

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND PROPIO LS LLC**

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2026, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called “County,” and Propio LS LLC, hereinafter called “Contractor.”

\* \* \*

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing interpretation services.

**Now, therefore, it is agreed by the parties to this Agreement as follows:**

**1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A—Services
- Exhibit B—Payments and Rates
- Exhibit C—Performance Metrics
- Exhibit E—Corporate Compliance SMMC Code of Conduct (Third Parties)
- Attachment H—HIPAA Business Associate Requirements
- Attachment M—Master Lease Agreement
- Attachment N –End User Agreement
- Attachment J – Vendor/Contractor Access Policy

**2. Services to be performed by Contractor**

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

**3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County’s total fiscal obligation under this Agreement exceed TEN MILLION DOLLARS (\$10,000,000). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for

work not performed as required by this agreement. All invoices must be approved by the Diversity, Equity, and Inclusion Manager or their designee. Invoices for SMMC must be sent to: [SMMC-Accounts-Payable@smcgov.org](mailto:SMMC-Accounts-Payable@smcgov.org) . Invoices for other Health Divisions of County of San Mateo must be sent to: [HealthAdmin@smcgov.org](mailto:HealthAdmin@smcgov.org) . Processing time may be delayed if invoices are not submitted electronically.

#### **4. Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from August 1, 2026, through July 31, 2031.

#### **5. Termination**

This Agreement may be terminated by Contractor or by the Chief of San Mateo County Health or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

#### **6. Contract Materials**

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

**7. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

**8. Hold Harmless**

**a. General Hold Harmless**

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the terms of the attached Business Associate Agreement if applicable and all Federal regulations promulgated thereunder, as amended; or

(D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**b. Intellectual Property Indemnification**

Contractor hereby certifies that it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

## **9. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

## **10. Insurance**

### **a. General Requirements**

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

**b. Workers' Compensation and Employer's Liability Insurance**

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

**c. Liability Insurance**

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability, professional errors and omissions, and cyber liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage, damages caused by Contractor's professional work and services, and damages for data loss and/or data theft which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor of Contractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, shall not be limited, reduced, or otherwise affected by any limitations of liability in this Agreement and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability.....\$1,000,000
- (b) Professional Liability.....\$1,000,000
- (c) Professional Error & Omissions.....\$1,000,000
- (d) Cyber Liability.....\$5,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents,

employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

## **11. Compliance With Laws**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, regulations, and executive orders, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance, as well as any required economic or other sanctions imposed by the United States government or under state law in effect during the term of the Agreement. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law, regulation, or executive order, the requirements of the applicable law, regulation, or executive order will take precedence over the requirements set forth in this Agreement.

The parties agree that, pursuant to Section 70713 of Title 22 of the California Code of Regulations ("Title 22"), San Mateo Medical Center (SMMC) retains all professional and administrative responsibility for services rendered under this Agreement to the extent that such services are subject to Title 22 and are rendered by a "qualified professional person" as used in Section 70713, and the parties further agree in that instance that this Agreement is otherwise subject to any applicable requirements of Title 22.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.107 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

## **12. Non-Discrimination and Other Requirements**

**a. General Non-discrimination**

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

**b. Equal Employment Opportunity**

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

**c. Section 504 of the Rehabilitation Act of 1973**

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

**d. Compliance with County's Equal Benefits Ordinance**

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

**e. Discrimination Against Individuals with Disabilities**

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

**f. History of Discrimination**

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure

to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

**g. Reporting; Violation of Non-discrimination Provisions**

Contractor shall report to the County Executive Officer the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Executive Officer, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Executive Officer.

To effectuate the provisions of this Section, the County Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

**h. Compliance with Living Wage Ordinance**

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

**13. Compliance with County Employee Jury Service Ordinance**

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County,

with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply unless this Agreement's total value listed in the Section titled "Payments", exceeds two-hundred thousand dollars (\$200,000); Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value exceeds that threshold amount.

**14. Access and Retention of Books and Records**

Upon written request of the Secretary of Health and Human Services, the Comptroller General, or County, or any of their duly authorized representatives, Contractor shall make available those contracts, books, documents, and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available for up to four (4) years after the rendering of such services. If Contractor carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, Contractor agrees to include this requirement in any such subcontract. This section is included pursuant to and is governed by the Social Security Act's requirements pertaining to "reasonable costs" set forth in 42 U.S.C. Section 1395x(v)(1)(I) and related regulations. No attorney-County, accountant-County, or other legal privilege will be deemed to have been waived by County, Contractor, or any Contractor's representative by virtue of this Agreement.

**15. Merger Clause; Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

**16. Controlling Law; Venue**

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

**17. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: San Mateo Medical Center  
Attn: Chief Operations Officer  
222 W 39th Ave  
San Mateo, CA 94403

In the case of Contractor, to:

Name/Title: Propio LS LLC  
Address: 4950 College Blvd., Overland Park, KS 66211  
Email: legal@propio.com

**18. Electronic Signature**

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

**19. Payment of Permits/Licenses**

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

**20. Disentanglement**

Contractor shall cooperate with County and County's other contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County's efforts to effectuate such transition with the goal of minimizing or eliminating any interruption of work required under the Agreement and any adverse impact on the provision of services or the County's activities; provided, however, that County shall pay Contractor on a time and materials basis, at the then-applicable rates, for all additional services performed in connection with such cooperation. Contractor shall deliver to County or its designee, at County's request, all documentation and data related to County, including, but not limited to, patient files, held by Contractor, and after return of same, Contractor shall destroy all copies thereof still in Contractor's possession, at no charge to County. Such data delivery shall be in an electronic format to facilitate archiving or loading into a replacement application. County and Contractor shall mutually agree to the specific electronic format.

Upon any termination of the Agreement, regardless of the nature or timing of the termination, County shall have the right, for up to twelve (12) months (the "Transition Period"), at County's option and request, to continue to receive from Contractor all maintenance and support services, at the then-applicable rates provided, however, that the annual support and maintenance fee shall be prorated and paid in advance on a monthly basis during such time, and the amount of such support and maintenance fee shall remain subject to the limitations set forth in the Agreement regarding any increase in such fee.

## **21. Disaster and Emergency Response Plan**

Contractor will develop and maintain a Disaster and Emergency Response Plan ("Emergency Plan") that includes all of the elements set forth in this Section, as well as any additional elements reasonably requested by the County. The Emergency Plan will also include site-specific emergency response plan(s) for each of the sites at which Contractor provides services pursuant to this Agreement ("Site Plans"). The Emergency Plan and associated Site Plans will address Contractor preparations to effectively respond in the immediate aftermath of a national, state or local disaster or emergency ("Emergency Response") and plans for the ongoing continuation of Services under the Agreement during and after a disaster or emergency ("Continuity of Operations").

Contractor shall submit the Emergency Plan to the County within thirty (30) days after the beginning of the Term of the Agreement and the Emergency Plan will be subject to the reasonable approval of the County. Contractor shall respond reasonably promptly to any comments or requests for revisions that the County provides to Contractor regarding the Emergency Plan. Contractor will update the Emergency Plan and associated Site Plans as circumstances warrant and shall provide County with copies of such updated plans. Contractor shall train employees on the Emergency Plan and the Emergency Plan will include a description of how employees will be trained.

