

AGREEMENT FOR SERVICES
Ambulance Billing Services #4432

THIS AGREEMENT is 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 Wittman Enterprises, LLC, a Limited Liability Company, duly qualified to conduct business in the State of California, whose principal place of business is 11093 Sun Center Drive, Rancho Cordova, CA 95670 and whose Agent for Service of Process is Jon Reise, Esquire, Signature Law Group, 3400 Bradshaw Road Ste, A-4A, Sacramento, CA 95827, (hereinafter referred to as "Contractor");

R E C I T A L S

WHEREAS, County has determined that it is necessary to obtain a Contractor to perform ambulance billing services; 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, concurrently with entering into this Agreement that parties are also entering into the HIPAA Business Associate Agreement ("HIPAA Agreement"); and

WHEREAS, this Agreement is the "UNDERLYING Agreement" as defined by and referenced in the HIPAA Agreement; and

WHEREAS, Contractor and County acknowledge and agree that Contractor will supersede Advance Data Processing, Inc., a subsidiary of Intermedix Corporation, as the County's ambulance billing contractor and as such, there will be a transition from the current ambulance billing contractor to Contractor; and

WHEREAS, Contractor and County each commit to working in the best interest of the County to transition both new and existing billings to the new Contractor. Transfer of existing billings will proceed as described in "SCOPE OF WORK" and may be charged at a different rate than new billings, depending on the volume and viability of existing billing accounts and;

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state, and local laws; and

WHEREAS, County has determined that the provision 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 El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

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

ARTICLE I

Scope of Services:

Contractor shall provide ambulance billing services to process and collect fees and issue refunds for services provided by County's contracted ambulance service operators and providers (Agency or Agencies). The Agencies currently under contract for ambulance services include California Tahoe Emergency Services Operations Authority (CALTahoe), North Tahoe Fire Protection District, and El Dorado County Emergency Services Authority.

The Agencies are responsible for the completion of electronic Prehospital Care Reports ("ePCR") which indicate the services provided. ePCR Processing standards and timelines shall be based upon applicable rules, regulations and industry standards. County will make every effort to submit the ePCR to the Contractor within forty-eight (48) hours from time of Agency completion of the ePCR.

A. **Contractor Responsibilities:** Contractor agrees to furnish the personnel and equipment necessary to perform accurate and timely billing for ambulance services as outlined below and in Exhibit A marked "Request of Qualifications Response: EMS Billing and Collection Services" attached hereto and incorporated by reference herein.

All services provided pursuant to this Agreement shall also be subject to the terms and conditions of Exhibit B marked "HIPAA Agreement". To the extent there is any ambiguity between the provisions of this Agreement and the HIPAA Agreement, any ambiguity shall be resolved to permit County to comply with the Privacy Rule, 45 CFR, and HIPAA generally, as set forth in Section 11 of the HIPAA Agreement.

1. **Distribution of Revenues to Appropriate Profit Center:** Contractor's billing system shall contain sufficient detail to categorize billings pursuant to multiple categories (Revenue Distribution Categories) as provided by County.
 - a. County shall advise Contractor, in writing, of any changes to the Revenue Distribution Categories, at least fifteen (15) days prior to implementation.
 - b. Contractor shall provide reporting with sufficient detail to track and report accounts from each Agency submitting PCRs under this Agreement.
 - i. An account is created for each ambulance run. Account information includes, but is not limited to: the ambulance run number, the specific services performed, fees imposed for each service, date of service, Agency performing the service, applicable insurance providers, payments made and by whom, monetary adjustments, balance due, contact history, and any Customer Service Representative notes.
 - c. Charges will be determined on a per event basis, and assigned to a specific Profit Center solely for accounting and tracking purposes.
 - d. Contractor shall provide the flexibility to maintain any prior Revenue Distribution structure concurrently with the current Revenue Distribution structure if required to do so by County.
2. **Ambulance Services Fees:** Contractor shall maintain a table-driven process for recording ambulance fees according to the Ambulance Fee Schedule provided by

County. Contractor shall be able to concurrently process multiple fees based on multiple implementation dates and end dates.

