



GeneSight® Registration and Purchased Services Agreement

#4483



Clinic/Facility Name: County of El Dorado		
Phone:	Fax:	
Address: 3057 Briw Road, Suite B		
City: Placerville	State: CA	Zip Code: 95667

This Purchased Services Agreement is effective on the last date signed (the "Effective Date") by and between Assurex Health, Inc. ("Assurex") and the clinic, practice, or hospital named above (including any employees, contractors, affiliates, agents or representatives of the foregoing, the "Customer").

- (1). **Placing Orders:** Customer will place orders for medically necessary laboratory testing services ("Services") from Assurex using the secure online web portal. Authorized representatives of Customer shall place such orders personally, and Customer shall not authorize any other individuals to place such orders on Customer's behalf. Customer shall not knowingly share online web portal log-in information with any other individuals.
- (2). **Performing Services:** After Assurex receives all necessary samples and documentation from Customer, in accordance with the terms of this Agreement and in compliance with all instructions and requirements set forth in the online web portal, Assurex will perform the Services and provide a genotyping report to Customer that will be available through the online web portal. Customer understands that orders for Services may not be cancelled once Assurex performs the Services.
- (3). **Billing:** The billing arrangement for Services is set forth in Exhibit A. Assurex will not bill third party insurers for Services.
- (4). **Assurex Warranty:** Assurex warrants that the Services shall be performed in accordance with good laboratory practices and established laboratory protocols and all applicable laws, regulations, and rules.
- (5). **Customer Warranty:** Customer warrants that it (a) has the legal authority to place orders for laboratory tests; (b) shall obtain any and all patient consents to collect, transfer, and have tested any samples necessary for Services, as required by applicable laws, regulations, and rules; (c) is not currently excluded from a federal or state health care program (d) shall use information derived from a genotyping report provided by Assurex only for treatment of the patient or for other legally permissible purposes.
- (6). **Confidentiality:** Assurex and Customer shall maintain in strict confidence all information received in connection with this Agreement and will not disclose the information to any third party except as permitted or required by applicable law, regulation, or rule.
- (7). **Non-Exclusive Agreement:** Assurex and Customer acknowledge that this Agreement is not exclusive and does not preclude Customer from ordering laboratory testing services from another laboratory provider.
- (8). **Limitation of Liability:** Neither party shall have any liability of any type for any special, incidental, indirect, or consequential damages, including but not limited to the loss of opportunity, loss of use, or loss of revenue or profit in connection with or arising out of this Agreement. In no event shall Assurex's total liability for direct damages under this Agreement exceed the amount of fees paid to Assurex in connection with this Agreement as of the date that the cause of action is alleged to have arisen.
- (9). **Publicity:** Neither party may use the name, trademark, or service mark of the other party in connection with any publicity without the prior written consent of the other party; provided, however, that Assurex may include Customer's name as a customer of Assurex in its promotional and marketing materials and on Assurex's website.
- (10). **Assignment:** This Agreement is not assignable by either party without the prior written consent of the other party, except that either party may assign this Agreement in connection with the merger or sale of all or substantially all of its assets without such prior consent, and Assurex may delegate or otherwise assign any portion of the Services to a third-party laboratory or other provider, provided that such third party is subject to and complies with performance standards comparable to those agreed upon by the parties to this Agreement.
- (11). **Governing Law:** This Agreement shall be governed by the laws of the State of California without regard to conflicts of law principles.
- (12). **Term and Termination:** The Term of this Agreement shall begin on the Effective Date and continue until June 30, 2023. This Agreement may be terminated at any time by either party upon written notice to the other party.
- (13). **Prior Agreements:** This Agreement, which incorporates Exhibit A and any written amendment hereof executed by the parties, constitutes the entire understanding between the parties with respect to the subject matter hereof and replaces and supersedes all prior agreements, written or oral, with respect thereto. All purchases of Services by Customer after the Effective Date will be governed by the terms of this Agreement and any prior agreements with respect to the Services shall be deemed cancelled.
- (14). **Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Nicole Ebrahimi-Nuyken, Behavioral Health Director, Behavioral Health Division, or successor.
- (15). **Insurance Requirements:** Assurex shall provide proof of a policy of insurance as referenced in Exhibit B, attached hereto and made by reference a part hereof.

CUSTOMER AUTHORIZED SIGNATURE

ASSUREX HEALTH, INC.