The Emergency Plan will indicate, in as much detail as reasonably possible, the categories of additional staff, supplies, and services that Contractor projects would be necessary for effective

Emergency Response and Continuity of Operations and the costs that the Contractor projects it would incur for such additional staff, supplies and services. Contractor shall recognize and adhere to the disaster medical health emergency operations structure, including cooperating with, and following direction provided by, the County's Medical Health Operational Area Coordinator (MHOAC). In the event that the Contractor is required to implement the Emergency Plan during the term of the Agreement, the parties will confer in good faith regarding the additional staff, supplies and services needed to ensure Emergency Response and/or Continuity of Operations owing to the particular nature of the emergency, as well as whether the circumstances warrant additional compensation by the County for additional staff, supplies and services needed for such Emergency Response and/or Continuity of Operations.

Contractor shall reasonably cooperate with the County in complying with processes and requirements that may be imposed by State and Federal agencies (including, but not limited to the California Governor's Office of Emergency Services and the Federal Emergency Management Agency) in connection with reimbursement for emergency/disaster related expenditures.

In a declared national, state or local disaster or emergency, Contractor and its employees will be expected to perform services as set forth in the Agreement, including in the area of Emergency Response and Continuity of Operations, as set forth in the Emergency Plan and each Site Plan. Contractor shall ensure that all of its employees are notified, in writing, that they will be expected to perform services consistent with the Emergency Plan and each Site Plan.

## **22. Hospital and Clinics Credentialing Program**

Contractor and Contractor representatives visiting or entering the San Mateo Medical Center (SMMC) main campus or any of its satellite clinics are required to register with SMMC's Vendor Credentialing Program prior to conducting business onsite. It is important that each Contractor representative registers individually in order to maintain the confidentiality of their personal credentials and to ensure ongoing access to our facilities. More information regarding SMMC's updated credentialing and on-site visit requirements can be found on SMMC's profile page through <https://login.ghx.com>

\* \* \*

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: Propio LS LLC

*Christopher Pesce*

Contractor Signature

05/26/2026

Date

Christopher Pesce

Contractor Name (please print)

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COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

## Exhibit A

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

1. All services shall be provided exclusively by US-Based Interpretive Services agents.
2. Contractor shall provide the following HIPAA compliant video and phone interpretation services:
  - a. American Sign Language (ASL). Contractor(s) shall provide high quality video interpretation services for American Sign Language (ASL), video and phone interpretation services for other languages between SMMC employees, patients, and qualified interpreters.
  - b. Languages. Video and phone Interpretation services need to be provided, at a minimum, in the following languages: Chinese, Spanish, Tagalog, Russian, Tongan, Burmese, Arabic, Portuguese, Vietnamese, American Sign Language, Korean, Armenian, Persian (Farsi), Japanese, Punjabi, Mon-Khmer/Cambodian, Hmong, Hindi and Thai.
3. Contractor will provide services using high quality video and phone via a secure two-way connection to a video and phone interpreter 24 hours per day, 7 days per week, including holidays and 24/7 on-call IT support.
4. Contractor interpreters will utilize San Mateo County Health (SMC Health)'s approved telehealth communication platform.
5. Contractor will offer the ability to access video and audio interpreter via multiple pathways:
  - a. Audio only interpreters via standard telephone lines (including cell phones)
    - i. Contractor will provide SMC Health with a toll-free dedicated phone number. Information that will be collected from SMC Health requestor will include specific department code, language requested and patient MRN
  - b. Vendor supplied or County tablets on carts with an app for video and audio interpreters:
    - i. Information that will be collected via the app, from SMC Health requestor will include audio or video session, language requested and patient MRN
  - c. County supplied laptops populated with a customized SMC Health link for video and audio interpreters:
    - i. Contractor will provide SMC Health with a SMC Health universal link with specific Department codes. Information that will be collected from SMC Health requestor will include audio or video session, language requested and patient MRN
  - d. Video and audio interpreters via SMC Health's approved telehealth communication platform - Information that will be collected from SMC Health requestor will include specific department code, language requested and patient MRN
  - e. Scheduled video and audio interpretations – Scheduled interpretations may only be requested by a limited number of specified SMC Health users including but not limited to the SMMC Language Services department. Information that will be collected from SMC Health requestor will include language requested, department code, audio or video session, time and duration (patient MRN)
6. At the County's option, the County may request Contractor to integrate with EPIC. Contractor shall provide technical project integration with the EPIC.
7. EPIC's workflow: Interpretation Session Workflow
  - a. Interpretation Access: Access an interpreter with a single button in the Epic platform, where the patient's language is automatically selected from their chart. If no language is indicated, a drop-down menu allows selection of the required language.
  - b. Secure Data Transmission to Interpreter Platform: Encrypted data that can be shared includes patient name, patient ID, patient DOB, practitioner name, practitioner ID,

organization name, encounter location (e.g., Pediatrics), encounter ID, contact serial number (CSN), and medical record number (MRN). To minimize risk, we recommend transmitting only the essential data needed to link the interpretation session with the patient encounter.

- c. Interpreter Connection: Interpreters are available for audio or video sessions, with on-demand access to over 240 languages, 24/7/365.
  - d. Secure Data Transmission to Epic: The call summary screen includes the interpreter's name, reference number, language, and call duration.
8. Contractor Requirements
- a. Contractor must demonstrate that employees have undergone a background security check.
  - b. Contractor's employees for the project must be located in the United States
  - c. Contractor must provide evidence that employees are provided training to handle confidential data including a yearly security awareness training.
  - d. Contractor must have an Incident Response Plan including notification of any breaches and/or data loss events within 48 hours.
9. Contractor provided devices and software
- a. Contractor will provide interpreter devices (iPads) with speakers and carts to County.
  - b. All required software will be supplied by Contractor should County decide to acquire devices from Contractor per County need and configured with the specifications agreed upon by both parties.
  - c. Contractor will provide technical support for the supplied devices should County decide to acquire devices from Contractor per County need, including troubleshooting, maintenance, and replacement of defective devices.
  - d. Support will be provided during business hours of the County
  - e. Contractor shall respond to support inquiries within 1 business day
  - f. Contractor will not use AI software or services to provide contracted services to the County

## Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

U.S. Based Interpreters only:

1. Over-The-Phone Interpreting (OPI):
  - a. Spanish \$0.55 / minute
  - b. Non-Spanish \$0.79 / minute
2. Video Remote Interpreting (VRI)
  - a. Spanish \$0.77 / minute
  - b. Non-Spanish \$0.85 / minute
  - c. American Sign Language (ASL) \$1.29 / minute
3. Additional Services (Included)
  - a. Third-Party Calling No Charge
  - b. Account Activation No Charge
  - c. County Portal No Charge
  - d. County Success Manager No Charge
  - e. Implementation Consultant No Charge
  - f. Training Materials No Charge
  - g. Live Training Sessions (Unlimited) No Charge
  - h. Instruction Cards No Charge
  - i. Propio ONE (Download – Android/Apple iOS app stores) No Charge
  - j. EPIC integration for all service lines No Charge
4. Devices – Contractor shall provide SMC Health with ten (10) Equipment units as specified in the terms and conditions located in Attachment M (Provided Equipment Addendum) provided herein.
5. Workforce OS Scheduling Software
  - a. Platform Fee No Charge
  - b. Full Platform Access with Unlimited Seats No Charge
  - c. Per Use Charges by SMMC internal interpreters
    - i. Audio Minutes Platform Usage Fee\* \$.10
    - ii. Video Minutes Platform Usage Fee\* \$.20

\*Fee only applies when County's interpreters are utilizing Propio's remote interpreting platform to service calls

## **Exhibit C**

### Performance Metrics

County will measure Contractor performance of the services in accordance with the procedures set forth by the performance indicators below. Contractor acknowledges that the performance indicators are a reasonable minimum standard by which to measure Contractor performance of the services.