- a. The current Ambulance Fee Schedule is attached hereto as Exhibit C marked “2019 El Dorado County Ambulance Rate Schedule”, and shall be updated by notice from County on an as needed basis in accordance with the Article titled “Notice to Parties” herein. In the event an updated Ambulance Service Fee Schedule is approved by the County Board of Supervisors or the Alpine County Board of Supervisors, County will provide a copy of the updated fee schedule to Contractor within three (3) days of adoption.
3. **Billing System Parameters:** Contractor’s billing system shall allow for a clear and traceable audit trail for initial contact verification, billing notification, and telephone contact by Contractor’s staff. Further, the software shall automatically update each individual account detailing date, change, or billing function. All history and noted entries shall be “write protected” so no alterations can be made.
 - a. Client accounts shall be referenced by all components listed in Article I, A.1.b.i “Distribution of Revenues to Appropriate Profit Center”.
 4. **Billing timetable:** Each payer shall be invoiced immediately, if possible, but in no event shall an invoice be generated any later than fifteen (15) days from receipt of ePCR. If full account payment is not received within a minimum of 180 days from the date services were initially provided—unless individual account circumstances preclude the meeting of any such deadline—the department shall refer the case to the Treasurer-Tax Collector to enforce the obligation.
 5. **Follow Up Procedures:**
 - a. Contractor’s first call to a private account shall occur immediately after data entry of the incident into the system and automated and/or manual searches for previous accounts for the same patient have been completed.
 - b. Contractor shall determine if the client has insurance or any special circumstances that may make it difficult to pay the bill in a reasonable amount of time. This information shall be documented in Contractor’s billing system.
 - c. Contractor’s follow up procedures used to elicit payment will include a data file established for each client from which information regarding the account, billing, and payment can be recorded and retrieved, and client information can be updated.
 6. **Medicare and Medi-Cal/Medicaid Process:** Medicare and Medi-Cal accounts shall be processed by staff trained specifically in Medicare and Med-Cal billing, including applicable federal and state laws. Staff shall be well versed in all aspects of Medicare and Med-Cal billing, including applicable federal and state laws. Only those staff trained in Medicare and Med-Cal billing procedures and requirements shall process denials and appeals. Medicare and Medi-Cal/Medicaid claims, if denied, shall be appealed automatically, to ensure County receives maximum legal reimbursements. Secondary insurance or private balance billing will occur immediately upon posting of Medicare and Medi-Cal/Medicaid programs. Additional follow-up shall occur as required based on the secondary source until full adjudication is resolved.

- a. **Contractual Allowance:** If payment for services is approved by a government-sponsored program or regulatory agency, and County is legally and/or contractually prohibited from collecting an amount greater than the amount authorized by such program or agency, Contractor shall adjust the amount of any account based upon the maximum amount authorized by such program or agency. This adjustment shall be, hereinafter, referred to as a “Contractual Allowance.”
Contractor shall immediately cease all collection efforts underway to collect an amount greater than the adjusted amount. The settled amount shall be exclusive of the client’s “share of cost” or co-pay amount, which is not subject to adjustment and shall be reported to County.
 - b. **Medicare Secondary Payer (MSP) Act:** Contractor shall maintain compliance with the Medicare Secondary Payer (MSP) Act (Title 42 US Code Section 1395y (b)), (available at http://www.law.cornell.edu/uscode/uscode42/usc_sec_42_00001395---y000-.html or subsequent replacement site), which ensures that Medicare does not pay for services and items where other health insurance or coverage has primary responsibility for payment. The MSP provisions apply to situations when Medicare is not the client’s primary insurance.
 - c. **Government Insurance Programs:** Contractor shall maintain a high level of proficiency in government payer regulation compliance. Contractor shall maintain complete compliance with all government payers. Contractor’s Medicare and Medi-Cal compliance program shall be updated on a regular basis to comply with current law and regulations. Contractor shall ensure compliance with State laws and local ordinances by continually educating itself as to any differences that may apply.
 - d. **Electronic Billing:** Contractor shall electronically bill both Medicare and Medi-Cal /Medicaid
 - i. When Contractor receives PCRs/ePCRs indicating Medicare or Medi-Cal /Medicaid coverage, Contractor will verify this information through electronic verification systems to ensure accurate initial billing.
 - ii. Medicare and Medi-Cal/Medicaid claims will be transmitted via batches weekly in accordance with the current Medicare / Med-Cal format and requirements.
7. **Treatment Authorization Request (TAR):** Certain procedures and services are subject to authorization by Medi-Cal before reimbursement can be approved. Authorization requests are made with a *Treatment Authorization Request* (TAR). Authorization requirements are applied to specific procedures and services according to state and federal law. Certain medical procedures and services require authorization from the Department of Health Care Services (DHCS) before reimbursement is approved.
 8. **Subpoenas:** Contractor shall respond to and fulfill records requests and subpoenas in accordance with all local, state, and federal laws, rules and regulations.
 9. **Payment Processing:** Customer Service Representatives will answer all calls live, Monday – Friday, 8:00 a.m. – 4:30 p.m. local time. An after-hours message will direct patients to the Patient Portal, where they can leave insurance information and other demographic information along with a request for a live person call-back the next business day. Contractor shall provide patients with internet based (Patient Portal) and

