

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
CORODATA**

THIS AGREEMENT, entered into this __ th day of _____, 2015, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Corodata, hereinafter called "Contractor";

W I T N E S S E T H:

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

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of Document Management Services.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO 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

Attachment H – HIPAA Business Associate Requirements

Attachment I – § 504 Compliance Declaration

2. Services to be performed by Contractor

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

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein 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 for the initial five-year term exceed nine hundred thousand dollars. (\$900,000.00).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from September 1, 2015, through August 31, 2020.

This Agreement may be terminated by Contractor, the County Purchasing Agent, or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as 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 materials. 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 portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon 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.

6. 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.

7. Hold Harmless and Limitation of Liability

7.1. Hold Harmless.

7.1.1. Duty of Contractor. Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (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 with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be liable by reason of its own

negligence or willful misconduct.

7.1.2. Duty of County. County shall indemnify and save harmless Contractor, its officers, agents, employees and servants from all claims, suits, or actions of every name, kind and description which result solely from County's negligence in regard to County's responsibilities under this agreement.

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

7.2. Limitation of Liability

7.2.1. General Limitation. CORODATA SHALL BE LIABLE ONLY FOR ITS FAILURE TO USE ORDINARY CARE AND THEN ONLY TO THE VALUE-PER-CONTAINER SET FORTH HEREIN. CONTRACTOR IS NOT RESPONSIBLE FOR ANY LOSS OR DAMAGE TO MATERIALS CAUSED BY NEGLIGENT ACTS OR OMISSION OF THE COUNTY, OR OTHER SUCH CIRCUMSTANCES BEYOND THE CONTROL OF CORODATA, INCLUDING, BUT NOT LIMITED TO NATURAL DETERIORATION, TEMPERATURE, DAMPNESS OF ATMOSPHERE, FIRE INHERENT DEFECT IN THE MATERIALS, ACTS OF WAR OR CIVIL UNREST, INSURRECTION, STRIKES, SEIZURE OF LEGAL PROCESS, LABOR TROUBLES, RIOTS, EARTHQUAKE, NATURAL DISASTERS OR ACTS OF GOD.

CORODATA DOES NOT REPRESENT OR WARRANT THAT ANY WAREHOUSE FACILITY IS FIREPROOF OR THAT THE CONTENTS OF THE WAREHOUSE FACILITY, INCLUDING THE STORED MATERIALS, CANNOT BE DESTROYED BY FIRE. CORODATA SHALL NOT BE REQUIRED TO PROVIDE A WATCHMAN AND FAILURE TO PROVIDE A WATCHMAN SHALL NOT CONSTITUTE NEGLIGENCE OF CORODATA.

County understands and acknowledges that normal deterioration and aging of all record media occurs with time.

Stored Materials are not insured by Corodata against loss, damage, or destruction, however caused.

7.2.2. Limitation for Secured Destruction Services. Corodata shall not be responsible or liable in any manner whatsoever for County's release or loss of any materials provided to Corodata for secure destruction, or any damages to County as a result of any release or loss, unless such release or loss is due to Corodata's failure to exercise ordinary care. In no event shall Corodata be liable for any release or loss or any delay or failure in its performance of Destruction Services caused by circumstances beyond the

control of Corodata, including, but not limited to inherent defect of the materials, seizure of legal process, governmental actions, labor unrest, riots, unusual traffic delays, natural disasters, or acts of God. Corodata shall not be charged with any knowledge of the content of materials provided by County to Corodata for destruction.

Corodata's maximum liability for any claims arising with respect to the Destruction Services provided under this Agreement shall not exceed the limits of insurance per contract section 9.2. In no event shall Corodata be liable for any consequential, incidental, special or punitive damages resulting from record destruction services.

7.2.3. Declared Value. County hereby declares the value of Stored Material to be \$2.00 per container. County understands and agrees that Corodata's liability for any loss, damage, or destruction of the Stored Materials is limited to the declared value unless other provisions are made in writing. This includes any loss or damage, which may be caused by Corodata or its employees, agents or contracts. In no event shall the company be liable for any consequential or incidental damages.

SUCH LIMITATION OF LIABILITY SHALL APPLY REGARDLESS OF THE CAUSE OF LOSS, DAMAGE OR DESTRUCTION OF THE STORED MATERIAL.