Contractor shall fulfill 99.5% of requests across Spanish, Cantonese, Mandarin, and Tagalog languages.

## EXHIBIT E

### CORPORATE COMPLIANCE SMMC CODE OF CONDUCT (THIRD PARTIES)

Contractor recognizes and is fully dedicated to advancing San Mateo Medical Center's (SMMC) commitment to full compliance with all Federal, State, and other governmental health care program requirements, including its commitment to prepare and submit accurate claims consistent with such requirements.

Contractor will comply with all Federal, State or other governmental health care program requirements.

Contractor, to the extent its contractual duties require it to submit the reports covered in this paragraph, will promptly submit accurate information for Federal health care cost reports including, but not limited to, the requirement to submit accurate information regarding acute available bed count for Disproportionate Share Hospital (DSH) payment.

Contractor will report to the SMMC Compliance Officer any suspected violation of any Federal health care program requirements within fifteen (15) days of discovery of the violation.

Contractor has the right to use the SMMC Disclosure Program by calling the Compliance Hotline at (800) 965-9775 or reporting incidents directly to the Compliance Officer. SMMC is committed to non-retaliation and will maintain, as appropriate, confidentiality and anonymity with respect to such disclosures.

Contractor understands that non-compliance with Federal and State health care program requirements, and failing to report any such violations, could result in termination of the Agreement and/or any other penalties as permitted by law.

Contractor is responsible for acquiring sufficient knowledge to recognize potential compliance issues applicable to the duties outlined in the Agreement and for appropriately seeking advice regarding such issues.

Contractor will not offer, give, or accept any "kickback," bribe, payment, gift, or thing of value to any person or entity with whom SMMC has or is seeking any business or regulatory relationship in relation to said business or regulatory relationship (other than payments authorized by law under such relationships). Contractor will promptly report the offering or receipt of such gifts to the SMMC Compliance Officer.

Contractor will not engage in any financial, business, or other activity which may interfere or appear to interfere with the performance of the duties under the Agreement or that involve the use of SMMC/County property, facilities, or resources.

Contractor will cooperate fully and honestly in the event that SMMC and/or County is audited by an outside agency including, but not limited to, compliance audits regarding enforcement of Federal and State regulations, any applicable accreditation standards, and/or SMMC system-wide policies.

**TO REPORT VIOLATIONS,  
CALL THE COMPLIANCE HOT LINE: (800) 965-9775**

Contractor, in executing this Agreement, certifies that an authorized representative has received this Code of Conduct, understands it, has authority to commit Contractor to this Code of Conduct, and has committed Contractor to comply with this Code of Conduct.

## Attachment H

### Health Insurance Portability and Accountability Act (HIPAA) Business Associate Requirements

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#### DEFINITIONS

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations (CFR) sections 160.103, 164.304, and 164.501. All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.

- a. **Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the parties to this agreement shall mean Contractor.
- b. **Covered Entity.** "Covered entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement shall mean County.
- c. **HIPAA Rules.** "HIPAA rules" shall mean the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR part 160 and part 164, as amended and supplemented by Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009.
- d. **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
- e. **Electronic Protected Health Information.** "Electronic Protected Health Information" (EPHI) means individually identifiable health information that is transmitted or maintained in electronic media; it is limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- f. **Individual.** "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- g. **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- h. **Protected Health Information.** "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in Section 160.103 and is limited to the information created or received by Business Associate from or on behalf of County.
- i. **Required By Law.** "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.
- j. **Secretary.** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.

- k. **Breach.** The acquisition, access, use, or disclosure of PHI in violation of the Privacy Rule that compromises the security or privacy of the PHI and subject to the exclusions set forth in Section 164.402. Unless an exception applies, an impermissible use or disclosure of PHI *is presumed* to be a breach, unless it can be demonstrated there is a low probability that the PHI has been compromised based upon, at minimum, a four-part risk assessment:
  - 1. Nature and extent of PHI included, identifiers and likelihood of re-identification;
  - 2. Identity of the unauthorized person or to whom impermissible disclosure was made;
  - 3. Whether PHI was actually viewed or only the opportunity to do so existed;
  - 4. The extent to which the risk has been mitigated.
- l. **Security Rule.** "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.
- m. **Unsecured PHI.** "Unsecured PHI" is protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in relevant HHS guidance.
- n. **Security Incident.** "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. "Security Incident" includes all incidents that constitute breaches of unsecured protected health information.

#### **OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE**

- a. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.
- b. Business Associate agrees to use appropriate safeguards to comply with Subpart C of 45 CFR part 164 with respect to EPHI and PHI, and to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to make uses and disclosures requests for Protected Health Information consistent with minimum necessary policy and procedures.
- d. Business Associate may not use or disclose protected health information in a manner that would violate subpart E of 45 CFR part 164.504 if used or disclosed by Covered Entity.
- e. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- f. Business Associate agrees to report to County any use or disclosure of Protected Health Information not authorized by this Agreement.

- g. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of County, agrees to adhere to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- h. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- i. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- j. Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of County, available to the County at the request of County or the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- k. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- l. Business Associate agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (k) of this Schedule, in order to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- m. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of County.
- n. Business Associate shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- o. Business Associate shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- p. Business Associate shall report to County any Security Incident within three (3) business days of becoming aware of such incident. Business Associate shall also facilitate breach notification(s) to the appropriate governing body (i.e. HHS, OCR,

- etc.) as required by law. As appropriate and after consulting with County, Business Associate shall also notify affected individuals and the media of a qualifying breach.
- q. Business Associate understands that it is directly liable under the HIPAA rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of Protected Health Information that are not authorized by this Attachment, the underlying contract as or required by law.

### **PERMITTED USES AND DISCLOSURES BY CONTRACTOR AS BUSINESS ASSOCIATE**

Except as otherwise limited in this Schedule, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

### **OBLIGATIONS OF COUNTY**

- a. County shall provide Business Associate with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- c. County shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

### **PERMISSIBLE REQUESTS BY COUNTY**

County shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if so requested by County, unless the Business Associate will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Business Associate.

### **DUTIES UPON TERMINATION OF AGREEMENT**

- a. Upon termination of the Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from County, or created, maintained, or received by Business Associate on behalf of County, that Business Associate still maintains in any form. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- b. In the event that Business Associate determines that returning or destroying Protected Health Information is infeasible, Business Associate shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protection Health Information.

## **MISCELLANEOUS**

- a. **Regulatory References.** A reference in this Schedule to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. **Amendment.** The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. **Survival.** The respective rights and obligations of Business Associate under this Schedule shall survive the termination of the Agreement.
- d. **Interpretation.** Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. **Reservation of Right to Monitor Activities.** County reserves the right to monitor the security policies and procedures of Business Associate.

## Attachment M

### Provided Equipment Addendum

**Service Description.** Contractor shall provide County with ten (10) Equipment units at no additional charge, subject to the terms of this Section. Each Equipment unit consists of a rolling hospital grade stand with an articulatable tablet mount, an iPad®, and one external speaker (the “**Equipment**”). The iPad comprising part of the Equipment will be equipped with a proprietary application installed by Contractor called Propio ONE that County may use to access Contractor’s interpretation services. County’s use of Propio ONE is subject to the end user agreement located in Attachment N below. Contractor’s initial deployment of Equipment shall be to County’s designated locations, F.O.B. destination, pursuant to a separate written agreement. The parties may agree to deploy additional Equipment any time this Addendum is effective pursuant to a written agreement between the parties or as otherwise agreed by the parties. County may return any quantity of Equipment to Contractor at any time F.O.B. destination by County to a location specified by Contractor. Contractor may recover any provided Equipment units upon prior written notice if usage volume is no longer sufficient for any given County location.