telephone payment options. Each invoice, statement, and letter mailed to patients shall include a toll free telephone number and website link for them to access, login, provide insurance information, make a payment or to inquire about their bill. The Patient Portal is to be available twenty-four (24) hours a day, seven (7) days a week. Patient inquiries shall be responded to within one (1) business day. Acceptable forms of payment shall include cash, check, and credit card payments for invoiced services. For credit card payments, a credit card portal shall also be available for patients. This portal shall be accessed through County of El Dorado website. Customer Service Representatives (CSR) shall be available via telephone Monday – Friday 8:00 a.m. – 4:30 p.m. local time. Voicemail messages are to be accepted twenty-four (24) hours per day.

- a. Contractor shall maintain appropriate accounting procedures for reconciling all deposits, receivables, billings, patient accounts, adjustments, and refunds. Contractor shall accurately post all payments and adjustments to client accounts within one (1) day of payment and respond to any and all inquiries, both written and verbal, from County, client or payor.
- b. Payments shall be posted to the proper account within one (1) day of noting the source of that payment, unless the payment lacks sufficient information to identify the account. All charges applied to a client’s account shall be retained as a permanent record of that client’s medical history.
- c. Full payments posted that result in a zero balance will require no further action.
- d. Partial payments shall be posted and the balance transferred to the appropriate pay source. For example, a Medicare payment shall be posted with the appropriate adjustments and the client’s applicable responsibility transferred for billing to the secondary insurance or to the client. Follow up shall be completed regardless of private or secondary insurance billing.
- e. Contractor shall deposit to the County’s designated account all gross proceeds collected on its behalf and no less than twice weekly.
- f. From time to time Contractor may receive interest for delayed payments from insurance providers. The interest is self-imposed, based on the insurance provider’s inability to timely pay the amounts owed on behalf of their policy holders. Contractor shall remit any interest received to County. The amount of interest shall be identified separately from the payment.
- g. Contractor shall make every effort to determine the appropriate account associated with each payment. When Contractor is unable to identify an account, the payment shall be deposited in an unidentified payments account.
 - i. Contractor shall provide County with a report detailing all unidentified payments.
 - ii. A refund shall be issued to the payer by Contractor within sixty (60) calendar days for any payment which remains unidentified.

10. **Refund Processing:** Contractor shall be responsible for:

- a. Determining the Payer(s)
- b. Processing all refunds to secondary payers resulting from an overpayment
- c. Refunding medicare within sixty (60) days of receipt of the duplicate payment, pursuant to 42 CFR 489.20, when Contractor determines that Medicare is the secondary payer and has previously paid a claim.
- d. Collecting and disseminating to County all necessary documentation regarding overpayments:

