

DN CO AGMT # 2024-241

**AGREEMENT FOR PLACEMENT OF JUVENILE COURT WARDS
AT MENDOCINO COUNTY JUVENILE HALL**

This agreement is entered into this 10th day of Dec., 2024, by and between the County of Mendocino, a political subdivision of the State of California ("Mendocino County") and the County of Del Norte, a political subdivision of the State of California ("Placing County") for the purpose of allowing Placing County to place wards or youth with pending wardship petitions of the juvenile court ("Placing County Ward") in the Mendocino County Juvenile Hall ("the Facility") on a space-available basis.

WHEREAS, Mendocino County, by and through the Mendocino County Probation Department, maintains and operates the Mendocino County Juvenile Hall, a juvenile facility (hereinafter Juvenile Hall) pursuant to Article 23 of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, and said facility has accommodations in excess of Mendocino County's needs and is, in part, available for use by Del Norte County for placement of juveniles; and

WHEREAS, Del Norte County has a need for juvenile detention facilities and a desire to place minors in Mendocino County pursuant to order of its juvenile court; and

WHEREAS, Del Norte County desires for such placement of minors to comply with the provisions of Welfare and Institutions Code Section 870 and, as referenced therein, Government Code Section 6500 *et seq.*; and

WHEREAS, the parties desire to enter into an agreement which sets forth each party's rights and responsibilities regarding the placement of juveniles in the Mendocino County Juvenile Hall by Del Norte County.

NOW, THEREFORE, the parties hereto mutually agree as follows:

Section 1. JOINT EXERCISE OF POWERS.

Mendocino County shall be able to exercise all powers necessary to operate a Juvenile Hall which are vested in the County of Del Norte and the Del Norte County Probation Department pursuant to Welfare and Institutions Code Section 850 *et seq.*

Section 2. RESPONSIBILITIES OF PLACING COUNTY.

- A. Pursuant to the terms and conditions of this agreement, Placing County shall pay Mendocino County the sum of \$175.00 per day, or portion of the day, for each bed occupied by a Placing County Ward.
- B. In addition to the payment provided in Section 2.A., Placing County shall pay any and all costs associated with the placement of any Placing County Ward, including, but not limited to, the following:
 - 1. Costs of any hospital, medical, mental health or surgical care or treatment,

- including the costs of prescription medication;
 - 2. Costs of dental or orthodontic care;
 - 3. Costs of educational services not compensated for by the State of California;
 - 4. Costs of transportation and maintenance between Placing County and the Mendocino County Juvenile Hall; and
 - 5. Any and all workers' compensation costs for the Placing County Ward, should Placing County's Ward file a workers' compensation claim.
- C. Placing County shall be solely responsible for providing any and all legal services for the Placing County Ward and is solely responsible for any costs of legal services provided.
 - D. In the event a petition for a writ of habeas corpus or similar proceeding is initiated by or on behalf of a Placing County Ward, Placing County shall defend said litigation.
 - E. Placing County shall be responsible for providing Juvenile Court orders or other documentation authorizing the Placing County Ward to be housed in a Juvenile Detention Facility, and consent to medical treatment signed by a parent/legal guardian/Juvenile Court Judge authorizing Mendocino County to provide medical treatment prior to placement.
 - F. Placing County shall promptly remove any Placing County Ward upon request of Mendocino County. Mendocino County shall have sole discretion to request removal of any Placing County Ward. Upon decision to remove Placing County Ward, Mendocino County shall notify Placing County by telephone and Placing County shall pick-up the Placing County Ward within five (5) working days of notification (or sooner if requested by Mendocino County).

Section 3. RESPONSIBILITIES OF MENDOCINO COUNTY.

- A. Mendocino County shall maintain, own, and operate the Mendocino County Juvenile Hall pursuant to Article 15 of Chapter 2 of Part I of Division 2 of the Welfare and Institutions Code.
- B. Except as provided in Section 3.C., accept Placing County Wards at Mendocino County's sole discretion.
- C. Mendocino County has developed and may, from time to time, modify its criteria for the acceptance of juvenile court wards. Mendocino County reserves the right, at Mendocino County's sole discretion, to reject or return any ward of Placing County who Mendocino County determines is unfit for placement or continued

placement at the Mendocino County Juvenile Hall.

