

**WELLSKY CORPORATION
ORDER FORM**

This Order Form ("**Order**") is effective as of the date of last signature below ("**Effective Date**") between **County of Mendocino** at PO Box 839 Ukiah, CA 95482 ("**Client**") and **WellSky Corporation**, with offices at 11300 Switzer Road Overland Park, KS 66210 ("**WellSky**") for the products and services set forth herein. This Order is subject to and hereby incorporates the terms and conditions of the Master License and Services Agreement entered into between the parties, dated July 15, 2019 ("**Agreement**") (Attachment 4), except to the extent explicitly identified in this Order.

This Order consists of the following Attachments:

- Attachment 1 – Term and Payment Terms
- Attachment 2 – Pricing
- Attachment 3 – Professional Services
- Attachment 4 – Master Services Terms and Conditions

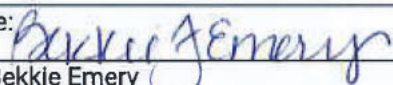

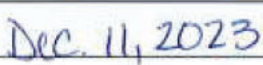
Any questions or changes to this Order, please contact Andrew Berg at 913-307-1169.

Ordering Procedure:

Scan or fax this signed Order to WellSky's Corporate Contracts Department as follows:

LegalContracts@wellsky.com

Fax: (913) 871-9571 or 9138719571@fax2mail.com

COUNTY OF MENDOCINO:	WELLSKY CORPORATION:
Signature: 	Signature: 
Name: Bekkie Emery	Name: Stephen Greenberg
Title: Social Services Director	Title: SVP Human and Social Services
Date: 	Date: 12/12/2023

**ORDER FORM
ATTACHMENT 1
TERM AND PAYMENT TERMS**

1. Term:

Recurring Professional Services Term: The Recurring Professional Services are provided for an initial one-year term, beginning on the Effective Date of this Order (the "**Initial Term**"). RECURRING PROFESSIONAL SERVICES AUTOMATICALLY RENEW FOR SUCCESSIVE ONE-YEAR TERMS (EACH A "RENEWAL TERM" AND COLLECTIVELY WITH THE INITIAL TERM THE "TERM"), UNLESS TERMINATED BY EITHER PARTY UPON WRITTEN NOTICE TO THE OTHER NINETY (90) DAYS PRIOR TO THE END OF THE THEN CURRENT TERM. In the event Professional Services are allowed to lapse (other than for breach by WellSky) and is later reinstated, Client shall be required to pay back charges for all months that Professional Services lapsed, including appropriate late charges.

2. Payment Terms. Payment terms on purchases are net thirty (30) days.

- a. Professional Services One-Time Fee: Client agrees to pay 100% of the fixed fee / fixed scope professional services fees on the Effective Date.
- b. Recurring Professional Services Fee: Client shall pay the pro-rated annually recurring Professional Services fees annually, in advance, on the Effective Date, and on each anniversary of such date every year thereafter.
- c. Increases: All annual fees may be increased by WellSky once annually commencing one (1) year following the Effective Date of the Order at a rate not to exceed 5%.

Please provide your accounts payable or billing contact information.

Name: Venus Hoaglen
Title: Staff Services Administrator
E-mail: hoaglenv@mendocinocounty.org
Phone: (707) 463-7764

**ORDER FORM
ATTACHMENT 2
PRICING**

Account# - CAB16288

RFS-6736			
Professional Services One-Time Fees			
Qty.	Per Unit	Item	One-Time
1	\$12,600.00	Professional Services - Data Services - Flat Fee - Create export, configure, test, and deploy automated export process	\$12,600.00
Total Professional Services One-Time Fees:			\$12,600.00
Professional Services Annual Fees			
Qty.	Per Unit	Item	Annual
1	\$2,100.00	Professional Services - Annual Fee - Custom Automated Export – (up to 4x/yr.) – Ongoing Consul., Mgmt., & Maint	\$2,100.00
Total Professional Services Annual Fees:			\$2,100.00
INITIAL PURCHASE TOTAL FEES (RFS–6736) (includes One-Time and Annual Fees):			\$14,700.00

RFS-6988			
Professional Services Annual Fees			
Qty.	Per Unit	Item	Annual
1	\$19,200.00	Managed Services - 12-Mo. Pkg. (up to 10 Hr./Mo.) – Remote - Annual	\$19,200.00
INITIAL PURCHASE TOTAL FEES (Annual Only) (RFS-6988):			\$19,200.00

NOTE: Initial Purchase Includes both One-Time Fees and Pro-rated Annual Fees. Do Not Pay per this Order Form. An invoice will be issued after order form is executed to reflect correct fees including pro-rated fees.

SUBSEQUENT YEARS ANNUAL FEE FORECAST ONLY (RFS--6736 and RFS–6988):	\$21,300.00
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**ORDER FORM
ATTACHMENT 3
PROFESSIONAL SERVICES**

Services: RFS--6736

Client has requested that WellSky Corporation (“WellSky”) perform the following services (“Services”) as set forth in this Order Form.

Purpose

To configure and execute programming to export a custom CSV file from the Client’s Community Services site on a recurring basis. The CSV file is intended to be imported to Partnership HealthPlan of California (PHC). The exported CSV file will adhere to the rules outlined in the Services section below.

Origination of Client request can be found in Support Hub case [3345540](#).

Services

Site Affected

WellSky Professional Services will export HMIS (HUD) CSV from the following Community Services site on a recurring basis.

Community Services Site URL
https://sp5.servicept.com/mchscoc

Client Inclusion Logic

Export is intended to identify clients actively engaged with any of the Client’s programs, system wide. Clients to be included in the export are identified using the following logic.

1. Client is active.
AND
2. Client has an enrollment in any active project system wide where Entry Date is within 90 days of the date that the export file is generated, and Exit Date is null.
OR
3. Client has an enrollment in any active project system wide where Exit Date is not null, and Exit Date is within 90 days of the date that the export file is generated.

File Format of Exported Data

For all clients that meet the [Client Inclusion Logic](#) above, a single row of data will be exported for each client. If multiple entries for a given client meets the inclusion criteria only the most recent entry will be used to derive the data exported for the client.

For clients that meet criteria #2 in the [Client Inclusion Logic](#), data included in each column of the export will be the most recent data as of the Entry Date that triggers the client’s inclusion. Visibility of demographics and answers exported will be derived from 1) the provider at which the entry exists and 2) the user that created the entry.

For clients that meet criteria #3 in the [Client Inclusion Logic](#), data included in each column of the export will be the most recent data as of the Exit Date that triggers the client’s inclusion. Visibility of demographics and answers exported will be derived from 1) the provider at which the entry exists and 2) the user that created the entry.

Data will be exported in UTF-8 CSV format with columns as identified using the table below.

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Columns below include all fields available to be exported for the Client. If the Client chooses to omit any specific fields from the export, that can be done via configuration and the export will include entirely null fields for those columns.

Column	Column Name	Community Services Field or Virtual Field Name	HMIS Data Element
1	Client ID		
2	First Name		3.01
3	Middle Name		3.01
4	Last Name		3.01
5	Social Security Number		3.02
6	Date of Birth	VFN: SVPPROFDOB	3.03
7	Race	VFN: SVPPROFRACE	3.04
8	Ethnicity	VFN: SVPPROFETH	3.05
9	Gender	VFN: SVPPROFGENDER	3.06
10	Veteran Status		3.07
11	Provider ID		
12	Provider Name		2.02
13	Project Type*		2.02
14	Project Start Date*	Entry Start Date	3.10
15	Project Exit Date*	Entry End Date	3.11
16	Destination*	Exit Destination	3.12
17	Relationship to Head of Household	VFN: HUD_RELATIONTOHOH	3.15
18	Client Location	VFN: HUD_COCCLIENTLOCATION	3.16
19	County		
20	Housing Move-in Date	VFN: HUD_HOUSINGMOVEINDATE	3.20
21	Prior Living Situation	VFN: TYPEOFLIVINGSITUATION	3.917A/B
22	HI Type	VFN: SVPHUDHEALTHINSURANCETYPE	4.04
23	HI Other	VFN: SVPHUDHEALTHINSIFOTHERSPECIFY	4.04
24	HI Covered	VFN: SVPHUDHEALTHINSCOVERED	4.04
25	CLS Information Date	VFN: SVP_HUD_CLS_INFODATE	
26	CLS Current Living Situation	VFN: SVP_HUD_CLS_CURRENTLIVINGSIT	4.12
27	CLS Other	VFN: SVP_HUD_CLS_CURRENTLIVINGSIT_OTHER	
28	Date of Engagement	VFN: SVP_ENGAGEMENT_DATE	4.13
29	CE Assessment Date	VFN: SVP_HUD_COORDINATEDENTRYASSESSTART	4.19
30	CE Location	VFN: SVP_HUD_COORDENTRYASSESS_ASSESSLOCATION	4.19
31	CE Type	VFN: SVP_HUD_COORDENTRYASSESS_ASSESSTYPE	4.19
32	CE Level	VFN: SVP_HUD_COORDENTRYASSESS_ASSESSLEVEL	4.19
33	CE Event Date	VFN: SVP_COORDINATEDENTRYEVENT_DATE_EVENT	4.20
34	CE Event	VFN: SVP_COORDINATEDENTRYEVENT_EVENT	4.20
35	CE ProbSolDivRRResult	VFN: SVP_COORDINATEDENTRYEVENT_CLIENTHOUSEDSAFE	4.20

