Days	✓	✓	✓	✓	✓
Hours	8:30 AM - 5:00 PM	8:30 AM - 5:00 PM	8:30 AM - 5:00 PM	8:30 AM - 5:00 PM	8:30 AM - 5:00 PM
Is the facility which houses/will house the KSSP owned or leased?					
<input type="checkbox"/> Owned					
<input checked="" type="checkbox"/> Leased		Term of lease: <u>4/10/10</u> to <u>11/31/15</u>			
Has the local fire marshal inspected the facility and provided fire clearance approval?					
<input checked="" type="checkbox"/> Yes		Date of last inspection: <u>2/15/13</u>			
<input type="checkbox"/> No		When will it be inspected?			
Are any special use permits needed to operate the KSSP in this facility?					
<input type="checkbox"/> Yes		Have these been obtained? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<input checked="" type="checkbox"/> No		When will it be inspected?			
Facility square footage:	2350 SF				
Of total square feet of facility, how many square feet are devoted to the KSSP?	1175 SF				
Does the facility meet the Americans with Disabilities Act (ADA) requirements?					
<input checked="" type="checkbox"/> Yes					
<input type="checkbox"/> No		If no, what must be done to meet the requirements?			
If no, date when the requirements will be met?					

## EXHIBIT "D"

### *KSSP – Required Services and Staffing*

Site Name: El Dorado Hills - KSSP  
 Lilliput Children's Services  
 1190 Suncastr Lane, Suite 2  
 El Dorado Hills, CA 95685  
 916/941-8796

Service	Responsible Staff Position	Relative Caregiver
<b>Assessment of the need for KSSP services and ongoing service management</b>	Case Manager/ Program Coordinator	
Description: Community partners advisory committee, consultation with County of El Dorado Program Administrators, survey kin caregivers, survey agencies, churches, and schools throughout the community.		
<b>Social Services referral and intervention aimed at maintaining the kinship family unit (e.g., housing, homemaker services, respite care, legal services, daycare, family conferencing)</b>	Case Manager and Kin Parent Partner	✓
Description: Referral form for KSSP will be provided to community partners and organizations. Case managers will provide resources, referrals, support and case management services.		
<b>Information and Referral Services</b>	Case Manager and Kin Parent Partner	✓
Description: A phone intake and/or case plan will be established to include referrals to address identified needs. Customer satisfaction follow-ups will help to assess the usefulness of services.		
<b>Transportation (for medical care, educational, and recreational activities)</b>	Case Manager	
Description: KSSP will pay for transportation, when possible, when there are transportation barriers to accessing services. Recreational opportunities exist through local agencies and social/respite activities will be planned by KSSP staff.		
<b>Individual &amp; Group Counseling (parent/child relationship and conflict resolution.)</b>	Case Manager	
Description: Families with county Medi-Cal can be seen by New Morning on the Western Slope of County of El Dorado. Sliding fee scales are available. KSSP provides limited clinical services for KSSP families. Directory of other qualified therapists maintained.		
<b>Counseling and referral services aimed at promoting permanency, including kin adoption and guardianship</b>	Case Manager	
Description: Guardianship workshops and one-on-one assistance is provided for informal families. Case management services include permanency information, education and discussion. Referrals to counseling will be made when deemed important to the case plan and/or identified as a barrier to achieving permanency. Support groups are offered for kinship families by connecting caregivers to one another for support and by addressing the isolation that is often felt by many caregivers.		
	Case Manager and Kin Parent Partner	✓
<b>Collecting and Reporting KSSP Data</b>	Program Coordinator	
Description: KSSP will track identified outcomes and provide a monthly report to EDC.		



**EXHIBIT "E"**

**KINSHIP SUPPORT SERVICES PROGRAM INVOICE**

***Important: Only original invoices will be accepted. To help identify an original invoice, we would prefer vendors to use blue ink.  
"White-out" corrections will not be accepted.***

Service Month: \_\_\_\_\_, \_\_\_\_\_ through \_\_\_\_\_, \_\_\_\_\_  
 Invoice / Account Number: \_\_\_\_\_  
 Business / Owner Name: Lilliput Children's Services  
 Business Address: 8391 Auburn Blvd., Citrus Heights, CA 95610  
 Telephone Number: 800-325-5359 or 916-923-5444

Supporting documentation and required reports must be attached.