**General Provisions.** This Addendum shall commence on the Effective Date and continue until the termination or expiration of the Agreement unless this Addendum is cancelled by a party as provided in this Addendum. Either party may cancel this Addendum immediately if a material breach of this Addendum remains uncured for more than 30 days after it notifies the other party of such a breach. Either party may terminate this Addendum for convenience upon 90 days’ prior written notice to the other party. Termination of this Addendum shall not limit or impair any available right or remedy of a party.

**Invoicing, Payment Terms and Taxes.** There are no fees specifically associated with this Addendum.

**Equipment Use & Restrictions.** County may relocate Equipment to any County site, provided County keeps Contractor reasonably informed of the current location of all Equipment. County may initiate its own maintenance and support on the Equipment as necessary to maintain the Equipment in reasonable working order, for example and without limitation to configure network access on an iPad, access controls to Propio ONE, and administer operating system updates. County shall use the Equipment in accordance with all manufacturer’s and producer’s manuals, warranties and guidelines. County shall not use the Equipment in any manner that may violate any law, rule, or regulation applicable to the Equipment. In connection with the Services, County shall: (i) provide Contractor personnel with reasonable access to appropriate facilities, space, power, data, information, and any additional software provided by County; (ii) use skilled and authorized Customer personnel to assist and cooperate with Contractor in the provision of the Services as reasonably requested by Contractor; (iii) be responsible for physical and network security, and any other County conditions related to the performance of the Services not identified in this Addendum; and (iv) where applicable, promptly notify Contractor if any Equipment fails, including sufficient description of such failure to allow Contractor to reproduce the failure. County must either upgrade Propio ONE, or allow Contractor to upgrade Propio ONE, to a version of the software that is at least within two major versions of the most current version.

**Intellectual Property.** Each party shall retain their respective intellectual property rights, and nothing in this Addendum shall transfer any right, title or interest to such intellectual property rights to the other party except by its express terms.

**Maintenance.** Upon reasonable prior notice to County, Contractor shall have the right to enter County’s premises at reasonable times solely for the purpose of providing the Service and as otherwise necessary to perform under this Addendum. Upon reasonable prior notice to County, Contractor may replace the Equipment at any time and for any reason, provide that in no event shall Contractor provide replacement Equipment of lesser quality or functionality than the existing Equipment deployed to County’s locations. Contractor’s presence and conduct on County’s site shall be subject to applicable County policies. County may install third-party vendor applications on the Equipment on an as-needed basis; provided, however, that Propio ONE shall remain the default and first application displayed to and encountered by the end user upon access to the Equipment. County’s right to use the Equipment is expressly conditioned on continued compliance with this requirement. Contractor may, upon reasonable notice and during normal

business hours, audit County's use and configuration of the Equipment to verify compliance with this Section. If Contractor reasonably determines that any Equipment unit is not in compliance, Contractor may require County to promptly cure the noncompliance by restoring Propio ONE as the first application displayed to the end user, and if County fails to do so within a reasonable cure period, Contractor may remove or disable the non-compliant Equipment unit.

**Risk of Loss or Damage.** Unless otherwise agreed, Contractor shall deliver the Equipment to County's designated sites at a date and time agreed upon between the parties. Equipment is deemed accepted by County upon delivery to the designated sites. Contractor shall bear the risk of loss for Equipment until it is accepted by County. After County accepts the Equipment and until it is returned to Contractor, County shall be responsible for all risk of loss, damage, destruction or seizure of the Equipment except as may be caused by Contractor (an "**Event of Loss**"). County shall notify Contractor of any Event of Loss within 10 business days of the occurrence thereof. In the event that, following an Event of Loss, the Equipment can be repaired, County shall promptly repair the Equipment at its sole cost and expense. If an Event of Loss occurs and the condition of the Equipment thereafter is beyond repair, County shall pay to Contractor, upon demand, the fair market value of the Equipment. Contractor shall promptly replace any damaged or non-functional Equipment, no more than 5 business days without going through a warranty process.

**Expiration of Term; Earlier Termination of Terms; No Interest in Equipment.** The Equipment is and shall remain Contractor's exclusive property, and County shall have no right, title or interest in the Equipment except as expressly granted under this Addendum. Upon the termination of this Addendum, Contractor may, in its sole discretion, either retrieve the Equipment from County's sites at Contractor's own cost or abandon the Equipment. If Contractor elects to abandon the Equipment, the Equipment and Contractor's title to and interest in the same (except for Contractor's interest in the Software which shall remain owned by Contractor) will be deemed conveyed by Contractor to County "as-is", "where-is", and without any warranty, express or implied, whatsoever, including, without limitation, any warranty of merchantability, condition, or fitness for a particular purpose.

**Limited Warranties.** Contractor warrants that (i) the Equipment will be in good and usable condition for the duration of this Addendum; (ii) the Equipment conforms to specifications and documentation provided by the manufacturer and Contractor, and healthcare industry standards for interpretation equipment; (iii) the Equipment is free from any defects in manufacture, design and workmanship; (iv) Contractor has good title to the Equipment; and (v) to the extent any Equipment contains any third party materials, Contractor has obtained all permissions necessary to deliver the Equipment for all purposes set forth herein, and has obtained all rights necessary to grant the rights granted hereunder. Contractor will promptly replace Equipment that fails while this Addendum is effective, and County is not required to return failed Equipment. Contractor will send replacement devices as needed or requested by County. County can request break/fix onsite Contractor resource assistance if determined appropriate at no cost to County. This section states County's sole remedy with regard to Contractor's breach of this Equipment warranty. EXCEPT AS EXPRESSLY STATED IN THIS SECTION, CONTRACTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT. CONTRACTOR DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, WRITTEN OR ORAL, WITH RESPECT TO THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS REGARDING MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

**Waiver & Indemnity.** Irrespective of Contractor's negligence, Contractor shall have no responsibility for liability to County, and County waives any and all claims against Contractor with respect to (i) any liability, loss or damage caused directly or indirectly by any deficiency or defect in the Equipment; (ii) the use, operation or performance of the Equipment; or (iii) County's own operation, servicing, or maintenance of the Equipment absent Contractor's written instructions for Equipment use. Contractor shall indemnify and hold harmless County and its respective parents, subsidiaries, affiliates, directors, officers, employees, and agents, from and against any and all claims, demands, actions, losses, expenses, damages, liabilities, costs including, without limitation, reasonable attorneys' fees arising out of or substantially related to: (i) Contractor's failure to comply with any applicable law, rule, or regulation in carrying out the Contractor Services, (ii) any breach of this Addendum; (iii) death, personal injury or property damage

caused in whole or in part by the Services; and (iv) third-party claims asserting infringement or misappropriation of intellectual property or violation of proprietary rights, and, provided that County provides adequate notice of any pending claim, demand or action, Contractor shall defend County for any such claims. Contractor shall only be liable for its proportionate share of fault.

## **Attachment N End User Agreement**

The County agrees that its access and use of the Software is subject to the following terms and conditions (the “EUA”). This EUA applies to any use of the Software at any time.

### **Licensing & Rights.**

#### **LICENSE GRANT**

County may license access to the Software; the Software is not available for sale. Subject to County's payment of applicable fees and compliance with all other terms and conditions of this EUA, Contractor grants to County a non-exclusive, non-sublicensable, and non-transferable license to access and use the Software and Documentation solely for the Permitted Use during the Term; provided, however, that this EUA may be transferred in connection with an assignment permitted by this EUA. This license may be revoked due to County's non-compliance with this EUA.