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36	CE ReferralCaseManag eAfter	VFN: SVP_COORDINATEDENTRYEVENT_ENROLLEDAFTERCA RE	4.20
37	CE LocationCrisisOrPH Housing	VFN: SVP_COORDINATEDENTRYEVENT_LOCATIONCRISISPH PROJID	4.20
38	CE ReferralResult	VFN: SVP_COORDINATEDENTRYEVENT_REFERRALRESULT	4.20
39	CE ResultDate	VFN: SVP_COORDINATEDENTRY_DATE_RESULT	4.20

Export Parameters

Recurrence: Exports will generate on a Quarterly basis.
Day of Quarter: 1st of the Quarter
Time: 5:00 PM CT

Delivery of Exported Data

WellSky Professional Services will coordinate the creation of a Client-specific user account to access exported 7z files on the WellSky sFTP server. The client will be responsible for connecting to the sFTP server and transferring files to any external destinations.

Assumptions and Limitations

1. Payment Terms will be enforced as indicated in Attachment 1.
2. Cloud and/or Professional Services Annual Fees will be prorated from date of signature ("Effective Date") and are not in any way dependent upon Professional Services implementation. This may result in Cloud and/or Professional Services Annual Fees being incurred prior to execution of the scoped Professional Services work.
3. Any requests not explicitly identified in the Services section above are outside the scope of this Order Form.
4. Client will be responsible for connecting to the sFTP site and transferring files to any external destinations.
5. Client will be responsible for unzipping 7z files to be used for import into any external systems. 7-Zip is a free, open-source software used to zip and unzip files. More information and a download of the software can be found here: <https://www.7-zip.org/>.
6. Annual fees will be used exclusively towards WellSky Professional Services troubleshooting the current automation process and ensuring that files are delivered as denoted in the Services section above.

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Services: RFS--6988

Executive Summary

WellSky and Client will work together on WellSky Managed Services for Community Services to regularly review and maintain the Client's installed WellSky Community Services solution as described in this Statement of Work ("SOW").

Client will work with WellSky's Professional Services team to schedule any of the following activities for WellSky Community Services:

- **Managed Consulting Services ("MCS"):** WellSky will consult on HMIS workflow updates in addition to custom changes requested by Client.
- **Application Management Services:** WellSky will assist Client with application administration activities such as user clean-up/ provisioning, system administration, custom specific tasks (interface modifications, etc.).
- **Optimization & Readiness Services:** WellSky will perform an Operational Assessment to assess the Client's current business processes to identify opportunities for solution improvements and business process efficiencies.
- **Learning Services:** WellSky will provide Learning Services to assist Client with resource onboarding efforts and/or continual learning.

This SOW describes responsibilities, deliverables, and services to be performed for the following solutions delivered by WellSky's Professional Services team.

- WellSky Community Services

The term of this SOW will be for one (1) year from the effective date of the Order Form, depending on the package chosen. Hereafter, the pricing and scope of this SOW will automatically renew on effective date.

The scope includes:

- Package 2
 - 10 hours per month at the Client direction over the annual term. Hours not utilized will expire at the end of each month.

All activities performed by WellSky resource in support of the Managed Services engagement are considered billable under the Fixed Fee agreement. This includes - but is not limited to - evaluating requirements, producing estimated levels of effort, performing configuration tasks, testing, preparing documentation, coordinating, and attending meetings, answering emails and phone calls, and preparing status reports.

Engagement Specifics: [WellSky Managed Services for Community Services](#)

Overview

WellSky will work with Client to provide any of the following listed below as a part of this engagement. The services shall be subject to the following:

1. Up to identified hours above per month shall be allotted for any of the services defined herein. Requests submitted that exceed this number may require additional time for services to be delivered and may result in an increase in fees for the subsequent term.

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2. Client must submit a request to engage with WellSky via identified point of contact.
3. WellSky will review the request and provide Services based on Client and WellSky resource availability.

Managed Consulting Services

Configuration within WellSky Community Services is subject to the changes of Client's business needs. While it is critical that clients diligently maintain and update their content, they may require additional resources or expertise to perform the required activities. WellSky will provide the following Services to assist clients with maintaining their content:

1. Update configurations to meet updated regulatory requirements
2. Analyze system configuration and workflows and recommend changes, as needed
3. Provide guidance on optimal visibility settings and system security settings to ensure client confidentiality
4. Maximize use of current features and functionality for call tracking (if applicable)
5. Ensure the current system configuration supports staff members as they guide clients through program transitions and services
6. Consult with System Administrator regarding data collection and outcome reporting

Application Management Services

Configuration within WellSky Community Services may need periodic updates based on changes in the Client resources. Utilize the assistance of WellSky to make updates including the following:

1. General application administration updates based on Client requests
2. Creation of users
3. Update user permissions
4. System Administrator and end user assistance

Optimization & Readiness Services

WellSky can perform Operational Assessments of the solutions to identify opportunities for solution improvements and business process efficiencies as part of the scope of this SOW. The WellSky assessment may include the following:

1. Conduct application and workflow reviews
2. Review workflow and recommend new features
3. Advise on workflow processes to increase data quality and completeness
4. Review content releases and recommend changes
5. Consult on data and reporting needs
6. Create and/or customize reports
7. Participate in formal change control board meetings

Learning Services

WellSky will provide Client with Learning Services to assist with Client resource onboarding or continual learning efforts. The Learning Services may include the following:

1. Refresher training
2. Advanced user training
3. Workflow training
4. Administrator refresher training

Engagement Assumptions

These assumptions are specific to this engagement and express WellSky's understanding of the scope of work to be performed.

1. WellSky will function primarily as a subject matter expert consultant. Each party agrees to perform the functions as set forth herein.

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2. Client has primary responsibility for executing all validation activities, including all user acceptance testing prior to moving it to production. WellSky will provide guidance and assistance.
3. Services within the scope of this document are to be performed Monday through Friday during standard business hours unless otherwise stated. Standard business hours are defined as 8:00am – 5:00pm local time excluding weekends and observed National Holidays unless planned and approved by the WellSky assigned resources.
4. Services within the scope of this document are to be provided remotely. A change request can be presented for onsite services requests.
5. Any services requiring activity by WellSky team members other than the project lead (for example, technical services tasks) will be scheduled based on availability of resources.

Responsibilities

WellSky Responsibilities

1. Assign a dedicated Point of Contact to Client to ensure continuity and provide for a single point of reference for Client to manage and assign work related to this scope of work. Additional resources (analyst, technical resource, implementation consultant and/or trainer) may be involved, as necessary.
2. WellSky Account Manager will work with Client for any scope changes.
3. Review and assign Services requests based on:
 - a. Client's goal/desired outcome for the request.
 - b. Priority of request based on patient safety, regulatory/audit compliance
 - c. Impact of request on other templates and reports
 - d. Client timelines/ needs
4. Configuration in Client's staging environment and notify Client to start testing and validation activities.
5. Transfer Client validated changes from staging to production.
6. WellSky resources will set up calls as necessary for clarification and scheduling of various activities under this SOW.

Client Responsibilities

1. Establish a change management team that meets quarterly to discuss desired changes. This team should consider the following for all requests:
 - a. The end goal (e.g., improved documentation, improved usability, regulatory requirements) when requesting changes.
 - b. Impact of changes on other teams/providers.
 - c. Priority for changes requested.
2. Entering a service request with the assigned Point of Contact at WellSky
3. Meet with WellSky team as needed for clarification and planning.
4. Review, test and validate configured content in Client's staging environment.
5. Communicate any changes to WellSky via the assigned Point of Contact.
6. Review final staging build and approve changes via the case.
7. Train Client staff on the changes.
8. Perform resource scheduling for any Learning Services sessions.

Change Management

Changes to the SOW

Either party may elect to submit written change requests to the other party proposing changes to the SOW. All changes to the requirements and SOW will be made using agreed-to project change control procedures.