- 1. County will maintain the trust fund at fifty thousand (\$50,000) dollars.
 - 2. County will fund the trust fund no less than weekly provided the request is a minimum of five thousand (\$5,000.00) dollars.
 - ii. Contractor shall notify County when the trust account needs to be replenished and the amount necessary to be deposited. Contractor shall provide County with a check register or other agreed upon form of documentation, which includes all disbursements made by Contractor, and a monthly reconciliation of the trust account and shall make other reports on the status of the trust account and disbursements therefrom as may be required by County in addition to the foregoing check register. The trust account shall not be used for any payments to the contractor.
11. **Bad Debt Recovery:** Contractor shall refer to County Board of Supervisors Policy B-4 attached hereto as Exhibit D, or subsequent replacement policy for appropriate timeframes for referral of accounts for bad debt recovery.
- a. Upon determination that Contractor's billing efforts are exhausted, and within the timeframes agreed upon by both parties, Contractor shall at least monthly account for remaining balances and submit said report to the persons agreed upon by both parties.
 - b. The monthly report of accounts to be transferred to County's Collection Agent shall be in a format agreed upon by both parties and list the client name, date of service, amount referred, run number, incident number, and date referred.
- Said report shall be based upon the following:
- i. Small Balances: A balance of twenty-five (\$25.00) or less shall be considered uncollectible as the amount owed is too small to justify the need for collection.
 - ii. Contractor shall, on a monthly basis, advise County of all small balance accounts via the applicable small balance or uncollectible report.
 - iii. Upon County approval of the report Contractor will transfer the accounts and balances to County for quarterly presentation to the Board of Supervisors for discharge from further accountability to collect the debts.
 - c. Large Balances: Accountability for all accounts deemed collectible with balances greater than \$25.00, shall be transferred to County's Collections Agent as designated by County in writing. Contractor shall provide account information electronically to County's Collections Agent via mutually-acceptable format and

transfer protocol.

- i. Contractor and County's Collection Agent shall mutually agree to a reconciliation process sufficient to ensure that all accounts and balances transferred have been received by County's Collections Agent, and appropriately documented in County's Collections Agent's accounting system.
 - ii. Upon completion of the transfer and reconciliation in accordance with this Agreement, accountability for collection of those accounts shall be transferred to County's Collections Agent.
 - iii. Contractor shall submit a monthly report of accounts transferred to the County's Collection Agent to the persons agreed upon by both parties in the format requested by County listing the client name, date of service, amount referred, run number, incident number and date referred.
- d. Uncollectible Accounts: For those accounts determined to be uncollectible, Contractor shall transfer accountability for collection to County or subsequent agent designated by County via the applicable small balance or uncollectible report. No fee will be billed by Contractor to County for these uncollectible accounts.
- e. Funds Collected After Collections Referral: Funds collected by Contractor for accounts that have been referred to County's Collections Agent, pursuant to Exhibit D "County Board of Supervisors Policy B-4", shall be deposited separately into the designated County account and shall be reported to County as a separate line item on each monthly invoice. Collections Agent and County shall be notified of payment in writing and within forty-eight (48) hours of receipt.
- f. Withholding of Transfers: Should County determine that there is a need to withhold the transfer of accounts to County's Collection Agent, County may provide written notice to Contractor requesting a temporary suspension of said transfer within five (5) business days of receipt of notice of transfer. Contractor and County shall mutually agree upon the revised date to transfer accounts and transfer of accounts shall resume in the agreed upon collections method.

12. **Re-Billing When Further Information Becomes Available**: Contractor shall re-bill Medicare and Medi-Cal (at no additional charge to County) when notified by County's Collections Agent that they have found corrected or additional information.
13. **Outstanding Accounts**: Contractor shall continue to work outstanding accounts upon termination or expiration of this Agreement, until such time as said accounts can be successfully transitioned to County or to another entity specified by County, in accordance with the Article titled "Default, Termination and Cancellation".
14. **Record Retention & Audits**: Contractor shall maintain client records, books, documents, records, and other evidence, accounting procedures, and practices sufficient to reflect properly all costs, including any matching costs and expenses, all of which shall be deemed to constitute "records" for purposes of this Agreement. Such records shall clearly reflect the cost and scope of the services performed by County's contracted ambulance service Agencies.

Contractor's facility or office, or such part thereof as may be engaged in the performance of

this Agreement, and its records shall be subject at all reasonable times to inspection, audit, and reproduction by County, the State or any of its duly authorized representatives, including the Comptroller General of the United States.

Contractor shall preserve and make available its records for a period of ten (10) years from the date of final payment under this Agreement, and for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by either (or both) of the following:

- a. If this Agreement is terminated or partially terminated, all of the records relating to work terminated shall: (a) be preserved and made available for a period of ten (10) years from the date of any resulting final settlement; or (b) at the sole option of County, immediately become the property of County and shall be delivered by Contractor to County in an electronic format as agreed upon by County.
- b. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the ten (10) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten (10) year period, whichever is later.

The ten (10) year period is in compliance with the recommendation of the American Ambulance Association.