Section 4. COMPENSATION.

Placing County shall pay to Mendocino County a maximum of \$300,000 per fiscal year for all reasonable and necessary costs in accordance with applicable circulars of the Office of Management and Budget (“OMB”) of the Executive Office of the President of the United States, for satisfactorily providing services pursuant to this agreement. In no event shall the maximum amount payable under this agreement exceed \$900,000.

Section 5. BILLING AND PAYMENT.

Mendocino County shall submit monthly a statement of services rendered to Placing County. Placing County shall make payment within 30 days of receipt of Mendocino County’s statement.

Section 6. TERM OF AGREEMENT.

The term of this agreement shall be effective upon the date of the last signature of the agreement and shall end June 30, 2026. Notwithstanding the foregoing, Mendocino County shall not be obligated for providing its responsibilities hereunder for any future County fiscal year unless or until Mendocino County’s Board of Supervisors appropriates funds for Mendocino County’s responsibilities in this agreement in Mendocino County’s budget for that County fiscal year. In the event that funds are not appropriated for this agreement, then this agreement shall end as of June 30 of the last County fiscal year for which funds for Mendocino County’s responsibilities in this agreement were appropriated. For the purposes of this agreement, the County fiscal year commences on July 1 and ends on June 30 of the following year. Mendocino County shall notify Placing County in writing of such non-appropriation at the earliest possible date.

Section 7. TERMINATION OF AGREEMENT.

- A. If either party materially fails to perform either parties’ responsibilities under this agreement to the satisfaction of either party, or if either party fails to fulfill in a timely and professional manner its obligations under this agreement, or if either party violates any of the terms or provisions of this agreement, then the party not in breach of the agreement shall have the right to terminate this agreement for cause effective immediately upon giving written notice to the party in breach of the agreement. If termination for cause is given by Mendocino County to Placing County and it is later determined that Placing County was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph B of this section.
- B. Either party may terminate this agreement without cause on 30 days’ written notice. Placing County shall pay Mendocino County for all work satisfactorily completed up to the time the last of Placing County’s ward is removed.

- C. Placing County may terminate this agreement immediately upon oral notice should funding cease or be materially decreased during the term of this agreement. In such event, Placing County shall immediately remove all wards placed with Mendocino County and pay Mendocino County for all work satisfactorily completed up to the time the last of Placing County's wards is removed.
- D. Mendocino County's right to terminate this agreement may be exercised by its Chief Probation Officer.

Section 8. ENTIRE AGREEMENT; AMENDMENTS; HEADINGS.

- A. This agreement supersedes all previous agreements relating to the subject of this agreement and constitutes the entire understanding of the parties hereto. Placing County shall be entitled to no other benefits other than those specified herein. Placing County specifically acknowledges that in entering into and executing this agreement, Placing County relies solely upon the provisions contained in this agreement and no others.
- B. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. However, minor amendments, including retroactive, that do not result in a substantial or functional change to the original intent of this agreement and do not cause an increase to the maximum amount payable under this agreement may be agreed to in writing between Placing County and the Chief Probation Officer, as long as the parties use the Mendocino County's standard format amendment.
- C. The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.

Section 9. NON-ASSIGNMENT OF AGREEMENT; NON-WAIVER.

Placing County may not assign, transfer, delegate or sublet any interest herein without the prior written consent of Mendocino County. The waiver by Mendocino County of any breach of any requirement of this agreement shall not be deemed to be a waiver of any other breach.

Section 10. EMPLOYMENT STATUS.

Both parties shall, during the entire term of this agreement, be construed to be independent contractors, and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow either party to exercise discretion or control over the professional manner in which the other party performs the work or services that are the subject matter of this agreement. Placing County shall not be eligible for coverage under Mendocino County's workers' compensation insurance plan nor shall Placing County be eligible for any other Mendocino County

benefit.

Section 11. INDEMNIFICATION.

- A. Placing County acknowledges that each Placing County Ward has been determined to be delinquent and that Mendocino County cannot guarantee the safety of Placing County Wards. Placing County acknowledges this risk and shall defend, hold harmless, and indemnify Mendocino County, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of County Counsel and counsel retained by County, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of Mendocino County) being damaged by the negligent acts, willful acts, or errors or omissions of the Placing County, Placing County Ward or any of Placing County's subcontractors, any person employed under Placing County, or under any subcontractor, or in any capacity during the progress of the work or the provision of services pursuant to this agreement, except when the injury or loss is caused by the sole negligence, intentional wrongdoing, or errors or omissions of Mendocino County.