1 Service Dates	2 Type of Service	3 Total Billed to County of El Dorado HHS
_____, _____ through _____, _____		
<b>INVOICE TOTAL</b>		

I certify the above information is true and correct to the best of my knowledge.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

**County Use Only**

**Send invoice to:**  
 County of El Dorado  
 Health & Human Services Agency  
 Attn: KSSP Coordinator  
 3057 Briw Ridge Road  
 Placerville, CA 95667

**Index Code: 530900    Sub Object: 4300    User Code: 50Y183**

**Approvals:**

KSSP Cordinator: \_\_\_\_\_ Date: \_\_/\_\_/\_\_

Program Manager: \_\_\_\_\_ Date: \_\_/\_\_/\_\_

Director: \_\_\_\_\_ Date: \_\_/\_\_/\_\_

## Exhibit F

### ASSURANCE OF COMPLIANCE WITH COUNTY OF EL DORADO HEALTH AND HUMAN SERVICES AGENCY

### NONDISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS

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CONTRACTOR HEREBY AGREES THAT they will comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended, and in particular Section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code section 11135-11139.5, as amended; California Government Code section 12940 (c), (h) (1), (i), and (j); California Government Code section 4450; Title 22, California Code of Regulations section 98000 – 98413; Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and state laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84 and 91, 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, or political belief be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state financial assistance; and hereby give assurance that they will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal and state assistance; and the Contractor hereby gives their assurance that administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of the California Department of Social Services (“CDSS”) Manual of Policies and Procedures (“MPP”) Chapter 21, will be prohibited.

BY ACCEPTING THIS ASSURANCE, the Contractor agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of the aforementioned laws, rules and regulations and permit authorized CDSS and/or federal government personnel, during normal working hours, to review such records, books and accounts as needed to ascertain compliance. If there are any violations of this assurance, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code Section 10605, or Government Code section 11135-11139.5, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this assurance.

THIS ASSURANCE is binding on the Contractor directly or through contract, license or other provider services, as long as they receive federal or state assistance.

**X** \_\_\_\_\_  
Date

**X** \_\_\_\_\_  
Authorizing Signature

\_\_\_\_\_  
Address of CONTRACTOR

(05/16/01)

## Exhibit "G"

### COUNTY OF EL DORADO ASSURANCES KINSHIP SUPPORT SERVICES PROGRAM (KSSP)

The private, non-profit organization that will be operating the KSSP described in this County OF El Dorado Agreement for Services 220-S1411 assures that the following is true and correct.

County Name		
Name of Private, Non-Profit Organization		
Name of Contact Person	Phone Number	
E-Mail	FAX Number	
Address		
City	State	Zip

The agency assures the following documents are available and on file in the private, non-profit organization's office and will provide copies of all documents to Health and Human Services Agency:

- Articles of Incorporation
  
- By-Laws
  
- Statement of Tax Exempt Status
  
- Balance Sheet and/or Certified Public Accountant Audit Report (for most recent fiscal year)
  
- Statement of Drug Free Workplace
  
- List of Board of Directors

Name of Agency Director	Date
Original Signature of Agency Director	

## **Exhibit “H” HIPAA Business Associate Agreement**

This Business Associate Agreement is made part of the base contract (“Underlying Agreement”) to which it is attached, as of the date of commencement of the term of the Underlying Agreement (the “Effective Date”).