7.3. Claims

Claims by County for loss, damage, or destruction must be presented in writing to Corodata within a reasonable time and in no event longer than one hundred and twenty (120) days after County is notified by Corodata that loss, damage, or destruction to part of all of the Stored Material has occurred, whichever time is shorter.

No claim, may be maintained by County or others against Corodata for loss, damage or destruction of the Stored Material by Corodata pursuant to this agreement, unless timely written notice of the claim has been given as provided herein, and unless by Corodata of the Stored Material, or within nine months after County is notified that loss, damage or destruction to part or all of said Stored Material has occurred, whichever is shorter.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof 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.

County shall not assign any rights, liabilities or obligations of County under this Agreement without the express consent of Corodata, which Corodata may withhold at its discretion. Regardless of any assignment, County remains fully liable for County's obligations under this Agreement.

9. Insurance

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.

- (1) **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, (a) that 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) that it will comply with such provisions before commencing the performance of work under this Agreement.
- (2) **Liability Insurance.** Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage 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 which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or by an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amount specified below.

Such insurance shall include:

- | | | |
|-----|---|-------------|
| (a) | Comprehensive General Liability | \$1,000,000 |
| (b) | Motor Vehicle Liability Insurance | \$1,000,000 |
| (c) | Professional Liability. | \$1,000,000 |

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.

10. 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, and regulations, 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 handicap in programs and activities receiving any Federal or County financial assistance. 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 or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

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

11. **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 handicapped individual 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 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.* With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:
- ☒ Contractor complies with Chapter 2.84 by:
 - ☒ offering the same benefits to its employees with spouses and its employees with domestic partners *Sy*
 - ☐ offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
 - ☐ Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
 - ☐ Contractor does not comply with Chapter 2.84, and a waiver must be sought.

E. *Discrimination Against Individuals with Disabilities.* The Contractor shall comply fully with the nondiscrimination requirements of 41 C.F.R. 60-741.5(a), which is incorporated herein as if fully set forth.

F. *History of Discrimination.* Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:



No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.



Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

G. *Violation of Non-discrimination provisions.* 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 Manager, including but not limited to the following:

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on 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 Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this Section and/or to set off 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.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations 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 the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

12. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that a contractor shall have and adhere to a written policy providing that its employees, to the extent they 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 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."

13. Retention of Records, Right to Monitor and Audit

(a) Contractor shall maintain all required records for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit of County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: Contractor shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State, and local agencies, and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representatives, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

14. Merger Clause & Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated herein 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.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, 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 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.

16. 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: Tony Crapo
Address 455 County Center – 4th Floor
Redwood City, CA 94063
Telephone: 650-363-4857
Facsimile: 650-599-1702
Email: tcrapo@smcgov.org

In the case of Contractor, to:

Name/Title: Corodata Records Management, Inc.
Address: Attn: Jack Barnes, Manager
450 Charcot Avenue
San Jose, CA 95131
Telephone: 408-428-1100
Facsimile: 408-428-0740
Email: jbarnes@corodata.com , mwebb@corodata.com

Notice of any change of address of County must be given by County to Corodata, in writing and acknowledged in writing by Corodata on the following monthly statement.

17. Electronic Signature

If 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, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☒ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☐ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO


By: _____
President, Board of Supervisors, San Mateo
County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Corodata

By:  _____
Contractor's Signature

Date: 8-27-15

(Revised 7/1/13)

Exhibit A

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

A. Services

Contractor shall provide the following services upon request by County or a Client:

A.1. Secure Delivery

Upon Client's request, for the fees specified in Exhibit B hereto, Contractor shall provide pick-up and delivery service for Client materials or storage supplies. Corodata shall transport County materials on its own fleet of vehicles, equipped with a monitored GPS tracking system and alarmed security systems.

A.2 Secure Storage

Contractor shall provide safe and secure storage for County records ("Stored Materials") at Corodata's facility located at 450 Charcot Avenue in San Jose, California. Contractor's San Jose facility is the only facility Contractor is authorized to use for the storage of County's records. County agrees and understands that the County's records containers will not all be shelved contiguously within Contractor's facility, as a routine security measure to thwart search efforts by unauthorized persons.

Following the initial transfer of County's archive to Contractor's facility, Clients may tender additional records containers for storage, using Contractor's "Transmittal Form". Such additional materials shall, unless otherwise indicated in writing, be deemed to be held under the same terms and conditions, and will, from the date of tendering for storage to Corodata, be deemed Stored Materials. In the absence of a separate executed contract, the act of tendering records and/or material for storage and/or other services by Corodata constitutes Client's acceptance of the terms, conditions and rates contained in this Agreement.