- B. Mendocino County shall defend, hold harmless and indemnify Placing County, its elected officials, officers, employees, agents and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of Placing County, expert fees, litigation costs, and investigation costs), damages, judgments or decrees by reason of any person's or persons' bodily injury, including death, or property (including property of Placing County) being damaged by the negligent acts, willful acts, or errors or omissions of Mendocino County or any of Mendocino County's subcontractors, any person employed under Mendocino County, or under any subcontractor, or in any capacity during the progress of the work, except when the injury or loss is caused by the sole negligence, intentional wrongdoing, or errors or omissions of Placing County.

Section 12. INSURANCE.

Each Party shall each secure and maintain in full force and effect during the full term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with this Agreement.

- A. Minimum Scope of Insurance.
 - i. Commercial General Liability (CGL): Insurance coverage on an "occurrence" basis, including property damage, bodily injury and personal injury, including but not limited to contractual liability, participant liability, products/completed operations liability and Abuse & Molestation coverage with limits no less than Two Million Dollars (\$2,000,000.00) per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit.

- ii. Automobile Liability: Insurance covering any auto (Code 1), or if Mendocino County has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with a limit no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
- iii. Workers' Compensation: Equal in scope and amounts required by the State of California, with statutory limits, and Employer's Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease.
- iv. Cyber Liability: Insurance, with limits not less than Two Million Dollars (\$2,000,000.00) per occurrence or claim, Two Million Dollars (\$2,000,000.00) in aggregate.
- v. Medical Malpractice: Insurance with a limit of no less than Two Million Dollars (\$2,000,000.00) per occurrence or claim, Two Million Dollars in (\$2,000,000.00) aggregate.

B. Other Insurance Provisions.

- i. If a medical or behavioral health provider treats a Placing County's Ward within the Facility, and the provider is not an employee of Mendocino County, or otherwise not included as an additional insured under Mendocino County's Medical Malpractice insurance policy, Mendocino County must ensure providers treating Placing County's Wards maintain a policy of Medical Malpractice insurance with limits equal to or greater than those required in this Agreement. Upon termination of this Agreement, Mendocino County and any treating providers shall maintain a Medical Malpractice policy which shall insure against claims made relating to services performed during the term of the Agreement.
- ii. If the Parties to this Agreement maintain broader coverage and/or higher limits than the minimum amounts specified in this Agreement, the indemnified County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the other Party. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Placing County. No representation is made that the minimum amounts of insurance required in this Agreement are sufficient to cover the indemnity or other obligations of either Party to this Agreement.
- iii. Each Party agrees to name the other Party's County, its officers, officials, employees, and volunteers as additional insureds on the Commercial General Liability policy and Automobile Liability policy with respect to liability arising out of work or operations performed by or on behalf of the other Party.
- iv. For any claims related to this Agreement, the indemnifying Party's insurance coverage shall be primary coverage as respects the indemnified Party, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by indemnified Party shall be excess of the

Indemnifying Party's insurance and shall not contribute with it.

- v. Mendocino County hereby grants to the Placing County a waiver of any right to subrogation as respects Mendocino County's Workers' Compensation program, which any insurer of Mendocino County may acquire against the Placing County by virtue of the payment of any loss under such insurance. Mendocino County agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Placing County has received a waiver of subrogation endorsement from the insurer.
- vi. Cyber Liability coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Mendocino County in this Agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, electronic funds transfer fraud, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
- vii. Upon request, each Party agrees to furnish Certificates of Insurance, including all of the following attached: (a.) A Waiver of Subrogation Endorsement for Workers' Compensation Insurance, (b.) Additional Insured Endorsement (c.) Primary and Noncontributory coverage at least as broad as ISO CG 20 01, (e.) A copy of the Declarations and Policy Endorsements pages for the CGL policy, and (f.) A complete copy of all Excess/Umbrella Liability policies, with all endorsements, maintained to satisfy the insurance requirements in this Agreement.