### **RECITALS**

**WHEREAS**, County and Contractor (hereinafter referred to as Business Associate (“BA”) entered into the Underlying Agreement pursuant to which BA provides services to County, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and Electronic Protected Health Information (“EPHI”) may be disclosed to BA for the purposes of carrying out its obligations under the Underlying Agreement; and

**WHEREAS**, the County and BA intend to protect the privacy and provide for the security of PHI and EPHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act, Pub. L. No. 104-191 of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH” Act), and regulation promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws as may be amended from time to time; and

**WHEREAS**, County is a Covered Entity, as defined in the Privacy Rule and Security Rule, including but not limited to 45 CFR Section 160.103 ; and

**WHEREAS**, BA, when a recipient of PHI from County, is a Business Associate as defined in the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 USC Section 17938 and 45 CFR Section 160.103; and

**WHEREAS**, “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.202(g);

**WHEREAS**, “Breach” shall have the meaning given to such term under the HITECH Act under 42 USC Section 17921; and

**WHEREAS**, “Unsecured PHI” shall have the meaning to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to 42 USC Section 17932(h).

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. **Definitions.** Unless otherwise provided in this Business Associate Agreement, capitalized terms shall have the same meanings as set forth in the Privacy Rule, as may be amended from time to time.



2. **Scope of Use and Disclosure by BA of County Disclosed PHI**

- A. BA shall not disclose PHI except for the purposes of performing BA's obligations under the Underlying Agreement. Further, BA shall not use PHI in any manner that would constitute a violation of the minimum necessary policies and procedures of the County, Privacy Rule, Security Rule, or the HITECH Act.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Business Associate Agreement or required by law, BA may:
  - (1) Use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
  - (2) disclose the PHI in its possession to a third party for the purpose of BA's proper management and administration or to fulfill any legal responsibilities of BA, or as required by law
  - (3) Disclose PHI as necessary for BA's operations only if:
    - (a) Prior to making a disclosure to a third party, BA will obtain written assurances from such third party including:
      - (i) To hold such PHI in confidence and use or further disclose it only for the purpose of which BA disclosed it to the third party, or as required by law; and,
      - (ii) The third party will immediately notify BA of any breaches of confidentiality of PHI to extent it has obtained knowledge of such breach.
  - (4) Aggregate the PHI and/or aggregate the PHI with that of other data for the purpose of providing County with data analyses related to the Underlying Agreement, or any other purpose, financial or otherwise, as requested by County.
  - (5) Not disclose PHI disclosed to BA by County not authorized by the Underlying Agreement or this Business Associate Agreement without patient authorization or de-identification of the PHI as authorized in writing by County.
  - (6) De-identify any and all PHI of County received by BA under this Business Associate Agreement provided that the de-identification conforms to the requirements of the Privacy Rule, 45 CFR and does not preclude timely payment and/or claims processing and receipt.
- C. BA agrees that it will neither use nor disclose PHI it receives from County, or from another business associate of County, except as permitted or required by this Business Associate Agreement, or as required by law, or as otherwise permitted by law.

3. **Obligations of BA.** In connection with its use of PHI disclosed by County to BA, BA agrees to:

- A. Implement appropriate administrative, technical, and physical safeguards as are necessary to prevent use or disclosure of PHI other than as permitted by the Agreement that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI in accordance with 45 CFR 164.308,164.310,164.312, and 164.504(e)(2). BA shall comply with the policies, procedures, and documentation requirements of the HIPAA Security Rule.

- B. Report to County within 24 hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
  - C. Report to County in writing of any access, use, or disclosure of PHI not permitted by the Underlying Agreement and this Business Associate Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than five (5) days. To the extent the Breach is solely a result of BA's failure to implement reasonable and appropriate safeguards as required by law, and not due in whole or part to the acts or omissions of the County, BA may be required to reimburse the County for notifications required under 45 CFR 164.404 and CFR 164.406.
  - D. BA shall not use or disclose PHI for fundraising or marketing purposes. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. BA shall not directly or indirectly receive remuneration in exchange of PHI, except with the prior written consent of the County and as permitted by the HITECH Act, 42 USC Section 17935(d)(2); however, this prohibition shall not affect payment by County to BA for services provided pursuant to the Agreement.
4. PHI Access, Amendment, and Disclosure Accounting. BA agrees to:
- A. Provide access, at the request of County, within five (5) days, to PHI in a Designated Record Set, to the County, or to an Individual as directed by the County. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 USC Section 17935(e).
  - B. Within ten (10) days of receipt of a request from County, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in BA's possession constitutes a Designated Record Set.
  - C. To assist the County in meeting its disclosure accounting under HIPAA:
    - (1) BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosure from Electronic Health Record for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At the minimum, the information collected shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if know, the address of the entity or person; (iii) a brief description of PHI disclosed and; (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy

of the individual's authorization, or a copy of the written request for disclosure.