Contractor shall maintain facility safety and security as provided in Section C.2 herein.

B.4. Retrieval Records

Upon Client's request, for the fee specified in Exhibit B hereto, Contractor shall provide retrieval delivery of records to Client's office or the specified County Pony Mail location. Standard delivery time shall be the next business day (within 24 hours), and Contractor shall provide expedited retrieval delivery, on request, for an additional "Rush Service" fee. Such order may be given in person, by telephone or in writing, using Contractor's "Service Request Form", or Contractor's web-based "RSWEB.NET" tool.

Stored Material and information contained in said Stored Material shall be delivered only to Client's Authorized Representative(s) identified on the signature card ("Security Form" attached hereto as Exhibit A-5) on which the Client represents that

the Authorized Representative(s) has/have full authority to order the Client-specified service(s) for or removal of the stored material and to deliver and receive such materials. Corodata shall be responsible for comparing all written service requests to the Client's signature card records, and shall not release any records or perform any other service where the signature do not match. Further, whenever a requester presents him/herself at Contractor's facility and desires to access Stored Materials, Contractor shall require the person to present a valid form of photo ID when signing the visitor roster or tendering any service request form. Upon full compliance with these precautionary measures, Contractor shall not be liable to Client for granting access to the Stored Material to any person having thus represented him or herself as a person named on the signature card.

When Stored Materials are ordered out, Corodata shall be given a reasonable time to carry out said instructions, and if it is unable to do so (or to provide any other service herein contemplated) because of, including, but not limited to, acts of God or public enemy, seizure or legal process, natural disasters, strikes, lockouts, riots and civil unrest, or other reason beyond Corodata's control or because of loss or destruction of goods for which Corodata is not liable, or because of any other excuse provided by law, Corodata shall not be liable for failure to carry out such instructions or services.

B.5. Confidential Destruction or Records

B.5.1. Services. Upon authorized instruction by Client or Client's authorized representative, using "Destruction Request Form", at Client's cost and expense as specified in Exhibit B hereto, Corodata will provide services for the certified, secure, confidential destruction of material ("Services") in a professional manner and will furnish a Certificate of Destruction upon Client's request. The Services may, at Client's option and as indicated on the Schedule of Rates herein, be performed as part of a regular schedule or pursuant to specific directions from Clients. Clients may also request custom Services not set forth on the current Schedule A, in which case Corodata will consult with Clients as to the terms and conditions of the Services requested. Storage bins provided to Clients shall remain the property of Corodata at all times. Corodata shall implement commercially reasonable efforts to protect the confidential nature of the materials.

Corodata agrees to provide the following services:

- Provide bins to Clients for the storage of materials to be destroyed by Corodata;
- Pick up materials at designated Client locations with minimal or no disruption to Client's operations;
- Provide secure transportation of materials to the location providing destruction;
- Provide a Certificate of Destruction upon Client's request.

B.5.2. Warranty of Authority. Each Client that requests Confidential Destruction services shall be required to authorize at least two individuals to execute Corodata's "Destruction-Request Form" whereby the Client:

(1) warrants that Client is the owner, legal custodian or otherwise has the right to deliver for destruction any and all materials that Client provides to Corodata;

(2) represents that Client has full authority to do so, has received all required consents, and that the two authorized signatures are sufficient to bind the Client on whose behalf the Destruction Request is submitted; and

(3) agrees to reimburse Corodata for any expenses reasonably incurred by Corodata (including reasonable legal fees and costs) by reason of Corodata complying with its obligations under the Destruction Request in the event of a dispute or claim concerning the destruction.

Corodata may act in reliance upon any instruction, instrument, or signature provided by a Client and reasonably believed by Corodata to be genuine, and may assume that any of a Client's employees giving any written notice, request, or instruction has the authority to do so. Client releases Corodata from any and all liability by reason of the destruction of such Stored Material pursuant to such authority.

Corodata shall prepare and transmit to Client a "Destroy Pre-Work Order" that lists all the containers to be destroyed and their identifying barcode numbers, and Client shall verify that the Destroy Pre-Work Order is correct and return the verified list to Corodata.

Corodata shall comply with applicable laws, statutes, regulations, and ordinances.

Clients shall not be required to sign Corodata's standard "Confidential Destruction Agreement for Services." Instead, Client's authorized signatures on Corodata's "Destruction Request Form" shall constitute acceptance of the procedures and instructions set forth herein and of the terms and conditions set forth in this Agreement.