Section 13. NOTICE OF CLAIM/APPLICABLE LAW/VENUE.

- A. If any claim for damages is filed with Placing County or if any lawsuit is instituted concerning Placing County's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect Mendocino County, Placing County shall give prompt and timely notice thereof to Mendocino County. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit.
- B. Any dispute between the parties, and the interpretation of this agreement, shall be governed by the laws of the State of California. Any litigation shall be venued in Mendocino County.

Section 14. COMPLIANCE WITH LAWS; NON-DISCRIMINATION.

- A. The parties will observe and comply with all applicable federal, state and local laws, ordinances and codes that relate to the work or services to be provided pursuant to this agreement.
- B. The parties will not discriminate in employment practices or in the delivery of services on the basis of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, medical condition (including cancer, HIV and AIDS) physical or mental disability or use of family care leave.
- C. The parties represent that the parties are in compliance with and agree that the parties shall continue to comply with the Americans with Disability Act of 1990 (42 U.S.C. sections 12101, *et seq.*), the Fair Employment and Housing Act (Government Code sections 12900, *et seq.*), and regulations and guidelines issued pursuant thereto.

Section 15. ACCESS TO RECORDS/RETENTION.

County, federal and state officials shall have access to any books, documents, papers and records of the parties that are directly pertinent to the subject matter of this agreement for the purpose of auditing or examining the activities of Mendocino County or Placing County. Except where longer retention is required by federal or state law, the parties shall maintain all records for five years after Mendocino County receives final payment hereunder.

Section 16. CONFLICTS OF INTEREST.

Placing County and Placing County's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income that could be financially affected by or otherwise conflict in any manner or degree with the performance of work or services required under this agreement.

Section 17. NOTICES.

- A. Except as provided in section 7.C. of this agreement (oral notice of termination due to insufficient funding), any notice required to be given pursuant to the terms and provisions of this agreement shall be given to the appropriate Party at the address specified below or at such other address as the Party shall specify in writing. Such notice shall be deemed given: (1) upon personal delivery; or (2) if sent by first class mail, postage prepaid, two days after the date of mailing.

If to Mendocino County: Mendocino County Probation Department
Attn: Chief Probation Officer
589 Low Gap Road
Ukiah, CA 95482

Phone (707) 234-6900
Fax (707) 463-5461

If to Placing County: Del Norte County Probation Department
Attn: Chief Probation Officer
450 H Street
Room 202
Crescent City, CA 95531
Phone: (707) 464-7215
Fax: (707) 465-0302

- B. Written notice shall be deemed to be effective two days after mailing. Any oral notice authorized by this agreement shall be deemed to be effective immediately.
- C. Unless otherwise stated in this agreement, any written or oral notices on behalf of Mendocino County as provided for in the agreement may be executed and/or exercised by the Mendocino County Chief Probation Officer or his/her designee.

Section 18. AGREEMENT PREPARATION.

It is agreed and understood by the parties this agreement has been arrived at through negotiation and that neither party is to be deemed the party which created any uncertainty in this agreement within the meaning of Civil Code section 1654.

Section 19. CONFIDENTIAL INFORMATION.

During the term of this agreement, both parties may have access to information that is confidential or proprietary in nature. Both parties agree to preserve the confidentiality of and to not disclose any such information to any third party without the express written consent of the other party or as required by law.

The parties and their officers, employees, agents, and applicable subcontractors shall ensure that:

- A. All records concerning any Youth made or kept in connection with the administration of any provision of the services provided by this Agreement shall be confidential and shall not be open to examination for any purpose not directly required for the administration of the services provided herein, except as requesting in writing by either county, and as required by law.
- B. No person shall publish, disclose, use, permit, or cause to be published disclosed, or used, any confidential or identifying information pertaining to any Youth that is obtained in connection with the administration of the provision of the services provided for by this Agreement, except as requested in writing by either county and

as required by law.

C. Sealing of Records. Placing County shall notify Mendocino County of any Court order or requirement that a Youth's records be sealed so that the Mendocino County can take appropriate action required to seal any records.

D. Protected Health Information. To the extent that the exchange of medical records and/or protected health information (as defined by 45 CFR section 164.501) of Youth is required between the parties, the exchange, access, and disclosure of such data shall be governed by the Placing County's Business Associate Agreement, attached hereto as Exhibit A, and incorporated herein by this reference.