(2) Within in 30 days of notice by the County, BA agrees to provide to County information collected in accordance with this section to permit the County to respond to a request by an Individual for an accounting of disclosures of PHI.

D. Make available to the County, or to the Secretary of Health and Human Services (the "Secretary") , BA's internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining BA's compliance with the Privacy Rule, subject to any applicable legal restrictions. BA shall provide County a copy of any PHI that BA provides to the Secretary concurrently with providing such information to the Secretary.

5. Obligations of County.

A. County agrees that it will promptly notify BA in writing of any restrictions on the use and disclosure of PHI agreed to by County that may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.

B. County agrees that it will promptly notify BA in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.

C. County agrees that it will promptly notify BA in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect BA's use of disclosure of PHI.

D. County shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County, except as may be expressly permitted by the Privacy Rule.

E. County will obtain any authorizations necessary for the use or disclosure of PHI, so that BA can perform its obligations under this Business Associate Agreement and/or the Underlying Agreement.

6. Term and Termination.

A. Term. This Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement, as provided therein when all PHI provided by the County to BA, or created or received by BA on behalf of the County, is destroyed or returned to the County, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

B. Termination for Cause. Upon the County's knowledge of a material breach by the BA, the County shall either:

(1) Provide an opportunity for the BA to cure the breach or end the violation and terminate this Agreement if the BA does not cure the breach or end the violation within the time specified by the County.

(2) Immediately terminate this Agreement if the BA has breached a material term of this Agreement and cure is not possible; or

(3) If neither termination nor cures are feasible, the County shall report the violation to the Secretary.

- C. **Effect of Termination.**
- (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the BA shall, at the option of County, return or destroy all PHI that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI.
  - (2) In the event that the County determines that returning or destroying the PHI is infeasible, BA shall provide to the County notification of the conditions that make return or destruction infeasible, and BA shall extend the protections of this Agreement to such PHI to those purposes that make the return or destruction infeasible, for so long as the BA maintains such PHI. If County elects destruction of the PHI, BA shall certify in writing to County that such PHI has been destroyed.

7. **Indemnity**

- A. BA shall indemnify and hold harmless all Agencies, Districts, Special Districts and Departments of the County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (collectively "County") from any liability whatsoever, based or asserted upon any services of BA, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to BA's performance under this Business Associate Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever to the extent arising from the performance of BA, its officers, agents, employees, subcontractors, agents or representatives under this Business Associate Agreement. BA shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards against the County in any claim or action based upon such alleged acts or omissions.
- B. With respect to any action or claim subject to indemnification herein by BA, BA shall, at its sole cost, have the right to use counsel of its choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes BA's indemnification of County as set forth herein. BA's obligation to defend, indemnify and hold harmless County shall be subject to County having given BA written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at BA's expense, for the defense or settlement thereof. BA's obligation hereunder shall be satisfied when BA has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.
- C. The specified insurance limits required in the Underlying Agreement of this Business Associate Agreement shall in no way limit or circumscribe BA's obligations to indemnify and hold harmless the County herein from third party claims arising from the issues of this Business Associate Agreement.



- D. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code Section 2782. Such interpretation shall not relieve the BA from indemnifying the County to the fullest extent allowed by law.
- E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Business Associate Agreement, this indemnification shall only apply to the subject issues included within this Business Associate Agreement.
- 8. **Amendment.** The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
- 9. **Survival.** The respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
- 10. **Regulatory References.** A reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- 11. **Conflicts.** Any ambiguity in this Business Associate Agreement and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.