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Change Order Procedure

If either of the parties wishes to alter the approved design document, or this SOW, the person who request the change (the "Originator") will forward to the other party (the "Recipient") a change order, which will include the following:

1. Project identification
2. Originator's name and title
3. The date of the change order
4. Priority level of the request as either Priority 1 (Urgent) or Priority 2 (Ordinary)
5. A description of the proposed change
6. The reason for the proposed change
7. A description of the proposed change's impact on the project's scope, schedule, and/or budget.

Purchasing Additional Hours

If the Client exhausts all available monthly hours, the Client may choose to request an additional budget of hours. The Client will utilize the [Change Order Procedure](#) referenced above, denoting either the number of hours needed or the scope of requested changes. WellSky Professional Services will review and provide an estimated number of hours, if needed. The purchase of additional hours will be executed as a separate Order Form at a rate of \$160 per hour. The Order Form will include an expiration date of the additional budget of hours that is dependent on the volume of hours purchased and is relative to the Effective Date of the Order Form.

[Appendix A – Engagement Procedures for WellSky Managed Services for WellSky Community Services](#)

Procedures for engaging WellSky

1. Client communicates directly with WellSky assigned Point of Contact.
2. WellSky Point of Contact will review the request and contact the Client to set up a meeting or request additional documentation or clarification.

Learning Services

- a. A Learning Services team member will schedule training, develop training materials, and prepare for training.
- b. Remote training will take place via a web meeting, while Client staff are logged into the application and following along.

Managed Consulting Services/ Optimization & Readiness Services

- a. A team member will configure each request into the Client's staging database. (NOTE: In rare situations, we may request permission for a change be configured directly in production due to the scope of the change.)
 - i. Each change will be reviewed and tested by our WellSky team member.
 - ii. Each change will be documented by the WellSky team member.
 - iii. After the modifications have been completed by the Client and returned to the WellSky team.
 - b. After the modifications have been completed in staging, WellSky will communicate this status. These modifications are then ready for Client test and acceptance.
 - c. The Client team will test each change request within ten (10) business days of the notice and confirm they are ready to move to production.
3. The Client will validate the changes in production and provide confirmation that needs are met. The WellSky team will assume the request has been closed after five (5) days.
 - a. WellSky team will ensure that all notes and documentation are completed.

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- b. This will also be the official sign off that the request is considered closed by the Client.

Projected Request Timeline

WellSky assigned Point of Contact will communicate the expected timeline at the time of the request.

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

PA# 18-351
SS-14-063

**WELLSKY CORPORATION
MASTER LICENSE AND SERVICES AGREEMENT**

This Master License and Services Agreement (the "Agreement") is entered into by and between WellSky Corporation, with offices at 11711 West 79th Street, Lenexa, Kansas 66214 ("WellSky"), and Mendocino County Health & Human Services Agency with offices at 747 S. State St. Ukiah CA, PO Box 839, Ukiah, CA 95482-8839 ("Customer"). Each of WellSky and Customer may be referred to herein individually as a "Party" and together as the "Parties." The term of this Agreement shall be from July 1, 2019, (the "Effective Date"), and shall continue through June 30, 2020. The Parties agree as follows:

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| <p>1. DEFINITIONS. Capitalized terms used herein or in any Order Form, but not defined, have the meaning set forth in <u>Exhibit A</u>.</p> <p>2. LICENSED SOFTWARE.</p> <p>2.1. Licensed Software. WellSky grants to Customer (a) a non-exclusive, non-transferable, license to use the Licensed Software or (b) a limited term, non-exclusive, non-transferable, license to use the Licensed Software, on the Designated Platform solely for internal business purposes and subject to the terms of this Agreement and the applicable Order Form (Attachment A). Customer represents that it has authority to bind each Customer affiliate and Licensed User to the terms of this Agreement. Customer shall be responsible for all acts and omissions of all Customer affiliates and Licensed Users.</p> <p>2.2. Limitations. No right to use, copy, modify, create derivative works of, adapt, distribute, disclose, decompile or reverse engineer the Licensed Software is granted, except as expressly set forth in this Agreement. WellSky reserves title to the Licensed Software and all rights not expressly granted hereunder. Customer may make copies of Licensed Software as necessary for back-up, testing and archival purposes only. Customer may not use any component of the System to provide services to third parties as a service bureau or data processor.</p> <p>2.3. Scope of Use. The Licensed Software and Sublicensed Software are priced based on certain metrics (e.g. Sites, Deliverables and/or Licensed Users) as set forth in an Order Form (Attachment A). Customer may only expand its use of the Licensed Software or Sublicensed Software upon payment of additional license, support and service fees at WellSky's then-current rates. Any such fees</p> | <p>for additional scope of use will be immediately due and payable.</p> <p>3. SERVICES.</p> <p>3.1. Cloud Services. During the Cloud Services term set forth in an Order Form (Attachment A), WellSky shall provide Customer a non-exclusive, non-assignable, limited license to access and use the Cloud Services, solely for Customer's internal business operations and subject to the terms of this Agreement and Order Form (Attachment A).</p> <p>3.2. Support. WellSky shall provide the Support Services set forth in <u>Exhibit B</u> or in the applicable Order Form (Attachment A) for Cloud Services. WellSky is not obligated to provide Support services for Licensed Software that is not the most current or next to most current release.</p> <p>3.3. Professional Services. Unless otherwise set forth in an Order Form (Attachment A), Professional Services shall be performed on a time and materials basis at WellSky standard rates.</p> <p>3.4. Customer Responsibilities. Customer shall approve access for all Licensed Users to the Cloud Services, and shall prevent unauthorized access and use of the Cloud Services. Customer shall not, and shall ensure that its Licensed Users do not: (i) sell, resell, lease, lend or otherwise make available the Cloud Services to a third party; (ii) modify, adapt, translate, or make derivative works of the Cloud Services; or (iii) sublicense or operate the Cloud Services for timesharing, outsourcing, or service bureau operations.</p> <p>3.5. Suspension of Services. If (i) there is a threat to the security of WellSky's systems or the Services, or (ii) Customer's undisputed invoices are 60 days or more overdue, in</p> |
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**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

- addition to any other rights and remedies (including termination), WellSky may suspend the Services without liability until all issues are resolved.
4. **SUBLICENSSED SOFTWARE AND HARDWARE.** Subject to the terms and conditions of this Agreement and any Order Form (Attachment A), WellSky shall grant the licenses to Sublicensed Software as set forth in an Order Form (Attachment A). Customer agrees to purchase any Hardware set forth in an Order Form (Attachment A).
5. **PROPRIETARY RIGHTS.**
- 5.1. **Ownership.** WellSky or its licensor retains all right, title, and interest, in the Licensed Software, Sublicensed Software, Test Scripts, Documentation, Services, and Work Product. WellSky shall grant to Customer a non-exclusive, non-transferable license to use Work Product only for Customer's own internal purposes in connection with the Licensed Software and Services.
- 5.2. **Restricted Rights.** The Licensed Software is commercial computer software programs developed exclusively at private expense. Use, duplication, and disclosure by civilian agencies of the U.S. Government shall be in accordance with FAR 52.227-19 (b). Use, duplication and disclosure by DOD agencies are subject solely to the terms of this Agreement, a standard software license agreement as stated in DFARS 227.7202.
6. **INSTALLATION OF DESIGNATED PLATFORM.** Customer shall install all components of the Designated Platform, and complete all necessary diagnostic tests to ensure such installation is complete and successful.
7. **PAYMENTS BY CUSTOMER.**
- 7.1. **Payment.** Customer shall pay all Fees for the Licensed Software, System Services and Hardware as described in Attachment A. All invoices shall be paid net 30 days following the date of the invoice. Invoices that are more than 10 days past due shall be subject to a finance charge at a rate of interest the lesser of 1.5% per month or maximum permissible legal rate.
- 7.2. **Increases.** All annual fees may be increased by WellSky once annually commencing one (1) year following the Effective Date of the applicable Order Form (Attachment A) at a rate not to exceed 5%. Maintenance and cloud services fees may further be increased upon prior written notice to Customer in the event WellSky's third-party supplier increase such fees.
- 7.3. **Expenses.** Customer shall reimburse WellSky for all reasonable Customer-related travel, lodging and out-of-pocket expenses.
- 7.4. **Shipping Fees, Taxes.** Customer shall pay all shipping charges, as well as any taxes, fees or costs imposed by any governmental body arising as a result of this Agreement. WellSky shall be responsible for taxes on its net income.
- 7.5. **Delivery/Risk of Loss.** All materials provided by WellSky to Customer hereunder are shipped FOB WellSky's carrier.
- 7.6. **Audit.** WellSky reserves the right to audit Customer's use of the System and Cloud Services, remotely or on site at a mutually agreeable time. If Customer's use is greater than contracted, Customer shall be invoiced for any unlicensed use (and related support), and the unpaid license and support fees shall be payable in accordance with this Agreement. If any increase in fees is required, Customer shall also pay the expenses associated with the audit.
8. **LIMITED WARRANTIES AND COVENANTS.**
- 8.1. **Licensed Software Warranty.** WellSky warrants that the Licensed Software shall, without material error, perform the functions set forth in the Documentation when operated on the Designated Platform in accordance with this Agreement and the Order Form (Attachment A) during the Warranty Period.
- 8.2. **Services Warranty.** WellSky warrants that it shall perform the Services in a professional manner in accordance with the applicable Documentation.
- 8.3. **Hardware/Sublicensed Software.** Customer agrees that the manufacturers or licensors of Hardware and Sublicensed Software may

ATTACHMENT 4 MASTER LICENSE AND SERVICES AGREEMENT

provide certain warranties and other terms and conditions with respect to the Hardware and Sublicensed Software supplied to Customer under this Agreement. WellSky makes no representations or warranties concerning the Hardware or Sublicensed Software.