This provision shall survive the termination, expiration, or cancellation of the agreement.

Section 21. SEVERABILITY.

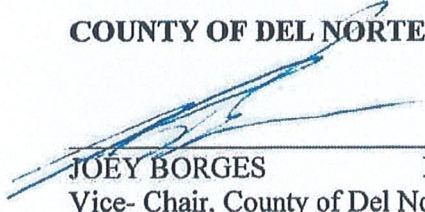
If any portion of this agreement or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation or County ordinance, the remaining provisions of this agreement, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this agreement are severable.

Section 22. COUNTERPARTS/ELECTRONIC, FACSIMILE, AND PDF SIGNATURES.

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this agreement. The Parties further agree that the electronic signatures of the Parties included in this agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all.

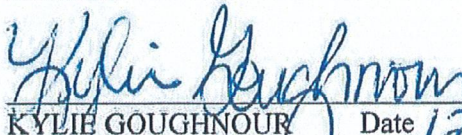
IN WITNESS WHEREOF, Mendocino County and Placing County have executed this agreement on the day and year set forth below. By their signatures below, each signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

COUNTY OF DEL NORTE



JOEY BORGES Date 12/10/24
Vice- Chair, County of Del Norte Board of Supervisors

ATTEST:



KYLIE GOUGHNOUR Date 12/10/24
Clerk of the Board

APPROVED AS TO FORM:



JACQUELINE ROBERTS Date 1/24/25
County Counsel

COUNTY OF MENDOCINO

DEPARTMENT FISCAL REVIEW:

John Gettle 2/4/25
DEPARTMENT HEAD DATE

Budgeted: Yes No

Budget Unit: 2550

Line Item: 862189

Grant: Yes No

Grant No.: SB 823

By: John Haschak
JOHN HASCHAK, Chair
BOARD OF SUPERVISORS

Date: 02/25/2025

ATTEST:

DARCIE ANTLE, Clerk of said Board

By: Arcy
Deputy 02/25/2025

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

DARCIE ANTLE, Clerk of said Board

By: Arcy
Deputy 02/25/2025

INSURANCE REVIEW:

By: Darcie Antle
Risk Management

Date: 02/03/2025

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

County Counsel

By: Brina Blanton
Deputy

Date: 02/03/2025

EXECUTIVE OFFICE/FISCAL REVIEW:

By: [Signature]
Deputy CEO or Designee

Date: 02/03/2025

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; \$50,001+ Board of Supervisors

Exception to Bid Process Required/Completed

Mendocino County Business License: Valid

Exempt Pursuant to MCC Section: _____

Exhibit A

Business Associate Agreement

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT (the "Agreement") is entered into effect 12/10/24 (the "Effective Date"), by and between **Mendocino County Probation** ("Business Associate/Qualified Service Organization") and **Del Norte County Probation** (the "Covered Entity").

Business Associate and Covered Entity have a business relationship ("Agreement") in which Business Associate may perform functions or activities on behalf of Covered Entity involving the use and/or disclosure of protected health information received from, or created or received by, Business Associate on behalf of Covered Entity. ("PHI"). Therefore, if Business Associate is functioning as a Business Associate to Covered Entity, Business Associate agrees to the following terms and conditions set forth in this HIPAA Business Associate Agreement.