#### **SCOPE OF LICENSED ACCESS AND USE RESTRICTIONS**

County may access the Software, including County Data, using County's credentials via a method designated by Contractor or as specified in the Documentation. There is no limitation on the number of Users that may access the Software. County may permit authorized third parties to access the Software, including its customers, consultants, contractors or others. County is responsible for the use of the Software by any of its Users, and a breach of this EUA by a User may constitute a breach by County. Users can only use the Software for a Permitted Use.

Except as this EUA expressly permits, County shall not, and shall not permit any other person to:

1. allow an unauthorized user to access the Software;
2. access the Software in any manner other than using a method designated by Contractor, bypass any security controls applied to the Software or Documentation, or disrupt the confidentiality, integrity, and availability of the Software;
3. use the Software for deceptive, harmful, misleading or illegal purposes;
4. modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of any Software;
5. copy, reverse engineer, disassemble, decompile, decode, or adapt the Software, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part;
6. rent, lease, sell, sublicense, assign, distribute, publish, transfer, use the Software as a component of a service bureau offering, or otherwise make available the Software to any third party except as permitted in this EUA;
7. remove, alter, obscure, combine, supplement, or otherwise change any proprietary markings or other symbols relating to the Software or Documentation;
8. use the Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right, privacy right, or right of publicity of any person, or that violates any applicable Law;
9. use the Software for benchmarking or competitive analysis,
10. develop, use, or provide a competing product or service or for any other purpose that is to Contractor's detriment or commercial disadvantage;
11. use the Software in connection with any use or application where such use could lead to personal injury or property damage; or
12. use the Software or Documentation other than for the Permitted Use or in any manner or for any purpose or application not expressly permitted by this EUA.

This EUA does not apply to Contractor's delivery of language services, which shall be subject to a separate written agreement between the parties, even if the Software is used to deliver such services.

## **UPGRADES**

During the Term, County shall have access to future upgrades, updates, enhancements and other extensions of the Software's functionality within the scope of County's license as they become generally available to Contractor's customers. Such upgrades shall be considered Software under this EUA. No such upgrades shall materially depreciate existing features, functionality or security controls.

## **TRIALS, EVALUATIONS AND PRE-RELEASE SOFTWARE**

Contractor may permit County access to the Software for a limited duration at no cost. Contractor may permit County access to a beta version of the Software. In either case, County's use of such Software is at its own discretion and risk, and Contractor does not provide any warranties, indemnification, service level commitment or support for such use.

**Intellectual Property.** As between County and Contractor, Contractor and its licensors are the sole and exclusive owners of all right, title, and interest in and to the Software, Documentation, and all related Intellectual Property Rights. County is licensing access to the Software and Documentation and County does not have any ownership interest in the Software, Documentation or any related Intellectual Property Rights, which remain subject to the terms and conditions of this EUA at all times. County's access is subject only to the limited license granted to it under this EUA, and there are no implied rights granted by waiver, estoppel, or otherwise.

## **COUNTY COOPERATION AND NOTICE OF INFRINGEMENT**

During the Term, County shall:

1. take commercially reasonable measures to safeguard the Software and Documentation (including any copies) from infringement, misappropriation, misuse, or unauthorized access;
2. reasonably assist Contractor in maintaining the validity, enforceability and Contractor's ownership of the Intellectual Property Rights in the Software and Documentation at Contractor's expense; and
3. promptly notify Contractor in writing if County becomes aware of (i) any actual infringement, misappropriation or other violation of Contractor's Intellectual Property Rights in or relating to the Software or Documentation, or (ii) any claim that the Software or Documentation, in whole or in part, infringes, misappropriates or otherwise violates the Intellectual Property Rights or other rights of any person.

## **RIGHTS TO FEEDBACK AND USAGE DATA**

County grants Contractor a perpetual, irrevocable, worldwide, transferrable, sublicensable, and royalty-free license to use, reproduce, distribute, and commercially exploit any comments, suggestions for improvement, or other feedback made by a User regarding the Software. Contractor and its Representatives may collect, process, use, retain and disclose diagnostic, technical, usage and other data related to a User's operation and use of the Software for the purposes of operating, analyzing, improving, marketing, and other business purposes related to the Software, provided that any such data shall not contain any County Data, personal data, protected health information, or similar sensitive information. If such data is shared, it will be shared without identifying the User or any individual user of the services. The User retains all rights to any County Data in accordance with this EUA.

**Confidentiality, Privacy & Security.** A Party may disclose or make available Confidential Information to the other Party in connection with this EUA. The Software and its Documentation are Contractor's Confidential Information. County Data is County's Confidential Information. A Party may not access or use Confidential Information other than as necessary to perform an obligation or exercise a right in connection with this EUA. A Party shall not disclose or permit access to the other Party's Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for a Party to perform its rights and obligations; (ii) are aware the information is confidential and the related obligations; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the

Confidential Information as the terms of this EUA. Each Party shall ensure its Representatives comply with this EUA, and a Party shall be responsible and liable for any of its Representative's non-compliance with the terms of this EUA. A Party shall safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its own confidential information and in no event less than a reasonable degree of care. Notwithstanding any other provisions of this EUA, a Party's obligations with respect to any Confidential Information that constitutes a trade secret under applicable law will continue until such Confidential Information ceases to qualify for trade secret protection under applicable law other than as a result of breaching the terms of this section. Contractor recognizes that County is subject to the California Public Records Act ("PRA"), Government Code §§7920.000, et seq. If requested pursuant to a PRA request to disclose any documents which contain Contractor's confidential information, County will give Contractor notice and a copy of such PRA request at least seven (7) days prior to the 10-day deadline established in Cal. Gov. Code § 7922.535(a) whereby County is required to determine whether the request, in whole or in part, seeks copies of disclosable public records in County's possession, to promptly notify the requestor of County's determination, and notify the requestor of the estimated date and time when the records will be made available. Contractor may request County withhold, or redact those portions of, such records that Contractor asserts are confidential or exempt from disclosure as provided under California law. Prior to any required disclosure, County and Contractor will discuss how County are responding and Contractor may seek a protective order, and County will reasonably cooperate with Contractor's efforts to protect any Contractor confidential information against disclosure, provided that in no event will County be required to initiate legal action to avoid the disclosure. If a requestor seeks to obtain the redacted information through a court proceeding, County will promptly notify Contractor allowing Contractor reasonable time to oppose such request. If, after Contractor receives notice in accordance with the preceding sentence, County is required to disclose such information by court order, then County may disclose such information pursuant to the requirements of the statute and such binding court order (except if Contractor may seek a stay of such court order, then not until Contractor's time to seek such stay has expired or the stay is finally denied). In the event that Contractor does timely file with a court of law to seek a protective order, only following the final judgment in such action, or earlier with Contractor's written consent or if Contractor's time to obtain such protective order has expired, may County disclose such information as required by law. In any court proceeding to restrict disclosure of Contractor's Confidential Information pursuant to a PRA request, Contractor will not unreasonably withhold its consent if County seeks to excuse itself from such proceeding, provided such excusal does not limit Contractor's ability to seek, assert, or enforce a protective order. Contractor agrees to defend, indemnify, and hold County harmless from any costs (including attorneys' fees) and damages claimed to be owed to the requestor under the PRA that are directly and proximately caused by County not disclosing, at Contractor's request, any document or portion thereof, to the extent such costs and damages are incurred during the period of beginning when County refuse to disclose such document or portion thereof at Contractor's request until the time that Contractor directs County to release such document or portion thereof (or, if Contractor fails to do so, until such costs and damages otherwise cease to be incurred); provided, however, that (i) County promptly notify Contractor in writing of any PRA request or other attempt to compel production of such Contractor's Confidential Information, promptly provide Contractor with the information reasonably required for the defense of the same, and grant Contractor exclusive control over the defense and settlement of the claim, and (ii) County have not, without Contractor's express written consent or a valid court order (except if Contractor may seek a stay of such court order, then not until Contractor's time to seek such stay has expired or the stay is finally denied), disclosed to any third party such Contractor's Confidential Information that Contractor has requested not to be disclosed.