- 8.4. **Remedy.** Customer's sole and exclusive remedy for any breach of the warranties set forth herein or in an Order Form (Attachment A) shall be to notify WellSky of the applicable non-conformity, in which case WellSky shall use commercially reasonable efforts to correct such non-conformity by redelivering the Licensed Software or reperforming the Services. Notwithstanding the foregoing, WellSky shall not be responsible for any non-conformity, which arises as a result of (i) any act or omission of Customer, including a failure to use the System or Cloud Services in conformance with the Documentation or Applicable Law; (ii) any person (other than WellSky) making modifications to the Designated Platform in any way without WellSky's prior written consent; or (iv) any failure of any component of Hardware, Sublicensed Software, or any Customer-supplied software, equipment or other third-party materials.
- 8.5. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN AN ORDER FORM (ATTACHMENT A), WELLSKY DISCLAIMS, ALL WARRANTIES, BOTH EXPRESS AND IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, AND ANY WARRANTY OF NON-INFRINGEMENT, OR ANY WARRANTIES ARISING FROM TRADE PRACTICE OR COURSE OF DEALING. WELLSKY DOES NOT WARRANT THAT THE SERVICES SHALL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ALL DEFECTS SHALL BE CORRECTED, OR THAT THE LICENSED SOFTWARE OR SERVICES SHALL MEET CUSTOMER'S REQUIREMENTS.
- 8.6. **Customer Warranty.** Customer warrants that Customer (a) has the power and authority to enter into this Agreement and bind each Licensed User to the confidentiality and use restrictions set forth herein; and (b) shall use

its best efforts to protect the security of the Licensed Software and Cloud Services.

9. **LIMITATION OF LIABILITY.** WELLSKY'S MAXIMUM LIABILITY FOR DAMAGES TO CUSTOMER FOR ANY CAUSE WHATSOEVER ARISING UNDER OR RELATED TO THIS AGREEMENT, IS LIMITED TO THE FEES PAID UNDER THE ORDER FORM (ATTACHMENT A) FOR THE AFFECTED SOFTWARE OR SERVICES DURING THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO A CLAIM. NEITHER WELLSKY NOR ITS LICENSORS SHALL BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE DAMAGES, OR LOST PROFITS, BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY A THIRD PARTY AGAINST CUSTOMER. WellSky shall not be deemed to be engaged, directly or indirectly, in the practice of medicine or the dispensing of medical services, nor shall it be responsible or liable for the use, application or interpretation of any information, results or product generated by or resulting from the Licensed Software or Services or arising from the Customer's use of the Licensed Software or Services.
10. **INDEMNIFICATION.**
- 10.1. **WellSky Indemnity.** WellSky shall defend, indemnify and hold Customer and its officers, directors, and employees, harmless from and against any third party claims, suits, liabilities, obligations, judgments, and causes of action ("Third Party Claims") and associated costs and expenses (including reasonable attorneys' fees) to the extent arising out of any claim that the Licensed Software or Cloud Services infringes any currently existing United States patent or copyright, or misappropriates any trade secret, of any third party. If Customer's use of the Licensed Software or Cloud Services is finally enjoined, WellSky shall, at its sole option and expense, and as Customer's sole and exclusive remedy, either: (a) secure for Customer the right to continue to use the

**ATTACHMENT 4
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Licensed Software or Cloud Services; (b) replace, modify or correct such Licensed Software or Cloud Services to avoid such infringement, or (c) terminate the Agreement and refund to Customer a pro rata portion of the Licensed Software license fees amortized over a five (5) year straight line depreciated basis and any prepaid amounts for Cloud Services not yet performed. WellSky's indemnification obligations shall not apply if the Third Party Claim results from: (i) modifications of the Licensed Software or Cloud Services by Customer or third parties; (ii) use of the Licensed Software or Cloud Services with non-WellSky software or equipment; (iii) use of the Licensed Software or Cloud Services in violation of this Agreement, Applicable Law, or in conformance with the Documentation; or (iv) use of anything other than the most current release of the Licensed Software, if the infringement could be avoided by use of the current release.

10.2. **Customer Indemnity.** To the extent permitted by law, Customer shall defend, indemnify and hold WellSky and its officers, directors, and employees harmless from and against any Third-Party Claim and associated costs and expenses (including reasonable attorneys' fees) to the extent arising out of or resulting from Customer's use of the Licensed Software, Test Scripts and Cloud Services, or any claim by any party receiving services from Customer in connection with the Licensed Software or Cloud Services.

10.3. **Indemnification Procedures.** To be indemnified, the party seeking indemnification must: (i) give the other party timely written notice of such Third-Party Claim (unless the other party already has notice); provided, however, that failure to give such notice will not waive any rights of the indemnified party except to the extent that the rights of the indemnifying party are prejudiced thereby; (ii) give the indemnifying party authority, information and assistance for the Third-Party Claim's defense and settlement. The indemnifying party has the right, at its option, to defend the Third-Party Claim at its own expense and with its own counsel. The indemnified party has the right, at its option, to join in the defense and settlement of such Third-Party Claim and to employ counsel at its own expense, but the

indemnifying party shall retain control of the defense. The indemnifying party has the right to settle the claim so long as the settlement does not require the indemnified party to pay any money or admit any fault without the indemnified party's prior written consent, which will not be unreasonably withheld, conditioned or delayed.

11. TERM AND TERMINATION OF LICENSE AND AGREEMENT.

11.1. **Term.** If applicable, the term of the license to the Licensed Software and Cloud Services is set forth in an Order Form (Attachment A). This Agreement shall terminate when the license to all Licensed Software licensed under this Agreement terminates, all Services expire or are terminated, or sooner as provided in Section 11.

11.2. **Termination.** This Agreement remains in effect until all Licensed Software and Services expire or are terminated in accordance with this Agreement. Either Party may terminate this Agreement and the licenses granted herein if: (i) the other Party materially breaches this Agreement and fails to cure such breach within 60 days after receipt of written notice of the same, except in the case of failure to pay fees when due, which must be cured within 10 days after receipt of written notice from WellSky; or (ii) the other Party becomes the subject of a voluntary proceeding relating to insolvency, receivership, liquidation, bankruptcy or composition for the benefit of creditors and such petition or proceeding is not dismissed within 60 days of filing. Failure to use the Licensed Software and Updates thereto in accordance with Applicable Law is a material breach of this Agreement.