B.5.3. Confidentiality of Destruction Services. The provisions of Section C.1. herein shall apply to all Confidential Destruction Services.

Corodata may comply with any subpoena or similar order related to materials provided to Corodata for destruction; provided that it shall notify County promptly of any subpoena or notice requiring production of County's records and shall not produce any records until or unless County has had a reasonable time within which to move to quash the subpoena. County shall pay Corodata's reasonable costs and fees for such compliance.

B.5.4. Cooperation. Client shall cooperate with Corodata regarding performance of the Destruction Services, subject to normal security requirements and in manner that is not unnecessarily disruptive to Client's business operations, by providing Corodata such information, data, access to premises, management decisions and approvals as may be reasonable to permit Corodata to perform said Services. Corodata shall use all reasonable efforts to avoid the disruption of normal operations of Client.

Clients, and their employees, agents and contractors, shall observe and comply with all procedures and rules of Corodata, as necessary to ensure the smooth operation of Corodata's business, and the safety, care and management of the premises.

Clients, and their employees, agents and contractors, shall be permitted, upon reasonable notice to be present and observe and monitor the destruction process.

B.5.5. Services by Third Parties. It is the parties' intention and understanding that Corodata will perform all confidential destruction services in-house with its own employees. However, Corodata may procure the services of any responsible third party to perform all or part of the Destruction Services, insofar as said third party complies with all security standards, contract requirements, and procedures required of Corodata by a Client, and further that said third party shall accept in writing the fiduciary responsibility requisite of the transfer of custody of the materials. Corodata shall remain liable for all Services performed by Clients. Corodata will record all custody transfers and/or the use of any third party to render contracted services to Clients, and, at a Client's request, make Clients aware of any use of any third party, including their identity.

B.5.6. Negotiable Items. Corodata shall not be responsible or liable for any loss or damage sustained in connection with any negotiable items, such as commercial documents, bank checks, promissory notes, etc., that are provided to Corodata for destruction.

B.6. Inventory Management and Reports

Upon Client's request, using Contractor's "Inventory Report Request Form", for the fee specified in Exhibit B hereto, Contractor shall provide a printed report of Client's container inventory.

B.7. Storage Supplies

Upon request, Contractor shall provide additional barcode labels for future containers, and storage cartons and container seals shall be provided, for the fees specified in Exhibit B hereto.

B.8. On-Site Records Access

Upon advance notice, Contractor shall provide dedicated use of an on-site viewing room at Corodata's facility where Clients can work with Client's records and have access to Contractor's copiers and fax equipment.

B.9. Consultation Services and Special Projects

Upon Client's request, Contractor shall provide consultation services or other custom project services, at a cost to be mutually agreed with the Client.

C. Additional Terms and Conditions

C.1. Confidentiality

C.1.1. Definition. Corodata shall exercise professional and reasonable care in protecting County's "Confidential Information". which is defined to include:

Confidential Stored Materials. Corodata hereby agrees and understands that it is not authorized to make any determinations as to whether stored records are public records or are confidential, and therefore will treat all Stored Materials and the information contained in them as confidential until and unless advised to the contrary by the County. Corodata shall protect said records from release or disclosure without the prior written authorization by County or an authorized representative thereof, Client, including the protections required by HIPAA, as set forth in Section 10 of the Master Agreement herein.

C.1.2. Signature Card. Corodata shall provide each Client with a signature card (called the "Security Form") to be signed by all persons authorized to access Client's records. Only those persons named on the signature card will be authorized to access Client's records. It is Client's sole responsibility to have the signature card signed by all authorized persons and returned to Corodata. It is Client's sole responsibility to notify Corodata, in writing, of any changes to the list of persons authorized to access Client's records. Corodata shall not be liable to Client for granting access to Client's records to any person representing him or herself as a person named on the signature card.

C.1.3. Backgrounds Checks and Access to Stored Materials. In support of ensuring the proper custody of handling of Stored Materials and the information they contain, Corodata shall, prior to commencing employment or a new position within Contractor's organization and at least annually thereafter, conduct thorough background checks, including criminal, civil court, and credit reporting agencies, of all of Corodata's employees, sub-contractors, or other agents who have or will have access to County's records or the authority to enable such access by others.