15. **Reporting:** Submit all reports to appropriate parties as agreed to by the 10th of each month.
 - a. Month-end correspondences include, but are not limited to:
Cash Receipt Reports that reconcile all deposits, receivables, billings, patient accounts, adjustments, dishonest checks, and refunds.
 - b. Reports should be detailed and easy to read.
 - c. Reports should be able to be emailed, sent to the appropriate mailbox, or sent via U.S. Mail.
 - d. Examples of other reports are included in Exhibit A “Request of Qualifications Response: EMS Billing and Collection Services”.
 - e. On-demand or ad hoc reports are provided at no additional charge.
16. **Training:** Contractor shall provide training as requested by County Contract Administrator. Trainees may include County staff, Agency staff (including EMTs, paramedics, etc.), or County contractors. For Agency staff, training is to be offered not less than annually and can be completed either in person or via web format as agreed upon by both parties. Trainings shall be provided as documented in Exhibit A “Request of Qualifications Response: EMS Billing and Collection Services”.

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall cover the term January 1, 2020 through December 31, 2025.

ARTICLE III

Compensation for Services:

- A. Collections by Contractor: Contractor shall ensure funds collected from patients or patient payors are submitted directly to County. Contractor shall, no less than twice weekly, deposit funds via remote deposit or courier deposit through County's bank into the County's Treasury in the single account designated by County for all deposits.
- B. Invoices: For billing purposes, a "service month" shall be defined as a calendar month during which Contractor performs services in accordance with this Agreement.
 - a. Contractor shall submit monthly invoices no later than fifteen (15) days following the end of a service month except in those instances where Contractor obtains written approval from the Contract Administrator or Contract Administrator's designee granting an extension of the time to complete billing for services. The monthly invoice shall include detailed backup for each account processed during that month. The invoice shall also include a listing of refunds by patient account, the amount refunded, and reason for the refund.
 - b. County agrees to pay Contractor upon satisfactory completion and acceptance of work, monthly in arrears, and within forty-five (45) days following County's receipt of itemized invoice(s).
 - c. In the event County disputes any part of the invoiced amounts, such dispute shall be raised in writing to Contractor within thirty (30) days of receipt of invoice. Contractor shall respond to any such notice of dispute within thirty (30) days of receipt thereof.
- C. Rates: Contractor will provide the billing services as stated for a fee. Ambulance Billing Services will be billed at 4.25% of funds received less refunds and payments deposited for accounts that have been referred to County's Collection Agent. For those accounts deemed to be uncollectible and transferred to County for collections, no fee shall be billed to County by Contractor.
- D. Remittance: Invoices shall be mailed County at the following address:

County of El Dorado
Chief Administrative Office Central Services Fiscal Unit
330 Fair Lane, Bldg A
Placerville, CA 95667

In the event that Contractor fails to deliver the documents or other deliverables required pursuant to this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the deliverables are received, or proceed as set forth herein below in the Article titled, "Default, Termination, and Cancellation."

ARTICLE IV

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. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE V

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 VI

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 VII

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 VIII

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 IX

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County 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 X

Audit by California State Auditor: Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XI

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 within 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. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. **Bankruptcy:** This Agreement, at the option of the 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 Contractor 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 immediately in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will 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.

- E. Transfer of Accounts: Contractor agrees that upon termination or expiration of this Agreement, County may request and Contractor shall transfer accounts to County or to another entity specified by County in a format described by County. Each record shall be named in a manner that accurately describes the patient record, as specified by County. County shall have the right to withhold Contractor's last payment until accounts have been transferred in a format acceptable to County.

Upon expiration or termination of this Agreement, Contractor shall:

1. Send a letter to each Account, notifying them that Contractor will no longer be handling the Account;
2. Continue to forward all payments and information sent to it by any Account to County;
 - a. If payment is forwarded to County within ninety (90) calendar days of expiration or termination of this Agreement, County will pay Contractor the fee as specified in the Article titled "Compensation for Services."
 - b. If Contractor forwards payments to County after ninety (90) calendar days following expiration or termination of this Agreement, Contractor shall no longer be due, nor will the County pay, said fee.

ARTICLE XII

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

County OF EL DORADO
Chief Administrative Office
330 Fair Lane, Bldg A
Placerville, CA 95667
ATTN: Central Services Fiscal Unit

or to such other location as the County directs.

with a carbon copy to

County OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
2850 Fair Lane Court, Bldg C
Placerville, CA 95667
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

WITTMAN ENTERPRISES, LLC
11093 Sun Center Drive
Rancho Cordova, CA 95670
ATTN: Corinne Wittman-Wong, CEO

or to such other location as the Contractor directs.