11.3. **Effect of Termination.** Upon termination of this Agreement, Customer shall immediately cease all use of the Licensed Software, Sublicensed Software and Cloud Services, the licenses granted and all other rights of Customer under this Agreement shall terminate and revert to WellSky. Customer shall, within 10 days following such termination, return or destroy to WellSky all magnetic media or tangible items and material containing the Licensed Software and its Documentation, all WellSky Confidential

**ATTACHMENT 4
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- information and certify such return or destruction in writing to WellSky.
- 11.4 **Survival.** The following sections shall survive termination or expiration of this Agreement: Articles 9, 10, 11, 12 and 14; Sections 8.4 through 8.6, as well as any obligation to pay fees arising prior to termination or expiration. In addition, restrictions on use of the Licensed Software and related obligations regarding use in conformance with laws and applicable accreditation standards shall survive as long as the license survives.
12. **CONFIDENTIAL INFORMATION.** Each Party shall (i) secure and protect the Confidential Information using the same degree or greater level of care that it uses to protect such Party's own confidential information, but no less than a reasonable degree of care; (ii) use the Confidential Information of the other Party solely to perform its obligations or exercise its rights under this Agreement; (iii) require their respective employees, agents, attorneys, and independent contractors who have a need to access such Confidential Information to be bound by confidentiality obligations sufficient to protect the Confidential Information; and (iv) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third party. Either party may disclose the other party's Confidential Information to the extent required by Applicable Law or regulation, including without limitation any applicable Freedom of Information or sunshine law, or by order of a court or other governmental entity, in which case the disclosing party shall notify the other party as soon as practical prior to such disclosure and an opportunity to respond or object to the disclosure.
13. **REGULATORY COMPLIANCE.**
- 13.1. **General.** WellSky shall make available to the Secretary of Health & Human Services or Comptroller General of the United States its books, documents, and records necessary to verify the nature and extent of the costs of those Services. Said access shall be limited to a period of four (4) years after the provision of the applicable services hereunder.
- 13.2. **HIPAA.** The parties agree to the terms of the Business Associate Exhibit that is attached hereto as **Exhibit C**.
14. **GENERAL PROVISIONS.**
- 14.1. **Force Majeure.** Neither Party shall be liable for any loss, damages or penalty (other than the obligation to pay money) resulting from any failure to perform due to causes beyond the reasonable control of such Party, including, but not limited to: supplier delay, acts of God, labor disputes, terrorism, war, unavailability of components, acts of governmental authorities or judicial action, or material interruption in telecommunications or utility service. The delayed party shall perform its obligations within a reasonable time after the cause for the failure has been remedied, and the other party shall accept the delayed performance.
- 14.2. **Data Use.** Notwithstanding any other terms to the contrary in a prior or contemporaneous agreement, Customer grants WellSky permission to use data from Customer to help WellSky to provide the Licensed Software and/or Services to Customer and to enhance the Licensed Software and/or Services it provides. Customer grants WellSky permission to combine Customer's data, and more specifically, a Limited Data Set as defined in 45 CFR § 164.514(e)(1), if any, with other data in a way that does not identify (a) Customer or (b) any individual. Customer also grants WellSky permission to use this combined Limited Data Set information to create new predictive algorithms and other similar products and services.
- 14.3. **Injunctive Relief.** Customer acknowledges that any breach by Customer of Article 2 or 12 of this Agreement shall cause WellSky irreparable harm not compensable with money damages, and that in the event of such breach, WellSky shall be entitled to seek injunctive relief, without bond, from any court of competent jurisdiction.
- 14.4. **Assignment.** Neither Party shall assign its rights, duties or obligations under this Agreement without the prior written consent of the other Party and such consent shall not be unreasonably withheld. Notwithstanding the foregoing, WellSky may assign this Agreement to an affiliate or in connection

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with any merger, reorganization or sale of substantially all of WellSky's assets or other change of control transaction without any consent from Customer.

- 14.5. Relationship of the Parties. WellSky is an independent contractor, and none of WellSky's employees or agents shall be deemed employees or agents of Customer. Nothing in this Agreement is intended or shall be construed to create or establish any agency, partnership or joint venture relationship between the Parties.
- 14.6. Export. Customer agrees to comply with all export and re-export restrictions and regulations of the Department of Commerce or other United States agency or authority, and not to transfer, or authorize the transfer of, the Licensed Software or the Sublicensed Software to a prohibited country or otherwise in violation of any such restrictions or regulations.
- 14.7. Notices. All notices, requests, demands or other communication required or permitted to be given by one Party to the other under this Agreement shall be sufficient if sent by certified mail, return receipt requested. The sender shall address all notices, requests, demands or other communication to the recipient's address as set forth on the first page of this Agreement, and in the case of WellSky, to the attention of Senior Vice President and General Counsel and in the case of Customer, to the attention of Brian Kloviski, Program Specialist.
- 14.8. Severability. If any provision of this Agreement or any Order Form (Attachment A) adopted in connection herewith is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired thereby and the illegal provision shall be replaced with a legal provision that encapsulates the original intent of the Parties.
- 14.9. Entire Agreement; Amendment; Waiver. This Agreement constitutes the entire agreement between the Parties and supersedes any prior or contemporaneous agreement or understandings with respect to the subject matter of this Agreement. In the event of a conflict between this Agreement and an Order Form (Attachment A), the Agreement shall

control. This Agreement shall be construed as if both Parties had equal say in its drafting, and thus shall not be construed against the drafter. This Agreement may be modified only by a written agreement signed by all of the Parties hereto. No waiver or consent granted for one matter or incident will be a waiver or consent for any different or subsequent matter or incident. Waivers and consents must be in writing and signed by an officer of the other Party to be effective.

- 14.10. Limitation on Actions. Neither party may bring any action arising out of or otherwise associated with this Agreement or the rights granted hereunder (other than failures to pay) more than two years after the cause of action accrues.
- 14.11. Discounts. Customer is reminded that if the purchase includes a discount or loan, Customer may be required to fully and accurately report such discount or loan on cost reports or other applicable claims for payment submitted under any federal health care program, including but not limited to Medicare and Medicaid, as required by federal law – see 42 CFR 1001.952 (h).
- 14.12. Purchase Orders; Acceptance of Quotes. If Customer submits its own terms in Customer's acceptance of a price quotation or in a purchase order, which add to, vary from, or conflict with the terms herein, any such terms are of no force and effect and are superseded by this Agreement.
- 14.13. Governing Law. This Agreement will be governed by, construed and interpreted in accordance with the laws of the State of Kansas, excluding its rules of conflicts of law. Both parties hereby consent and submit to the courts located solely in the state of Kansas.
- 14.14. Non-Solicitation. During the term of this Agreement and for a period of one (1) year thereafter, Customer agrees not to hire, directly or indirectly, any employee or former employee of WellSky, without obtaining WellSky's prior written consent.
- 14.15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and such counterparts together shall constitute one and the same instrument. Execution may be effected by delivery of email or facsimile of

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

signature pages, which shall be deemed
originals in all respects.

[remainder of page intentionally left blank]

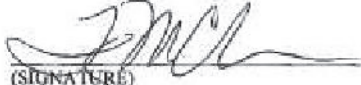
Confidential
Contract No. 766153

7

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

**MENDOCINO COUNTY HEALTH &
HUMAN SERVICES AGENCY:**


(SIGNATURE)

Tammy Moss Chandler

HHSA Director

6/9/19
(DATE)

WELLSKY CORPORATION:


(SIGNATURE)

Stephen Greenberg
(PRINT NAME)

SVP
(TITLE)

7/15/19
(DATE)

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IN WITNESS WHEREOF

DEPARTMENT/FISCAL REVIEW:

By: [Signature]
Tammy Moss Chandler, HHS Director

Date: 6/19/19

Budgeted: Yes No

Budget Unit: 0433

Line Item: 88-2189

Org/Object Code: UY

Grant: Yes No

Grant No.:

CARMEL J. ANGELO, Chief Executive Officer

By: [Signature]
PURCHASING AGENT

Date: 6/28/19

INSURANCE REVIEW:

By: [Signature]
Risk Management

Date: 6/28/19

EXECUTIVE OFFICE/FISCAL REVIEW:

APPROVAL RECOMMENDED

By: [Signature]
Deputy CEO

Date: 6/28/19

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

Exception to Bid Process Required/Completed 18-330

Exempt Pursuant to MCC Section: out of County contractor

CONTRACTOR/COMPANY NAME

By: [Signature]
Stephen Greenberg, SV Human and Social Services

Date: 7/13/19

NAME AND ADDRESS OF CONTRACTOR:

WellSky Corporation

11711 W. 79th St.

Lenexa, KS 66124

By signing above, 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 COUNSEL REVIEW:

APPROVED AS TO FORM:

KATHARINE L. ELLIOTT,
County Counsel

By: [Signature]
Deputy

Date: 6/25/2019

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EXHIBIT A

- a. **"Applicable Law"** means any law or regulation, or related administrative agency requirement affecting or governing the features, functionality, use, testing or Validation of any of the Licensed Software, including validation requirements affecting Regulated Licensed Software.
- b. **"Cloud Services"** means, collectively, the WellSky software as a service offering listed in an Order Form and defined in the Documentation. The term "Cloud Services" does not include Professional Services.
- c. **"Concurrent User"** means each Customer workstation able to simultaneously access the System at any given moment, for purposes of updating the System.
- d. **"Confidential Information"** means (i) the source and object code of all components of the System, (ii) the Documentation, (iii) the Test Scripts, (iv) the design and architecture of the database, (v) the terms and conditions of this Agreement, and (vi) all other information of a confidential or proprietary nature disclosed by one Party to the other Party in connection with this Agreement which is either (x) disclosed in writing and clearly marked as confidential at the time of disclosure or (y) disclosed orally and clearly designated as confidential in a written communication to the receiving Party within 7 days following the disclosure. "Confidential Information" shall not include information (a) publicly available through no breach of this Agreement, (b) independently developed or previously known to it, without restriction, prior to disclosure by the disclosing Party, (c) rightfully acquired from a third party not under an obligation of confidentiality.
- e. **"Designated Platform"** means the required operating environment for the Licensed Software, including all necessary hardware and software components, specified in an applicable Order Form or Documentation.
- f. **"Documentation"** means the most recent documentation of the functional operation of the Licensed Software and Cloud Services; provided that if the Licensed Software is a product that is cleared by the FDA, Documentation means the documentation provided to the FDA in connection with the FDA Clearance.
- g. **"FDA Clearance"** means the 510(k) clearance received by WellSky from the Food and Drug Administration that authorizes the commercialization of the Regulated Licensed Software and sets forth the specific parameters of use for the Regulated Licensed Software on the Designated Platform.
- h. **"First Productive Use"** means the day Customer begins using any part of the System or Cloud Services in a live production environment.
- i. **"Hardware"** means any computer hardware (including, as applicable, embedded or bundled third-party software provided as a component of such hardware) identified in an Order Form to be purchased by Customer from WellSky.
- j. **"Licensed User"** means a permitted user of Licensed Software, Sublicensed Software and Cloud Services as described in the applicable Order Form.
- k. **"Licensed Software"** means the object code version of computer programs developed by WellSky listed in Section I of an Order Form, including Updates furnished to Customer by WellSky pursuant to this Agreement or any Order Form, but excluding all Sublicensed Software or third-party software.
- l. **"Order Form"** means a work authorization executed by the Parties from time to time, including the Order Forms(s) attached hereto setting forth the items being purchased by the Customer, scope of use, pricing, payment terms and any other relevant terms, which will be a part of and be governed by the terms and conditions of this Agreement.
- m. **"Professional Services"** means, collectively, the implementation, installation, data conversion, validation, or training services provided by WellSky under or in connection with this Agreement.
- n. **"Program Error"** means an error or bug preventing the Licensed Software from operating in accordance with the Documentation in all material respects.
- o. **"Services"** means the Cloud Services, Professional Services and the Support Services set forth in an Order Form.
- p. **"Site"** means each of the Customer facility or facilities specified in an Order Form and for whom Customer (a) owns at least 50%, or (b) has the right to determine management direction.
- q. **"Support Services"** shall mean the services to keep the Licensed Software in working order and to sustain useful life of the Licensed Software, including Updates and specified in an Order Form.
- r. **"Sublicensed Software"** shall mean those programs provided to WellSky by a third party, which WellSky sublicenses to Customer hereunder, for use with the Licensed Software, as specified on an Order Form, and subject to the limitations set forth in this Agreement and any other applicable third-party terms and conditions.
- s. **"System"** shall mean the Licensed Software (all or less than all of the Licensed Software) and Sublicensed Software, if any, and any Updates thereto.

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- t. **"Test Scripts"** means WellSky's test scripts designed by WellSky to assist in Customer's Validation of certain Regulated Licensed Software.
- u. **"Update"** means any error corrections, bug fixes, enhancements, and/or new features to the Licensed Software or Test Scripts that WellSky makes generally commercially available to its customers who have a current Maintenance and Support Agreement. Updates do not include modules, scripts or software that WellSky prices or markets separately.
- v. **"Validation"** means the procedure performed by Customer to validate the Licensed Software pursuant to certain rules and regulations promulgated by the Food and Drug Administration.
- w. **"Warranty Period"** means twelve months from the execution of the applicable Order Form, unless a different period is set forth in an Order Form.
- x. **"Work Product"** means any technology, documentation, software, procedures developed, conceived or introduced by WellSky in the course of WellSky performing Services, whether acting alone or in conjunction with Customer or its employees, Licensed Users, affiliates or others, designs, inventions, methodologies, techniques, discoveries, know-how, show-how and works of authorship, and all United States and foreign patents issued or issuable thereon, all copyrights and other rights in works of authorship, collections and arrangements of data, mask work rights, trade secrets on a world-wide basis, trademarks, trade names, and other forms of corporate or product identification, and any division, continuation, modification, enhancement, derivative work or license of any of the foregoing.

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

**EXHIBIT B
LICENSED SOFTWARE SUPPORT TERMS**

1. TERM.

UNLESS OTHERWISE SET FORTH IN AN ORDER FORM, SUPPORT SERVICES ARE EFFECTIVE FOR AN INITIAL TERM OF ONE (1) YEAR BEGINNING ON THE EFFECTIVE DATE OF THE ORDER FORM (ATTACHMENT A) (THE "SUPPORT EFFECTIVE DATE") AND A NEW AGREEMENT MAY BE ENTERED INTO FOR CONSECUTIVE ONE (1) YEAR TERMS UNLESS NOTICE OF NON-RENEWAL IS SENT BY ONE PARTY TO THE OTHER PARTY NOT LESS THAN 90 DAYS PRIOR TO THE END OF THE THEN-CURRENT SUPPORT TERM (THE "TERM"). This Exhibit only applies to the Licensed Software.

2. SERVICE REINSTATEMENT.

In the event Support is allowed to lapse (other than for breach by WellSky) and is later reinstated, Customer shall be required to pay a reinstatement charge of Ten Thousand Dollars (\$10,000), plus back charges for all months that Support lapsed, including appropriate late charges. Customer may be responsible for expenses incurred to inspect Hardware or reload Licensed Software to the current release version after any lapse in Support.

3. SERVICES PROVIDED.

WellSky shall provide standard support services for supporting Customer's live productive use of the Licensed Software set forth on an applicable Order Form (Attachment A) on the Designated Platform. For purposes of Support, "standard support services" shall include using commercially reasonable efforts to repair or provide a work around for all Program Errors that WellSky is able to reproduce. Standard support services shall also include using commercially reasonable efforts to provide Updates, including Updates required to comply with applicable Federal laws and regulations; provided that, WellSky is not required to provide Updates that are based on changes to laws that require a substantial rewrite of the Licensed Software or are otherwise commercially impractical. If Customer requires assistance to install any Updates, such services shall be at WellSky's then current rates. So long as Customer is current in Support fees and Customer complies with the terms and conditions of the Agreement, the Licensed Software shall operate in accordance with the Documentation, in all material respects.

4. TELEPHONE SUPPORT.

- a. **Priority Levels.** Customer may request, and WellSky shall provide, reasonable technical consultation by telephone 24 hours a day, 365 days of a year. WellSky shall maintain a log of technical consultation requests in a tracking system and a unique number shall be assigned to Customer's request. That unique number shall be provided to Customer for reference and communication. WellSky shall assign to technical consultation requests one of three levels of priority:
 1. **Level 1** is the most severe Program Error and represents a situation where all features and functions of the Licensed Software are unavailable and no practical alternate mode of operation is available. WellSky shall use commercially reasonable efforts to answer or return Level 1 calls within four (4) hours.
 2. **Level 2** indicates a problem in which certain features and functionality are not available and no practical alternate mode of operation is available. Priority 2 requests will be escalated as appropriate to seek resolution.
 3. **Level 3** is the normal next-in-line priority assignment. Priority 3 requests will be worked on in the order in which they are received.
- b. **Problem Resolution.** WellSky shall provide technical consultation solutions to Level 1, Level 2 and Level 3 issues as quickly as reasonably possible, in light of the problem. If a Level 1 or Level 2 issue requires a

ATTACHMENT 4 MASTER LICENSE AND SERVICES AGREEMENT

change to the Licensed Software, the change will be sent to Customer as soon as available. If a Level 3 issue requires a change to the software, the change will be provided in a regularly scheduled Update.

- c. Service Location. WellSky shall provide technical consultation from its business premises, except that WellSky, at its own discretion, may dispatch a technical services representative to Customer's facility for all Program Errors that WellSky is unable to correct by providing technical consultation from WellSky's premises.

5. UPDATE.

During the Term of Support, WellSky may make Updates available to Customer. WellSky reserves the right to determine the content and availability of all software, including without limitation, Updates. For purposes of clarification, the Parties agree that Updates shall include bug fixes, error corrections, changes required by federal law and regulations and new features that are not offered by WellSky as separate modules or software packages. Interface service provided under Support is designed to keep the application in good working order and comply with interface specifications agreed to by WellSky and Customer. Any enhancements or additions made to an interface as requested by Customer are not part of Support and may increase the monthly charge by an amount which reflects the extent of the change. Documentation updates shall generally be distributed to Customer with each Update. If applicable, all Updates may be loaded only based upon instructions provided by WellSky's customer service personnel. WellSky must be notified, in writing, before the loading of operating system software updates, third party software updates or installing new hardware to the System. WellSky shall provide assistance by telephone during normal business hours.