## **SECURITY MEASURES**

The Software may contain technological measures designed to prevent unauthorized or illegal use of the Software. County acknowledges and agrees that: (i) Contractor may use measures to verify County's compliance with the terms of this EUA and enforce Contractor's rights, including all Intellectual Property Rights, in and to the Software; and (ii) Contractor may deny any individual access to and/or use of the Software if Contractor, in its sole discretion, believes that person's use of the Software would violate any provision of this EUA, regardless of whether County designated that person as a User. This information will be treated in accordance with Contractor's privacy policy located at [propio.com/privacy-policy/](http://propio.com/privacy-policy/) which

may be updated from time to time. Contractor will employ reasonable and appropriate administrative, organizational and technical measures to protect County Data from unauthorized access or disclosure.

### **USE OF COUNTY DATA FOR TRAINING ARTIFICIAL INTELLIGENCE ALGORITHMS**

Some offerings in the Propio Suite may use artificial intelligence. Any County Data submitted to the Software will be used solely for providing services to County in accordance with a written agreement between the Parties, and Contractor shall not use County Data for general training of the Software's artificial intelligence algorithm(s). Unless agreed otherwise in writing, artificial intelligence features enabled in County's instance of the Software will only be trained using County's Data or general data supplied or made available by Contractor. County Data shall be physically or logically separated from data supplied by anyone other than County such that all County Data can be irretrievably destroyed or rendered inert in accordance with County's instructions and Contractor's legal obligations. Except as set forth herein, Contractor shall not commingle County Data with any other data without County's express prior written permission, and if granted by County, Contractor shall only do so in strict compliance with County's instructions regarding the same.

### **Warranties.**

### **MUTUAL REPRESENTATIONS AND WARRANTIES**

Each Party represents, warrants, and covenants to the other Party that this EUA constitutes a binding obligation enforceable against each Party in accordance with its terms, and that each Party is duly organized and in good standing as a business entity that, with respect to this EUA, is authorized to agree to its the terms, perform as obligated by it, and grant the rights it is required to grant.

### **LIMITED WARRANTY**

The Software will substantially conform in all material respects with the Documentation when used as recommended in the Documentation and in accordance with this EUA. This warranty does not apply to the extent County's use of the Software is (i) with any technology or service not specified by Contractor; (ii) other than as specified in the Documentation or modified by County except as directed by Contractor in writing; (iii) used in combination with open source components, if any, which shall only be warranted as specified in the underlying open source license; (iv) custom modifications to County's specifications, a beta version, or for testing or demonstration purposes; or (v) gross negligence or intentional misuse. County is solely responsible for its own computing environment, networking equipment or services necessary to access the Software or Documentation, including telecommunication or Internet service providers. County's sole remedy and Contractor's sole liability for any breach of warranty shall be, as applicable, (i) Contractor's replacement, repair, restoration, or a work-around for any defective functionality; (ii) amendment of any materially incomplete or incorrect Documentation. Any warranty claim is dependent on County timely notifying Contractor of the defect and County's compliance with the terms and conditions of this EUA.

### **DISCLAIMER OF WARRANTIES**

EXCEPT FOR THE LIMITED WARRANTIES EXPRESSLY PROVIDED IN THIS EUA, COUNTY'S USE OF THE SOFTWARE, DOCUMENTATION AND ANY RELATED PRODUCTS, INFORMATION, MATERIALS, AND SERVICES PROVIDED BY CONTRACTOR ARE PROVIDED "AS IS" AND "AS AVAILABLE." CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, INCLUDING (1) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE; (2) THAT THE SOFTWARE, THE DOCUMENTATION, OR ANY RESULTS OF THE USE THEREOF, WILL MEET ANY SPECIFIC REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT; (3) BE INTEROPERABLE WITH ANY OTHER SYSTEMS OR SERVICES; OR (4) BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. COUNTY'S USE OF THE SOFTWARE IS AT COUNTY'S OWN RISK. COUNTY ACKNOWLEDGES ARTIFICIAL INTELLIGENCE FEATURES OF THE SOFTWARE ARE NOT CAPABLE OF RENDERING A PROFESSIONAL OPINION, WHETHER LEGAL, MEDICAL, OR OTHERWISE AND COUNTY SHALL NOT RELY SOLELY ON THE OUTPUT OF THE SOFTWARE TO

MAKE ANY MATERIAL DECISIONS. COUNTY DATA MAY CREATE BIAS IN THE SOFTWARE'S OUTPUT FOR WHICH CONTRACTOR IS NOT RESPONSIBLE. THE SOFTWARE'S OUTPUT SHOULD BE REVIEWED BY COUNTY FOR ACCURACY AND RELIABILITY. ANY OPEN- SOURCE COMPONENTS OR THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" WITHOUT WARRANTY BY CONTRACTOR AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN COUNTY AND THE APPLICABLE THIRD PARTY.

**Indemnity.**

**CONTRACTOR INDEMNIFICATION**

Contractor shall indemnify, defend, and hold harmless County its Indemnitees resulting from any third-party claims that the Software or Documentation infringes or misappropriates such third party's Intellectual Property Rights, US patents, copyrights, or trade secrets. Contractor's indemnity does not apply to the extent that the alleged infringement arises from:

1. County's use or incorporation of third-party services or materials, or the combination, operation, or use of the Software with any technology or service not provided by Contractor or specified in the Documentation;
2. modification of the Software or Documentation other than by Contractor;
3. custom modification of the Software or Documentation to County's specifications;
4. use of the Software after Contractor's notice to County that its use violates the terms of this EUA or other violation of a third party's rights;
5. negligence, abuse, or misuse of the Software or Documentation by or on behalf of County, County's Representatives, or a third party;
6. use of the Software or Documentation by or on behalf of County outside the purpose, scope, or manner of use authorized by this EUA or in any manner contrary to Contractor's instructions;
7. Open-Source Components, if any;
8. events or circumstances outside of Contractor's commercially reasonable control, including any third-party hardware, software, or system bugs, defects, or malfunctions; or
9. Third-party claims or losses for which County is obligated to indemnify Contractor.

**MITIGATION.**

If the Software, or any part of the Software, is claimed to infringe, misappropriate, or otherwise violate any third party Intellectual Property Rights, Contractor may, at its option and sole cost and expense, (i) obtain the right for County to continue to use the Software with the same material functionality; or (ii) modify or replace the Software, in whole or in part, in a manner that makes the Software or Documentation non-infringing, while providing materially equivalent features and functionality. If Contractor's commercially reasonable efforts described in this section fail, County may terminate this EUA effective immediately on written notice to County. Upon such termination, County shall immediately cease all use of the Software and Documentation and promptly provide County a pro rata refund of any fees prepaid by County for any remaining but unused part of the Term after such termination.