Corodata's employment and contracting policies shall provide for the immediate rescission and prevention of such access or authority from any employee or agent immediately upon Contractor's discovery and reasonable determination that the employee or agent has demonstrated material dishonesty or relevant unlawful

behavior by either: (1) misrepresenting or falsifying a material fact about the employee's identity or background when offering services to Contractor, or (2) has been found by a court of law, a law enforcement agency, or a credit reporting agency to have engaged in conduct from which a reasonable person would conclude that the individual should not be entrusted with access to County's records or the information contained therein.

C.1.4. Notice of Breach. In the event Contractor discovers that the confidentiality of County's records has been or may been breached, Contractor shall immediately so notify County in writing, and shall immediately notify by telephone each Client whose records appear to have been effected, and Contractor shall identify the measures it has taken to identify the cause and scope of the breach and all measures taken to mitigate loss and prevent recurrence, and shall provide a written post-incident report to County which summarizes this information.

C.2. Facility Safety and Security

Contractor shall, at all time, take all necessary steps to ensure that the storage facility, transport vehicle, and other locations where County's materials are stored or handled shall be equipped with adequate protection and prevention systems that are compliant with all applicable laws and regulations and sound business practice so as to protect County's materials against the risks of damage or loss by fire, flood, seismic activity, theft, or unauthorized access.

Further, Contractor shall provide to County evidence of, and maintain during the term of the contract, an Emergency Plan and a Disaster Recovery Plan designed to mitigate loss to County's materials.

County or Clients shall not deliver to Corodata any material considered to be highly flammable, explosive, toxic, radioactive, or dangerous or which is regulated under my federal or state law or regulation relating to hazardous materials, or organic material which may attract vermin or insects, or any narcotics, or any other materials which are otherwise illegal, dangerous and unsafe to store or handle in an enclosed area. In the event of the accidental or negligent custodial transfer of hazardous or regulated waste, including biohazard, County agrees to arrange to appropriately, safely and legally assume custody of such hazardous materials at County's expense.

Corodata reserves the right to open and refuse acceptance of records materials, which fail to comply with the Company's storage restrictions and guidelines.

C.3. Cooperation and Compliance

County hereby agrees that it, and its employees, agents and contractors, shall observe and comply with all operating procedures and rules of Corodata, and shall cooperate with the employees, agents and contractors of Corodata, as necessary to ensure the smooth operation of Corodata's business and the safety, care and management of the premises in providing the services specified under this Agreement.

Corodata may act in reliance upon any instruction, instrument, or signature received from County or a client which is reasonably believed by Corodata to be genuine, and may assume that any Client's employees giving any written notice, request, or instruction has the authority to do so.

C.4. Ownership of Stored Materials

County warrants and represents that it is the Owner or legal custodian of the Stored Material and has lawful possession of and legal authority to store its materials in accordance with the terms and conditions set forth herein.

C.5. Warehousemen's Lien

Corodata hereby waives the right to claim a warehouseman's lien against the Stored Materials, as would otherwise be available under the Uniform Commercial Code. Corodata's remedies for breach or default of performance by County are solely those specified in this Agreement.

C.6. Relocation of Stored Materials

Contractor shall not relocate any Stored Materials to another facility without the prior written approval of County and of all Clients whose records are included in the collection proposed to be moved. To preserve its ability to provide government services following a natural or other disaster, in no event will County approve relocation to a facility beyond the San Francisco Peninsula, such that access to the Stored Materials by County personnel would require driving across a bridge spanning the waters of the San Francisco Bay. An agreed relocation shall not interfere with Corodata's enforcement of its lien rights.

C.7. Disaster Recovery Coordination

Contractor shall provide to County, upon completion of the initial transfer of County's Stored Materials to Contractor's storage facility, a Disaster Recovery Plan document which describes the roles and responsibilities of County and Contractor in the event of a natural disaster or other calamity which requires the implementation of recovery services to mitigate loss to County's Stored Materials.

Exhibit B
FEES, PAYMENTS & RATES

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

A. Fees for Services

In consideration for Contractor's performance of the services described in Exhibit "A" hereto, County and Clients shall pay the fees incurred by each of them at the rates specified in the current Schedule of Rates set forth herein (Schedule A) and any subsequent revisions thereto. For any other service not listed on Schedule A which is requested by a Client, charges will be as agreed to in writing by the Client and Corodata to the rendering of such Services.

Notwithstanding the provisions of the foregoing paragraph, Contractor reserves the right to assess a Supplemental Energy Charge that reasonably reflects current energy market rates.