1. **Definitions.** For purposes of this Agreement, the terms used herein, unless otherwise defined, shall have the same meanings as used in the Health Insurance Portability and Accountability Act of 1996, and any amendments or implementing regulations ("HIPAA"), or the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009), and any amendments or implementing regulations ("HITECH").
2. **Compliance with Applicable Law.** The parties acknowledge and agree that, beginning with the relevant effective dates, Business Associate shall comply with its obligations under this Agreement and with all obligations of a Business Associate under HIPAA, HITECH and other related laws, as they exist at the time this Agreement is executed and as they are amended, for so long as this Agreement is in place.
3. **Permissible Use and Disclosure of Protected Health Information.** Business Associate may use and disclose PHI to carry out its duties to Covered Entity pursuant to the terms of the Relationship. Business Associate may also use and disclose PHI (i) for its own proper management and administration, and (ii) to carry out its legal responsibilities. If Business Associate discloses Protected Health Information to a third party for either above reason, prior to making any such disclosure, Business Associate must obtain: (i) reasonable assurances from the receiving party that such PHI will be held confidential and be disclosed only as required by law or for the purposes for which it was disclosed to such receiving party; and (ii) an agreement from such receiving party to immediately notify Business Associate of any known breaches of the confidentiality of the PHI.
4. **Limitations on Uses and Disclosures of PHI.** Business Associate shall not, and shall ensure that its directors, officers, employees, and agents do not, use or disclose PHI in any manner that is not permitted or required by the Relationship, this Agreement, or required by law. All uses and disclosures of, and requests by Business Associate/Qualified Service Organization, for PHI are subject to the minimum necessary rule of the Privacy Standards and shall be limited to the information contained in a limited data set, to the extent practical, unless additional information is needed to accomplish the intended purpose, or as otherwise

permitted in accordance with Section 13405(b) of HITECH and any implementing regulations.

5. **Required Safeguards To Protect PHI.** Business Associate agrees that it will implement appropriate safeguards in accordance with the Privacy Standards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Agreement.
6. **Reporting of Improper Use and Disclosures of PHI.** Business Associate shall report within 24 business hours to Covered Entity a use or disclosure of PHI not provided for in this Agreement by Business Associate/Qualified Service Organization, its officers, directors, employees, or agents, or by a third party to whom Business Associate disclosed PHI. Business Associate shall also report within 24 business hours to Covered Entity a breach of unsecured PHI, in accordance with 45 C.F.R. §§ 164.400-414, and any security incident of which it becomes aware. Report should be made to:

Chief Probation Officer
Del Norte County Probation Department
1-707-464-7215

7. **Mitigation of Harmful Effects.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement, including, but not limited to, compliance with any state law or contractual data breach requirements. Business Associate shall cooperate with Covered Entity's breach notification and mitigation activities, and shall be responsible for all costs incurred by Covered Entity for those activities.
8. **Agreements by Third Parties.** Business Associate shall enter into an agreement with any agent or subcontractor of Business Associate that will have access to PHI. Pursuant to such agreement, the agent or subcontractor shall agree to be bound by the same restrictions, terms, and conditions that apply to Business Associate under this Agreement with respect to such PHI.
9. **Access to Information.** Within five (5) days of a request by Covered Entity for access to PHI about an individual contained in a Designated Record Set, Business Associate shall make available to Covered Entity such PHI for so long as such information is maintained by Business Associate in the Designated Record Set, as required by 45 C.F.R. § 164.524. In the event any individual delivers directly to Business Associate a request for access to PHI, Business Associate shall within two (2) days forward such request to Covered Entity.
10. **Availability of PHI for Amendment.** Within five (5) days of receipt of a request from Covered Entity for the amendment of an individual's PHI or a record regarding an individual contained in a Designated Record Set (for so long as the PHI is maintained in the Designated Record Set), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. § 164.526. In the event any individual delivers directly to Business Associate a request for amendment to PHI, Business Associate shall within two (2) days forward such request to Covered Entity.

11. **Documentation of Disclosures.** Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
12. **Accounting of Disclosures.** Within five (5) days of notice by Covered Entity to Business Associate that it has received a request for an accounting of disclosures of PHI regarding an individual during the six (6) years prior to the date on which the accounting was requested, Business Associate shall make available to Covered Entity information to permit Covered Entity to respond to the request for an accounting of disclosures of PHI, as required by 45 C.F.R. § 164.528. In the case of an electronic health record maintained or hosted by Business Associate on behalf of Covered Entity, the accounting period shall be three (3) years and the accounting shall include disclosures for treatment, payment and healthcare operations, in accordance with the applicable effective date of Section 13402(a) of HITECH. In the event the request for an accounting is delivered directly to Business Associate/Qualified Service Organization, Business Associate shall within two (2) days forward such request to Covered Entity.
13. **Electronic PHI.** To the extent that Business Associate creates, receives, maintains or transmits electronic PHI on behalf of Covered Entity, Business Associate shall:
 - (a) Comply with 45 C.F.R. §§164.308, 301, 312, and 316 in the same manner as such sections apply to Covered Entity, pursuant to Section 13401(a) of HITECH, and otherwise implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI;
 - (b) Ensure that any agent to whom Business Associate provides electronic PHI agrees to implement reasonable and appropriate safeguards to protect it; and
 - (c) Report to Covered Entity any security incident of which Business Associate becomes aware.
14. **Judicial and Administrative Proceedings.** In the event Business Associate receives a subpoena, court or administrative order or other discovery request or mandate for release of PHI, Covered Entity shall have the right to control Business Associate/Qualified Service Organization's response to such request. Business Associate shall notify Covered Entity of the request as soon as reasonably practicable, but in any event within two (2) days of receipt of such request.
15. **Availability of Books and Records.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure and privacy protection of PHI received from Covered Entity, or created, maintained or received by Business Associate on behalf of the Covered Entity, available to the Covered Entity, the State of California, and the Secretary of the Department of Health and Human Services, in the time and manner designated by the Covered Entity, State or Secretary, for purposes of determining Covered Entity's compliance with the Privacy Standards. Business Associate shall notify the Covered Entity upon receipt