THIS SECTION SETS FORTH COUNTY'S SOLE REMEDIES AND CONTRACTOR'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR DOCUMENTATION OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

**COUNTY INDEMNIFICATION**

County shall indemnify, defend, and hold harmless Contractor and its Indemnitees from and against any and all third-party claims arising from or relating to:

1. County's use that violates, infringes or misappropriates the Intellectual Property Rights, privacy rights, or rights of publicity of any third party or violates applicable law;
2. County's use or combination of the Software by or on behalf of County with any technology not provided by or authorized by Contractor;
3. information, materials, or technology directly or indirectly provided or directed by Contractor to be installed, combined, integrated, or used with, as part of, or in connection with the Software or Documentation;
4. a breach by County of any representation, warranty, covenant, or obligation under this EUA;
5. relating to gross negligence or willful misconduct by or on behalf of County with respect to the Software or Documentation or otherwise in connection with this EUA; or
6. relating to use of the Software or Documentation by or on behalf of County that is not authorized by this EUA, the Documentation, or contrary to Contractor's other written instructions.

### **INDEMNIFICATION PROCEDURE**

Each Party shall promptly notify the other Party in writing of any claim for which such Party believes it is entitled to be indemnified and/or defended. The indemnifying Party shall not be obligated with respect to any claims where notice is not provided in a timely manner. The Party seeking indemnification shall cooperate with the other Party at its own sole cost and expense. The indemnifying Party shall promptly assume control of the defense and investigation of such claim and shall employ counsel of its choice for such claim. The indemnified party may engage its own counsel to participate in and observe the proceedings at its own cost and expense. The indemnifying Party shall not settle any claim without the Indemnitee's prior written consent, not be unreasonably withheld or delayed. The indemnified Party's failure to perform any obligations under this section will not relieve the indemnifying Party's obligations except to the extent that the indemnifying Party can demonstrate that it has been materially prejudiced as a result of such failure.

**Limitation of Liability.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST DATA, BUSINESS INTERRUPTION, HARM TO GOODWILL OR REPUTATION, OR COST OF REPLACEMENT GOODS OR SERVICES, AND REGARDLESS OF WHETHER SUCH CLAIM ARISES FROM CONTRACT, TORT, STRICT LIABILITY, IN EQUITY, OR ANY OTHER LEGAL THEORY, AND REGARDLESS OF WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THIRD-PARTY CLAIMS ARISING FROM OR RELATING TO A PARTY'S INTELLECTUAL PROPERTY RIGHTS OR INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY'S CUMULATIVE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID BY COUNTY TO CONTRACTOR RELATED TO THE SERVICE IN THE TWELVE MONTH PERIOD IMMEDIATELY PROCEEDING THE LAST TRANSACTION OR OCCURRENCE THAT GAVE RISE TO A CLAIM. NEITHER PARTY SHALL BE LIABLE FOR MORE THAN ITS PROPORTIONATE SHARE OF FAULT.

**Terms and Termination.** The duration of County's subscription to access and EUA is coterminous with this Agreement in accordance with Sections 4 and 5, above. . In addition to the termination provisions set forth in Section 5, above, this EUA may be terminated by either Party, effective on written notice to the other Party, if the other Party materially breaches this EUA and such breach is either is incapable of cure, or remains uncured for 30 days after the non-breaching Party provides the breaching Party with written notice of such breach. Contractor may immediately terminate this EUA effective immediately if County (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property. Upon the expiration or termination of this EUA, all rights, licenses and authorizations granted to County under

this EUA will immediately terminate and County will cease all use and exploitation of the Software and Documentation, and immediately pay any outstanding amounts due and payable to Contractor. Contractor may terminate County's access to the Software if County fails to timely pay any sums due and owing under this EUA and such arrearage persists after Contractor's written notice to County. Contractor may temporarily suspend or deny any access to or use of the Software that Contractor reasonably believes that violates any provision of this EUA or threatens the security, availability or confidentiality of the Software until such violation or threat is resolved to Contractor's reasonable satisfaction. The provisions set forth in the following sections, and any other right, obligation or provision under this EUA that, by its nature, should survive termination or expiration of this EUA, will survive any expiration or termination of this EUA: sections 2 (Intellectual Property), 3 (Confidentiality, Privacy & Security), 5 (Indemnity) and 6 (Limitation of Liability).

**Export Restrictions.** The Software may be subject to US export control laws, including the US Export Control Reform Act and its associated regulations. County will not directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any country, jurisdiction or person to which export, re-export, or release is prohibited by applicable Law. County will comply with all applicable laws and complete all required undertakings, including obtaining any necessary export license or other governmental approval, prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the US.

**Government Use.** Each of the software components that constitute the Software and the Documentation is a "commercial product" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Accordingly, if County is an agency of the US Government or any contractor therefor, County only receives those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

#### **Miscellaneous.**

#### **ENTIRE AGREEMENT**

This EUA and any Order Forms constitute the sole and entire agreement of the Parties with respect to the subject matter of this EUA and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between this EUA and an Order Form, the terms of the Order Form shall prevail.

#### **FORCE MAJEURE**

Neither Party will be liable or responsible for any failure or delay in fulfilling or performing any term of this EUA caused by any circumstances beyond a Party's reasonable control (a "**Force Majeure Event**"). Either Party may terminate this EUA if a Force Majeure Event affecting the other Party continues substantially uninterrupted for a period of 30 days or more. The affected Party will give prompt written notice to the other Party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

#### **FURTHER ASSURANCES**

On a Party's reasonable request, a Party shall execute and deliver all such documents and instruments, and take all such further actions, as may be necessary to give full effect to this EUA at its sole cost and expense.

#### **INDEPENDENT PARTIES**

The Parties are independent contractors, and nothing in this EUA will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

## **PUBLIC ANNOUNCEMENTS**

Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this EUA or, unless expressly permitted under this EUA, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association or sponsorship, in each case, without the prior written consent of the other Party, which shall not be unreasonably delayed or withheld.

## **LICENSE AUDIT**

County acknowledges and agrees that Contractor may reasonably verify County's compliance with the terms of this EUA and enforce Contractor's rights, including all Intellectual Property Rights in and to the Software. County shall reasonably cooperate with Contractor's requests for information from County. If County's license to use of the Software is via a third party platform integration, County shall the right to verify Contractor's compliance with the terms of such platform through reasonable means and Contractor will reimburse County for such verification if Contractor has materially violated such platform's terms.

## **NO THIRD-PARTY BENEFICIARIES**

This EUA is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this EUA.

## **AMENDMENT AND MODIFICATION; WAIVER**

No amendment to or modification of this EUA is effective unless it is in writing and signed by an authorized representative of each Party. No waiver of any provisions of this EUA is effective unless explicitly set forth in writing and signed by the Party waiving such provision. Except as otherwise set forth in this EUA, no failure or delay in exercising any rights or remedies arising from this EUA will operate or be construed as a waiver of such right or remedy, either in part or in whole. No single or partial waiver will preclude any further exercise of a Party's rights or remedies.

## **SEVERABILITY**

If any provision of this EUA is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this EUA or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this EUA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

## **ASSIGNMENT**

Neither Party shall assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this EUA without the other prior written consent, which shall not be unreasonably delayed or withheld, except that a Party may transfer its interest in connection with the sale of all or substantially all of its assets. Any purported assignment, delegation, or transfer in violation of this section is void. Notwithstanding anything to the contrary, this EUA is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns.

## **GOVERNING LAW & JURISDICTION FOR DISPUTES**

This EUA shall be governed by the internal laws of the state of California without regard to its choice or conflict of laws provisions. Any legal suit, action, or proceeding arising out of or related to this EUA or the licenses it grants will be instituted in the federal courts or state courts seated in San Mateo County, California, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

## **WAIVER OF JURY TRIAL**

Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any

legal action arising out of or relating to this EUA or any Order Forms.