ARTICLE XIII

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 in 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 XIV

Indemnity: To the fullest extent permitted by law, Contractor shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses 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 the acts or omissions of Contractor or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the sole negligence or willful acts of the County, its officers and employees, or as expressly prescribed 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 XV

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

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
- 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 motor vehicles are used by the Contractor in the performance of the Agreement.

- D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability 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 County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to 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 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 Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the 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 upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer will not cancel the insured's coverage without thirty (30) days 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, 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 in respect to the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in 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: the insurer shall reduce or eliminate such deductibles or self-insured retentions in respect to County, its officers, officials, employees, and volunteers; or 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 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 insurance covering 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 protection of County.

ARTICLE XVI

Interest of Public Official: No official or employee of County 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 County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XVII

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 no person having any such interest shall be employed by Contractor.

ARTICLE XVIII

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 will 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 XIX

Nondiscrimination:

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

ARTICLE XX

California Residency (Form 590): If Contractor is a California resident, Contractors must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Contractor will 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 the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XXI

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 XXII

County Payee Data Record Form: All independent Contractors or corporations providing services to County who do have not have a Department of the Treasury Internal Revenue Service

Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

ARTICLE XXIII

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 El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XXIV

Licenses: Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

ARTICLE XXV

Administrator: The County Officer or employee with responsibility for administering this Agreement is Sue Hennike, Deputy Chief Administrative Officer, or successor.

ARTICLE XXVI

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 XXVII

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

ARTICLE XXVIII

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

ARTICLE XXIX

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 XXX

Confidentiality and Information Security Provisions:

A. 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 personal identifiable information (PII).

Personal 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.

B. 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 will:

(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.

(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 which 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.

C. Responsibilities of Contractor.

Contractor agrees to:

Safeguards. To prevent use or disclosure of PII other than as provided for by this Agreement. Contractor shall provide the County with information concerning such safeguards as County may reasonably request from time to time.

Contractor shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only.

Contractor shall implement appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), the 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.

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 and/or personal firewall
- (b) Continuously updated anti-virus software
- (c) Patch-management process including installation of all operating system/software vendor security patches.

D. 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.

E. 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 contract shall comply with the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.

F. 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 and/or data, where the information and/or data is reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to the County Privacy Officer, within two (2) 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 XXXI

HIPAA Compliance: As a condition of Contractor performing services for the County of El Dorado, Contractor shall execute that Business Associate Agreement which is attached hereto as Exhibit "B", which is incorporated herein for all intents and purposes.


ARTICLE XXXII

HIPAA Compliance: All data, together with any knowledge otherwise acquired by Contractor during the performance of services provided pursuant to this Agreement, shall be treated by Contractor and Contractor's staff as confidential information. Contractor shall not disclose or use, directly or indirectly, at any time, any such confidential information. If Contractor receives any individually identifiable health information ("Protected Health Information" or "PHI"), Contractor shall maintain the security and confidentiality of such PHI as required by applicable laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

ARTICLE XXXIII

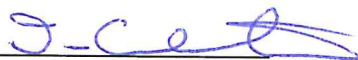
Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

Requesting Contract Administrator Concurrence:

By: 
Sue Hennike
Deputy Chief Administrative Officer
Chief Administrative Office

Dated: 12/10/19

Requesting Department Head Concurrence:

By: 
Don Ashton, M.P.A.,
Chief Administrative Officer
Chief Administrative Office

Dated: 12/10/2019

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- County OF EL DORA DO --

Dated: 12-10-19

By: B. K. Veerkamp

Brian K. Veerkamp / ~~She Novasek~~ Chair
First Vice-Chair Board of Supervisors
"County"

ATTEST:
Kim Dawson
Clerk of the Board of Supervisors

By: Kim Dawson
Deputy Clerk

Dated: 12-10-19

-- CONTRACTOR --

WITTMAN ENTERPRISES, LLC
(A LIMITED LIABILITY COMPANY)

By: Corinne Wittman-Wong
Corinne Wittman-Wong
Chief Executive Officer
"Contractor"

Dated: 12/4/19

hlc