of such a request for access by the State or Secretary, and shall provide the Covered Entity with a copy of the request as well as a copy of all materials disclosed.

16. **Breach of Contract by Business Associate.** In addition to any other rights Covered Entity may have in the Relationship, this Agreement or by operation of law or in equity, Covered Entity may i) immediately terminate the Relationship if Covered Entity determines that Business Associate has violated a material term of this Agreement, or ii) at Covered Entity's option, permit Business Associate to cure or end any such violation within the time specified by Covered Entity. Covered Entity's option to have cured a breach of this Agreement shall not be construed as a waiver of any other rights Covered Entity has in the Relationship, this Agreement or by operation of law or in equity.
17. **Effect of Termination of Relationship.** Upon the termination of the Relationship or this Agreement for any reason, Business Associate shall return to Covered Entity or, at Covered Entity's direction, destroy all PHI received from Covered Entity that Business Associate maintains in any form, recorded on any medium, or stored in any storage system, unless said information has been de-identified and is no longer PHI. This provision shall apply to PHI that is in the possession of Business Associate/Qualified Service Organizations or agents of Business Associate/Qualified Service Organization. Business Associate shall retain no copies of the PHI. Business Associate shall remain bound by the provisions of this Agreement, even after termination of the Relationship or the Agreement, until such time as all PHI has been returned, de-identified or otherwise destroyed as provided in this Section.
18. **Injunctive Relief.** Business Associate stipulates that its unauthorized use or disclosure of PHI while performing services pursuant to this Agreement would cause irreparable harm to Covered Entity, and in such event, Covered Entity shall be entitled to institute proceedings in any court of competent jurisdiction to obtain damages and injunctive relief.
19. **Indemnification.** Business Associate shall indemnify and hold harmless Covered Entity and its officers, trustees, employees, and agents from any and all claims, penalties, fines, costs, liabilities or damages, including but not limited to reasonable attorney fees, incurred by Covered Entity arising from a violation by Business Associate of its obligations under this Agreement.
20. **Exclusion from Limitation of Liability.** To the extent that Business Associate has limited its liability under the terms of the Relationship, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to Covered Entity arising from Business Associate/Qualified Service Organization's breach of its obligations relating to the use and disclosure of PHI.
21. **Owner of PHI.** Under no circumstances shall Business Associate be deemed in any respect to be the owner of any PHI used or disclosed by or to Business Associate by Covered Entity.
22. **Third Party Rights.** The terms of this Agreement do not grant any rights to any parties other than Business Associate and Covered Entity.

23. **Independent Contractor Status.** For the purposes of this Agreement, Business Associate is an independent contractor of Covered Entity, and shall not be considered an agent of Covered Entity.
24. **Changes in the Law.** The parties shall amend this Agreement to conform to any new or revised legislation, rules and regulations to which Covered Entity is subject now or in the future including, without limitation, HIPAA, HITECH, the Privacy Standards, Security Standards or Transactions Standards.

IN WITNESS WHEREOF, each Party hereby executes this Agreement as of the Effective Date.

Del Norte County

By: 

Name: Lonnie Reyman

Title: Chief Probation Officer

Mendocino County

By: 

Name: Izen Locatelli

Title: Chief Probation Officer