6. CUSTOMER PARTICIPATION.

WellSky's obligations are conditioned on Customer fulfilling its obligations hereunder, including, without limitation:

- a. Providing WellSky with all information and assistance necessary to detect, simulate or reproduce and correct any Program Errors.
- b. Providing WellSky access to the System and its related operating environment for the purpose of providing WellSky services;
- c. Causing all equipment and facilities which are used in connection with the operation or security of System and Hardware to be maintained properly and in good operating condition as specified by the applicable manufacturer. All charges for such media and services shall be the sole responsibility of Customer.
- d. Maintaining regular back-ups of data files, application source code (if applicable) and operating system software.
- e. Strict compliance with the terms and conditions of the Agreement, including without limitation, the terms and restrictions on the license grant.

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**EXHIBIT C
BUSINESS ASSOCIATE AGREEMENT**

BACKGROUND

- A. Covered Entity and WellSky have entered into a certain License Agreement dated July 1, 2019, (such agreement is the "Agreement"), pursuant to which Covered Entity has licensed software from Business Associate and Business Associate provides implementation, maintenance, support and other services to Covered Entity.
- B. Covered Entity possesses Protected Health Information that is protected under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and the regulations promulgated thereunder by the United States Department of Health and Human Services (collectively, "HIPAA"), and is permitted to use or disclose such Protected Health Information only in accordance with HIPAA and the Regulations.
- C. Business Associate may have access to and may receive Protected Health Information from Covered Entity in connection with its performance of services to under the Agreement.

TERMS

- 1. **Definitions.** All capitalized terms used but not otherwise defined in this Business Associate Agreement ("BAA") shall have the same meaning as those terms in the Regulations.
 - a. Business Associate shall mean WellSky Corporation.
 - b. Covered Entity shall mean Customer.
 - c. Individual shall have the same meaning as the term "individual" in 45 CFR § 160.103 of the Regulations and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g) of the Regulations.
 - d. Regulations shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E, Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C; 45 CFR § 164.314, and the Health Information Technology for Economic and Clinical Health Act (HITECH), as it directly applies, as in effect on the date of this BAA.
 - e. Protected Health Information shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
 - f. Required by Law shall have the same meaning as the term "required by law" in 45 CFR § 164.103 of the Regulations.
 - g. Secretary shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- 2. **Obligations and Activities of Business Associate.**
 - a. Business Associate agrees to comply with the requirements of the Privacy and Security Rules directly applicable to Business Associates through the HITECH Act.
 - b. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this BAA, the Privacy and Security Rules, the Agreement, or as required by law. Such disclosures shall be consistent with the "minimum necessary" requirements of the Regulations.
 - c. Business Associate agrees to use appropriate safeguards to protect against the use or disclosure of the Protected Health Information other than as provided for by this BAA or the Agreement.
 - d. Business Associate agrees to mitigate, to the extent reasonably 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 BAA.
 - e. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by the BAA of which it becomes aware.

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- f. Business Associate shall notify Covered Entity of a breach of the Privacy Rule relating to the impermissible use or disclosure of Protected Health Information provided to the Business Associate for purposes of carrying out its obligations under the Agreement. Unless otherwise required by law or agreed to by the parties, it shall be the responsibility of Covered Entity to communicate with affected individual(s), the Secretary and the media information regarding the unintended use or disclosure.
 - 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 Covered Entity agrees to the same or similar restrictions and conditions that apply through this BAA to Business Associate with respect to such information.
 - h. If Business Associate maintains Protected Health Information in a Designated Record Set for Covered Entity, Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner reasonably designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524 of the Regulations. In the event a request for access is delivered directly to Business Associate by an Individual, Business Associate shall as soon as possible, forward the request to Covered Entity.
 - i. If Business Associate maintains Protected Health Information in a Designated Record Set for Covered Entity, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 of the Regulations at the request of Covered Entity or an Individual, and in the time and manner reasonably designated by Covered Entity. In the event a request for amendment is delivered directly to Business Associate by an Individual, Business Associate shall as soon as possible, forward the request to Covered Entity.
 - j. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary, in a time and manner reasonably designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Regulations.
 - k. Business Associate agrees to document such disclosures of Protected Health Information 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 Protected Health Information in accordance with 45 CFR § 164.528 of the Regulations.
 - l. Business Associate agrees to provide to Covered Entity or an Individual, in time and manner reasonably designated by Covered Entity, information collected in accordance with Section 2(k) of this BAA, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 of the Regulations. In the event a request for accounting is delivered directly to Business Associate by an Individual, Business Associate shall as soon as possible, forward the request to Covered Entity.
- 3. Permitted Uses and Disclosures by Business Associate**
- a. Except as otherwise limited in this BAA, Business Associate may use or disclose Protected Health Information to perform functions, activities or services for, or on behalf of, Covered Entity in connection with the BAA and any other agreements in effect between Covered Entity and Business Associate, including without limitation the provision of software implementation and support services, provided that such use or disclosure would not violate the Regulations if done by Covered Entity.
 - b. Except as otherwise expressly limited in this BAA, Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
 - c. Except as otherwise expressly limited in this BAA, Business Associate may disclose Protected Health Information for disclosures that are Required By Law, or if Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT

- d. Except as otherwise expressly limited in this BAA, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).
- e. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

4. Termination.

- a. Except as otherwise provided herein, this BAA shall terminate upon termination of the Agreement.
- b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate of this BAA, Covered Entity may:
 - 1. Provide a reasonable opportunity for Business Associate to cure the material breach or end the material violation and if Business Associate does not cure the material breach or end the material violation within a reasonable time, Covered Entity may terminate this BAA and the provisions of the Agreement that require or permit Business Associate to access Protected Health Information;
 - 2. If Business Associate has breached a material term of this BAA and cure is not possible, immediately terminate this BAA and the provisions of the Agreement that require or permit Business Associate to access Protected Health Information; or
 - 3. If neither termination nor cure is feasible, report the violation to the Secretary.

If Cover Entity breaches, Business Associate may terminate this BAA and any Underlying Agreement 30 days after written notice.

c. Effect of Termination.

- 1. Except as provided in paragraph (2) of this section, upon termination of this BAA, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. 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.
- 2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. In such event, Business Associate shall extend the protections of this BAA 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. Except as provided herein, any termination of the maintenance program or provisions of the Agreement that permit Business Associate to access Protected Health Information shall not affect the parties' other obligations or rights under the Agreement. For the avoidance of doubt, the parties agree that the return or destruction of Limited Data Sets (defined below) shall be deemed infeasible, and no further notice pursuant to this Section shall be required.

5. Obligations of Covered Entity.

- a. Covered Entity shall notify Business Associate of any limitation(s) in the notice of privacy practices of Covered Entity under 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of protected health information.
- b. Covered Entity shall notify Business Associate of any changes in or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect the Business Associate's use or disclosure of protected health information.
- c. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of protected health information that Covered Entity has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's user or disclosure of protected health information.
- d. Covered Entity shall not request Business Associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT

6. Electronic Data Security. Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Protected Health Information that it creates, receives, maintains or transmits to or on behalf of Covered Entity as required by the Regulations. Business Associate further agrees to ensure that any agent, including a subcontractor, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it. Business Associate agrees to promptly report to Covered Entity any security incident of which it becomes aware.

7. Miscellaneous.

- a. **De-identified Information.** Business Associate may de-identify Protected Health Information obtained by Business Associate under this BAA in compliance with 45 CFR § 164.502(d) and 45 CFR § 164.514(a) and (b). Pursuant to 45 CFR § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this BAA.
- b. **Data Use.** Business Associate may use and disclose Protected Health Information obtained by Business Associate under this BAA to create a limited data set without any of the identifiers listed in 45 CFR § 164.514(e) ("Limited Data Set") for research, public health, and health care operations purposes. Business Associate may not use or further disclose a Limited Data Set for any other purpose, except as may otherwise be Required by Law. Business Associate must use appropriate safeguards to prevent use or disclosure of a Limited Data Set other than as provided for herein. Business Associate must report to Covered Entity any use or disclosure of a Limited Data Set not provided for herein of which Business Associate becomes aware. Business Associate must ensure that any agents to whom Business Associate provides a Limited Data Set agree to the same or substantially similar restrictions and conditions that apply to Business Associate with respect to such information. Business Associate may disclose a Limited Data Set to any recipient that agrees to the same or substantially similar restrictions and conditions that apply to Business Associate with respect to such information. With respect to any particular Limited Data Set, Business Associate will not use the Limited Data Set in such a way as to identify any individual whose data is incorporated in the Limited Data Set or to contact any such individual.
- c. **Changes to Regulations.** If the Regulations are amended in a manner that would alter the obligations of WellSky as set forth in this BAA, then the parties agree in good faith to negotiate mutually acceptable changes to the terms set forth in this BAA.
- d. **Survival.** The respective rights and obligations of Business Associate under Section 4(c) of this BAA shall survive the termination of this BAA.
- e. **Minimum Necessary.** Covered Entity shall only provide a minimum amount of Protected Health Information necessary for the Business Associate to satisfy its obligations under the Agreement.
- f. **Interpretation.** Any ambiguity in this BAA shall be resolved to permit compliance with the Regulations.
- g. **Incorporation.** Except for Covered Entity, no third party may rely on the terms, conditions, rights, remedies or obligations hereunder. The terms of this BAA are fully incorporated in and subject to the terms of the Agreement.