B. Schedule of Rates (Schedule A):

Storage: (See Notes 1 and 2 below)		
Minimum monthly storage charge (per Client, per month)		\$0.00
Standard record storage carton		0.155/30 days
Check carton		0.155 / 30 days
X-ray carton		0.155 / 30 days
Transfer case (legal or letter)		0.50 / 30 days
Plan carton		0.30 / 30 days
Odd size cartons (rounded up to the nearest cube 1,3,5, etc.)		0.50 / 30 days
Other Services:		
Retrieve/Refile container (per container)		\$1.60 ea.
Retrieve/Refile file folder (per file folder)		\$1.80 ea.
Search for file (per file folder)		\$1.80 ea.
Container added		\$1.10 ea.
File folder added (charged when retrieving file folder for first time)		\$0.50 ea.
Container-level data entry per line-description field-second line & over		\$0.30 ea.
Special reports (Two "Full" Reports per year and one monthly "Monthly Added" report are provided at no charge)		\$15.00 ea.
Online access to information and reports		Free
Repack carton (materials additional)		\$1.25 ea.
Permanent removal (retrieval not included)		\$1.95 ea.
Faxing (per page) Note: We estimate that about a third of our retrieval requests will ask for faxing of a few pages		\$1.00 ea.
Copying (per page)		\$0.50 ea.
Standard carton destruction (retrieval included)		\$6.25 ea.
Special projects labor (per hour)		\$35.00 per hour

Materials:		
	Standard record storage carton	\$2.50 ea.
	Plan carton	\$6.00 ea.
	Cor-O-Seals (20 per pack)	\$19.99 ea.
Transportation:		
	Record storage carton (per carton)	\$2.00 ea.
	Non-standard carton (transfer, odd-size cartons; per carton)	\$2.50 ea.
	File folders	\$0.80 ea.
	Trip charge: Next Day (call by 4PM, delivered by 5PM next day)	\$5.50
	Trip charge: 4-Hour Rush	\$13.00
	Trip charge: 2-Hour Rush	\$29.00
	Trip charge: Emergency Service	\$200.00
	Rush Retrieval (per container or file folder, added to Rush Trip charge)	\$3.45
	Destruction (un-barcoded boxes at Clients site, plus Trip Charge)	\$6.50 ea.
	NOTES: 1) FREE PERIOD – Corodata will furnish 6 months FREE Storage to be incorporated at the start of new 5 year contract. 2) Storage rate for Standard Record Storage Coartons, X-Ray Cartons and Check Cartons will be reduced to .155 from .16 on the current rate schedule. 3) 5 YEAR RATE LOCK – All rates will remain the same with no increase over the 5 year term and any extension period the agreement may provide. *Inventory and cartons added reports are free of charge. ** per container or file folder, added to Rush Trip charge.	

C. Invoices

Contractor shall establish individual billing accounts for each Client, and each Client shall be responsible for payment and management of its own account. Contractor shall issue invoices to each Client on a monthly basis.

D. Payments

Payment is due and payable upon receipt of the invoice and no later than 30 days of the date of the invoice. Monthly rates shall be due in advance. For Stored Material received during a month or stored for a portion of a month, charges will be assessed according to the Schedule of Rates. Additional charges, if any, shall be paid simultaneously with the monthly rates.

A finance charge at the legal rate of interest in this state will be assessed on the entire unpaid balance of the account if charges remain unpaid within thirty (30) days after the date of the invoice.

In no event shall the total amount due under this Agreement exceed the amount listed in Section 3 of the main body of the Agreement.

The term of this Agreement shall be as listed in Section 4 of the Agreement.

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

☐ a. Employs fewer than 15 persons.

☒ b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person:

Maria Obregon

Name of Contractor(s):

CORODATA RECORDS MANAGEMENT, INC.

Street Address or P.O. Box:

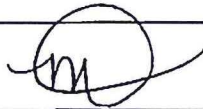
450 CHARCOT AVE.

City, State, Zip Code:

SAN JOSE, CA 95131

I certify that the above information is complete and correct to the best of my knowledge

Signature:



Title of Authorized Official:

HR Director

Date:

8/27/15

*Exception: DHHS regulations state that: "If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

Attachment H

Health Insurance Portability and Accountability Act (HIPAA)

Business Associate Requirements

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 164.503 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 164.501.
- 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.

PERMISSABLE 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 Protected 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.