## HEADINGS

The headings in this EUA are for reference only and do not affect the interpretation of this EUA.

## Interpretation

## RULES OF CONSTRUCTION

For purposes of this EUA: (i) the words “include,” “includes” and “including” are deemed to be followed by the words “without limitation”; (ii) the word “or” is not exclusive; (iii) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this EUA as a whole; (iv) words denoting the singular have a comparable meaning when used in the plural, and vice versa; and (v) words denoting any gender include all genders. The Parties intend this EUA to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this EUA to the same extent as if they were set forth verbatim herein.

## DEFINITIONS

**County** shall mean the person or entity named on the applicable Order Form.

**Confidential Information** means information in any form or medium that (1) if disclosed in writing or other tangible form or medium, is marked “confidential” or “proprietary” (2) due to the circumstances of its disclosure, is known to be, or would reasonably be understood to be, confidential. Confidential Information does not include information a party can demonstrate (1) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information; (2) is generally known by the public other than by breach of this EUA; (3) was or is received by a third party without obligation to maintain its confidentiality; or (4) was developed independent of reference or use of any Confidential Information.

**Documentation** means Contractor’s training materials, user manuals, handbooks, and installation guides relating to the Software/end user documentation relating to the Software that Contractor provides or makes available to Licensee in any form or medium that describes the functionality, components, features, or requirements of the Software.

**Indemnitee** means a Party’s officers, directors, employees, agents, permitted successors, and permitted assigns.

**Intellectual Property Right** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property right laws, and all similar or equivalent rights or forms of protection, in any part of the world.

**Order Form** means a purchasing document mutually executed by the Parties that describes the payment terms, Term, and other transaction-specific terms and conditions.

**Open-Source Component** means any software component that is subject to any open-source license agreement.

**Permitted Use** means use of the Software by a User for the in the ordinary course of County’s internal business operations.

**Contractor** shall mean Propio LS, LLC and its affiliates.

**Representative** means, with respect to a Party, that Party’s and its affiliates’ employees, officers, directors, consultants, agents, service providers, sublicensees, and legal advisors.

**Software** means Contractor’s proprietary software-as-a-service accessed via a web browser or supported mobile application, and includes without limitation Propio ONE, Propio Analytics, WorkforceOS, and/or Vu, as the case may be, and includes any artificial intelligence features contained therein.

**Term** means the duration of County’s subscription to the Software as established in the applicable Order

Form.

**User** means a person authorized by County to use the Software.

**County Data** means all electronic data and information submitted by or on behalf of a User and stored in Software, excluding the feedback and usage data described in paragraph 2(B).



## Vendor/Contractor Access Policy

Policy Update: 10/22/2018

### Overview

Vendors/Contractors play an important role in the support of hardware and software management for San Mateo County. They may be required to access, configure, maintain, and provide emergency support for systems. As a result, the vendor/contractor can be exposed to sensitive data or the need to connect to the County's network may expose the County to unwanted virus or security threats.

### Policy Purpose

The purpose of this policy is to establish rules and responsibilities for the vendors/contractors who require not only physical access but also access to the County's network and information resources. This policy is intended to minimize potential exposure from damages and to mitigate any liability to the County as a result of unauthorized use.

### Scope

This policy applies to all vendors/contractors who require access to County facilities as well as access to the County's network using non-County owned computing devices to perform work on behalf of the County. This policy also applies to all portable computers (laptops) and portable computing devices (devices that have similar hardware and software components used in personal computers such as a tablet PC).

### Policy

Vendor/contractors shall:

- A. Only use information and systems for the purpose of the business agreement with County and any information acquired in the course of the agreement shall not be used for personal purposes or divulged to others.
- B. All contractors and vendors contracting with the County shall provide a list of its employees that require access to the County's system and data pursuant to the agreement
  1. The list shall be updated and provided to the Departments and Chief Information Officer (CIO) or his/her designee within 24 hours of staff changes.
- C. Safeguard all County data by:
  1. Utilizing data encryption to protect information on computing devices.
  2. Securing the computing device at all times; especially if the device is left unattended for any length of time.

3. Implementing precautions to prevent others from viewing on-screen data in public areas.
  4. Notifying the County immediately if the mobile device containing County data or used in the performance of County activities is lost or stolen.
  5. Not downloading, uploading, or maintaining, on a computing device, any information that is considered sensitive without authorization of his/her Project Manager or Department Head or his/her designee.
- D. Vendor/contractor shall use unique accounts and password management that complies with the County's Information Technology (IT) Security Policy.
1. All passwords and accounts shall be unique to the vendor/contractor and shall not be shared.
- E. Vendor/Contractor shall take reasonable steps to protect against the installation of unlicensed or malicious software.
1. All commercial software installed must have a valid license and that the terms, conditions, and copyright laws shall be strictly followed.
- F. All County-owned software installed on the computing device must be removed when the vendor/contractor services are terminated.
1. Upon termination of work, the vendor/contractor shall return or destroy all County information and data as well as provide written certification of that return or destruction within 24 hours.
- G. Remote access rules and procedures shall be strictly adhered to.
1. Remote access usage must be confined to provide support for County systems; personal use shall be strictly prohibited.
- H. In the event that a vendor/contractor disposes of a computing device containing County's confidential information and/or data, the device must be sanitized in such a way that does not allow for the retrieval of data and by Department of Defense (DOD) standards.
1. Alternatively, computing devices may be physically destroyed by a method that leaves the device's data unrecoverable.
- I. Vendor/contractor understands that its written security protocols for County-related business shall be available for inspection by the County upon request.
1. For the period that the computing device is on the County's network, there is no expectation of privacy with regard to the contents of the device despite the fact that it is a privately-owned equipment.
- J. Vendors/contractors must wear visible identification and if issued a County cardkey, the cardkey must be visible at all times. Use of another individual's cardkey is expressly prohibited.
- K. Vendor/Contractor access to County data center(s) must be authorized and approved in writing by the Chief Information Officer (CIO) or his/her designee.

## **Responsibilities**

The vendor/contractor will be responsible for assuring that anti-virus software, with scanning and update services be applied, is installed on its computing device used for County business and that the anti-virus software meets the requirements as set forth in the County's IT Security Policy and the Virus, Patch, and Vulnerability Management Policy. Vendor must also ensure that all computing devices have operating system security patches installed and are updated on a regular basis.

Additionally, computing devices, such as laptops and/or tablets, must include an approved encryption program with configuration that meets or exceeds the County's IT Security Policy.

Vendor/Contractor device(s) may connect directly to the County network with express written approval from the CIO or his/her designee. The Vendor/Contractor must verify to the County that the device(s) have been patched, virus protected, and encrypted. Vendors using devices without approved software and encryption will not be permitted to connect to the County's network.

It is also the responsibility of the vendor/contractor to be familiar with the following policies to ensure its adherence:

- IT Security Policy
- Internet Usage Policy
- Email Policy (if applicable)
- Virus, Patch, and Vulnerability Management Policy
- Data Center Policy

### **Policy Enforcement**

The Director of ISD (CIO) is the policy administrator for information technology resources and will ensure this process is followed. Additionally, Division Directors, Department Heads, and managers are responsible for compliance with County policy within their respective administrative areas.

Those vendors who violate this policy may be subject to contract termination, denial of service, and/or legal penalties, both criminal and civil.

### **Revision History**

<b>Effective Date</b>	<b>Changes Made</b>
November 1, 2004	Policy established
October 22, 2018	Policy updated