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

**ATTACHMENT A
ORDER FORM
PART I
SCOPE OF USE, TERM AND PAYMENT TERMS**

**WELLSKY CORPORATION
ORDER FORM**

This Order Form ("Order") is dated as of July 1, 2019 ("Effective Date") between Mendocino County Health & Human Services Agency with offices at PO Box 839, Ukiah, CA 95482-0839 ("Customer") and WellSky Corporation, with offices at 11711 West 79th Street, Lenexa, Kansas 66214 ("WellSky") for the products and services set forth herein. This Order is subject to and hereby incorporates the terms and conditions of the Master License and Services Agreement entered into between the parties, dated July 1, 2019 ("Agreement"), except to the extent explicitly identified in this Order.

This Order consists of the following:

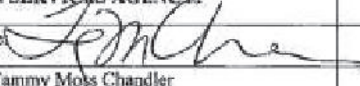

- Part 1 – Term and Payment Terms
- Part 2 – Pricing
- Part 3 – Additional Terms
- Part 4 – Professional Services

Any questions or changes to this Order, please contact Andrew Berg at 913-307-1000

Ordering Procedure:

Scan or fax this signed Order to WellSky's Contracts Department as follows:

Andrew.berg@wellsky.com and Marsha.Blankenship@wellsky.com
and/or LegalContracts@wellsky.com
Fax: (913) 871-9571 or 9138719571@fax2mail.com

MENDOCINO COUNTY HEALTH & HUMAN SERVICES AGENCY:		WELLSKY CORPORATION:	
Signature: 		Signature: 	
Name: Tammy Moss Chandler		Name: Stephen Greenberg	
Title: HHSA Director		Title: SVP Human and Social Services	
Date: 6/9/19		Date: 7/15/19	

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

**ATTACHMENT A
ORDER FORM
PART I
SCOPE OF USE, TERM AND PAYMENT TERMS**

1. Scope of Use - Quantity: The Licensed Software or Cloud Services is subject to the scope of use limits - quantity set forth on Part 2. Customer may purchase additional scope for Licensed Software or Cloud Services through the license admin page. Customer agrees to be responsible for such additional purchases and shall pay such additional fees within 30 days.

2. Term: Cloud Services Term: The Cloud Services are provided for an initial one-year term, from July 1, 2019 through June 30, 2020 (the "Initial Term"). CLOUD SERVICES MAY BE CONTINUED WITH A NEW SIGNED AGREEMENT FOR SUCCESSIVE ONE-YEAR TERMS (EACH A "RENEWAL TERM" AND COLLECTIVELY WITH THE INITIAL TERM THE "TERM"), UNLESS TERMINATED BY EITHER PARTY UPON WRITTEN NOTICE TO THE OTHER 90 DAYS PRIOR TO THE END OF THE THEN CURRENT TERM. In the event Cloud Services are allowed to lapse (other than for breach by WellSky) and is later reinstated, Customer shall be required to pay charges for all months that Cloud Services lapsed, including appropriate late charges.

3. Payment Terms. All fees due under this Order shall be paid as follows:

- a. Cloud Services: Customer shall pay the Cloud Services fees annually, in advance, as of July 1, 2019, and on each anniversary of such date every year thereafter.
- b. Professional Services: Customer agrees to pay 100% of the professional services fees on the Effective Date.
- c. One-Time Fee: Customer shall pay 100% of the one-time fees on the Effective Date.
- d. Increases: All annual fees may be increased by WellSky once annually commencing one (1) year following the Effective Date of the Order at a rate not to exceed 5%. Cloud Services fees may further be increased upon prior written notice to Customer in the event WellSky's third party supplier increases such fees.

Please provide your accounts payable or billing contact information.

Name: Tammie McKee
Title: Account Clerk III
E-mail: McKeeT@mendocinocounty.org
Phone: 707-463-7870

Please check one of the boxes below regarding your sales tax status:

- Exempt
- Non-Exempt

If "Exempt" is checked above; Customer is required to provide the appropriate certificate to Mediware upon Execution of this Order. Failure to provide could result in sales tax charges.

ATTACHMENT 4 MASTER LICENSE AND SERVICES AGREEMENT

ATTACHMENT A ORDER FORM PART 2 PRICING

Community Services (ServicePoint) - User License *			31
Community Services (ServicePoint) - Reporting User - Premium (AdHoc) *			2
Community Services (ServicePoint) - Reporting User - Basic (Report Viewer) *			29
4	\$1,815.00	Client services - On-Site Training - System Administrator "Train-the-Trainer"	\$7,260.00
1	\$6,000.00	Client Services - New Implementation Project Management	\$6,000.00
1	\$10,000.00	Community Services (ServicePoint) Software License Fees (50% Discount Applied)	\$5,000.00
31	\$445.00	Community Services Per User Fee - Tier I - Software Maintenance, Enhancement and Customer Support, Hosting, and Basic Reporting	\$13,795.00
1	\$0.00	Community Services (ServicePoint) Training-Site (Waived Year 1. \$3,150/year, each following year)	\$0.00

* Unlimited additional user licenses may be added to the system. For additional licenses, the following fees apply. Please note that a Reporting License must be purchased with each User License.

Annual Recurring Cloud Service Fees:

Community Services Per User Fee - Tier I - Software Maintenance, Enhancement and Customer Support, Hosting, and Basic Reporting: \$445/license/year

Community Services (ServicePoint) Code Set User ICD/CPT Fee: \$27/license/year (if needed)

PROFESSIONAL SERVICES

Client Services - Advanced Reporting On-Site Training Fee: \$2,625/day (minimum 2-days with 30-day notice.)

Client Services - Onsite Consulting: \$1,815/day (minimum 2-days with 30-day notice.)

Client Services - Remote Consulting Services Fee: \$137.50/hour

Client Services - Onsite Training Fee: \$1,815/day (minimum 2-days with 30-day notice.)

Client Services - Remote Training Hours (Webinar Training): \$220/hour

Data Services - Hourly Fee: \$137.50/hour

Data Services - Hourly Fee - Expedited Fee: \$165/hour

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

**ATTACHMENT A
ORDER FORM
PART 3
ADDITIONAL TERMS**

None

**ATTACHMENT 4
MASTER LICENSE AND SERVICES AGREEMENT**

**ATTACHMENT A
ORDER FORM
PART 4
PROFESSIONAL SERVICES**

Client services - On-Site Training – System Administrator "Train-the-Trainer" (4 days onsite)
Client Services - New Implementation Project Management (up to 43 hrs.)

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW:

By: *Bekkie Emery*
Bekkie Emery, Social Services Director

Date: Dec. 11, 2023

Budgeted: Yes
Budget Unit: 0446
Line Item: 86-2189
Org/Object Code: VRHHIP
Grant: No
Grant No.: 'N/A'

CONTRACTOR NAME

By: *Steve Greenberg*
Steve Greenberg, SVP Human & Social Services

Date: 12/12/2023

NAME AND ADDRESS OF CONTRACTOR:

Wellsky Corporation
11300 Switzer Road
Overland Park, KS 66210
(913)307-1169
Andrew.Berg@WellSky.com

By signing above, 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 MENDOCINO

By: *Maureen Mulheren*
~~GLENN MCCOURTY~~, Chair
BOARD OF SUPERVISORS

Date: 02/27/2024

ATTEST:

DARCIE ANTLE, Clerk of said Board

By: *Amy*
Deputy 02/27/2024

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: *Amy*
Deputy 02/27/2024

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,
County Counsel

By: *Charlotte Scott*
Deputy

Date: 12/04/2023

INSURANCE REVIEW:

By: *Darcie Antle*
Risk Management

Date: 12/04/2023

EXECUTIVE OFFICE/FISCAL REVIEW:

By: *[Signature]*
Deputy CEO or Designee

Date: 12/04/2023

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; \$50,001+ Board of Supervisors
Exception to Bid Process Required/Completed EB# 23-158
Mendocino County Business License: Valid
Exempt Pursuant to MCC Section: Located outside Mendocino County