ACCOUNT REPRESENTATIVE

Signature: _____

Signature: _____

Name: Brain K Veerkamp

Name: Mark S. Verratti, President

Date: _____

Date: _____

Title: Chair, Board of Supervisors

To GeneSight® Registration and Purchased Services Agreement

Services provided shall be performed under this Purchased Services Agreement (hereby incorporated into the Agreement as Exhibit A). The amount to be paid by Customer to Assurex for the Services provided is set forth below in this Exhibit A. This pricing schedule will be reviewed and adjusted annually.

The Parties agree that the compensation is reasonable and fair market value for the Services actually performed and does not take into account the volume or value of any past, present or future business referrals. The value of any rebates or discounts provided to Customer may constitute a "discount or other reduction in price" under Section 1128B(b)(3)(A) of the Social Security Act, as it may be amended. It is the intent of the Parties to comply with the Anti-Kickback Law Discount Safe Harbor (42 C.F.R. §1001.952(h)), as it may be amended. Customer understands and agrees that it must satisfy any and all requirements imposed on buyers relating to discounts or reductions in price, including, properly disclosing the discounts or reductions in price and reflecting such discounts or reductions in price in the costs claimed or charges made under any federal or state health care program which provides cost or charge based reimbursement to Customer for the items and services covered under this Agreement.

It is the intent of the Parties to conduct their relationship in full compliance with applicable state, local and federal law, including but not limited to the Medicare and Medicaid Fraud and Abuse Amendments ("MMFAA"), federal Anti-Kickback Statute (the "AKS") and Physician Self-Referral Statute (the "Stark Law") provisions. Notwithstanding any unanticipated effect of any of the provisions herein, neither of the parties will intentionally conduct itself under the terms of this Agreement in a manner to constitute a violation of the MMFAA, AKS or Stark Law provisions. Additionally, this Agreement shall terminate immediately upon either party giving written notice to the other party in the event that counsel for such party determines in good faith that performance of this Agreement, or the performance of any provision hereof, or any matter contemplated hereby, either separately or in conjunction with other activities under this Agreement, creates a significant risk of the party (or any affiliate) being deemed in violation of the MMFAA, AKS or Stark Law.

Customer and Assurex each warrants that they are not currently excluded from a federal health care program as of the Effective Date of this Agreement. In the event Customer or Assurex becomes excluded from a federal health care program, the party shall notify the other party within one (1) business day following determination or receipt of notification of such exclusion. If either party is excluded from a federal health care program, the other party may immediately terminate this Agreement.

Pricing Schedule

The fee for each Service performed on a valid Sample hereunder shall be as follows:

- GeneSight Psychotropic: \$1,750
- GeneSight ADHD: \$900
- GeneSight Analgesic: \$1,750
- GeneSight Psychotropic + ADHD: \$1,990
- GeneSight Psychotropic + Analgesic: \$1,870
- GeneSight Psychotropic + ADHD + Analgesic: \$2,110
- GeneSight ADHD + Analgesic: \$1,990
- GeneSight MTHFR: \$110 (can be ordered separately or added to any Service above at this price)

Combination Services must be ordered on the same date of service or will be treated as individual Services orders.

Payment Terms

Assurex shall invoice Customer monthly for Services performed hereunder. If full payment is received within 30 days of the original invoice date, then Assurex will discount the invoice by two percent (2%) billed. If Assurex does not receive payment in full within sixty (60) days from the original invoice date, Assurex (a) shall assess a penalty of 1.5% per month for the balance unpaid at the end of each invoice period, and (b) may withhold the provision of ongoing or future Services, including but not limited to the delivery of Reports, until such invoice is paid in full.

Maximum Obligation: The maximum contractual obligation under this Agreement shall not exceed \$100,000.

Invoices shall be sent to: County of El Dorado
Health & Human Services Agency
Attn: Finance Unit
3057 Briw Rd., Ste B
Placerville, CA 95667

EXHIBIT B

County of El Dorado Insurance Requirements

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 \$5,000,000.00 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. Contractor shall give County at least 30 days notice before the insurance is set to expire or before contractor cancels or replaces and/or amends Contractor's coverage. In the event that Contractor's insurance is proposed to be cancelled by the insurer, Contractor agrees to notify County within five (5) working days of receiving notice or proposed cancellation. Failure to maintain insurance as identified above shall be considered a material breach, and County may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event. 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 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. The Contractor's insurance coverage shall be primary insurance as respects 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 the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related

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- investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the 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 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 the County.