

**EXHIBIT A
HIPAA PROVISIONS**

For purposes of this Exhibit, COUNTY refers to Lane County, on behalf of a county designated covered program or function under HIPAA.

The parties agree that the following terms and conditions shall apply to the performance of their obligations under the Service Agreement into which it is being incorporated. Contractor is providing services to a County program designated as a covered healthcare component and such services will require disclosure and use of Protected Health Information ("PHI"), including electronic PHI, as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). HIPAA Privacy and Security Rules require that covered entities obtain satisfactory assurances that its Business Associates will comply with the Business Associate requirements of the Privacy Rule set forth in 45 CFR 164.502(e) and 164.504(e), and the Security Rule set forth in 45 CFR 164.314, and Contractor desires to provide such business associate assurances with respect to the performance of its obligations.

ARTICLE 1. Terms

1.1 Terms used, but otherwise not defined, in this Agreement shall have the same meaning as those terms in HIPAA and 45 CFR Parts 160 and 164 (Privacy and Security Rules), and as amended.

1.2 "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and generally means the person who is the subject of protected health information. It also includes a person who qualifies as a personal representative pursuant to 45 CFR 164.502(g).

1.3 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, subparts A and E and as these may be amended from time to time.

1.4 "Protected Health Information (PHI)" as defined in the Privacy Rule in 45 CFR 164.501, shall mean any PHI received, used, created or disclosed by Contractor from or on behalf of the County's covered component. It relates to the past, present, or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present, or future payment for the provision of health care to an Individual and identifies the Individual or there is a reasonable basis to believe the information can be used to identify the Individual.

1.5 "Required by Law" shall have the same meaning as the term in 45 CFR 164.501.

1.6 "Secretary" shall mean the Secretary of the federal Department of Health and Human Services (HHS) or their designee.

1.7 "Security Rule" shall mean the standards for security of PHI in subpart A and "Subpart C - Security Standards for the Protection of Electronic Protected Health Information", beginning 45 CFR § 164.302, and particularly requirements for business

associates in 45 CFR § 164.308(b) and 45 CFR § 164.314(a). The Security Rule is a subpart of the Privacy Rule.

ARTICLE 2. Permitted Uses and Disclosures in Performing Services

2.1 The parties agree that the following terms and conditions shall apply to Contractor's performance of obligations under the Service Contract.

2.2 Contractor is authorized to access, receive, use or disclose PHI for the express purpose of performing the services under the Services Contract. Except as otherwise expressly permitted and as limited in this Agreement/Amendment or as Required by Law, Contractor may use or disclose PHI to perform the functions, activities or services for, or on behalf of, the County, set forth in the Services Contract and provided that such use or disclosure would not violate the Privacy or Security Rules or any more stringent state law provisions if performed by County. Further use or disclosure other than as permitted or required by this Agreement/Amendment or as Required by Law is prohibited.

2.3 Except as otherwise limited in this Agreement, Contractor may use PHI for the proper management and administration of its business or to carry out its legal responsibilities.

2.4 Except as otherwise limited in this Agreement, Contractor may disclose PHI:

2.4.1 For the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Contractor.

2.4.2 For the proper management and administration of its business, provided that disclosures are Required by Law, or Contractor 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, in writing, the Contractor of any instance of which it is aware in which the confidentiality of the information has been breached.

2.4.3 For Data Aggregation services to County as requested by County and permitted by 45 CFR § 164.504(e)(2)(i)(B).

2.5 Contractor may use PHI to report violations of law to appropriate Federal and State authorities subject to the conditions in 45 CFR §164.502(j)(1).

ARTICLE 3. Obligations and Activities of Contractor

3.1 Contractor shall not create, receive, use or disclose PHI other than as permitted or required by this Agreement or as provided by law. Contractor further agrees to use or disclose PHI only on behalf of, or to provide services to, the County in fulfilling Contractor's obligations under the Service Contract and to not make uses or disclosures that would violate the Privacy Rule or violate the minimum necessary standard of the Privacy Rule. Unless otherwise imposed by law, Contractor will limit its uses and disclosures of, and requests for, PHI (a) when practical, to the information making up a limited data set; and (b) to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request. .

3.2 Contractor is directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent as the County. This includes, but is not limited to additional security and Privacy Rule requirements in HITECH made applicable to covered entities, and those are incorporated into this Agreement as Contractor's obligations.

3.3 Contractor will safeguard all PHI according to the terms of this Agreement/Amendment and all HIPAA regulations. Contractor shall implement administrative, physical and, technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI, including electronic PHI that it accesses, creates, receives, maintains or transmits on behalf of the County pursuant to Privacy and Security Rules, including 45 CFR Part 164, Subpart C. Contractor acknowledges its statutory duty to provide safeguards as if it were a covered entity in accordance with 45 CFR 164.308 (Administrative Safeguards); 45 CFR 164.310 (Physical Safeguards); 45 CFR 164.312 (Technical Safeguards) and agrees to follow any guidance which may be issued by the Secretary. Contractor agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement/Amendment.

3.4 Contractor agrees to comply with all applicable law and regulations regarding misuse, improper disclosure, and security incidents or breaches, including but not limited to HIPAA, Health Information Technology for Economic and Clinical Health (HITECH) Act, any implementing regulations or more stringent state law. Contractor agrees to report to the County any use or disclosure of PHI or other data not provided for by this Agreement/Amendment and any material attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, interference with system operations in an information system or security incident or breach of which it becomes aware, as soon as possible.

3.4.1 Contractor will notify County of a Breach of unsecured PHI following the first day on which Contractor (or its employee, officer or agent) knows or should have known of such Breach.

3.4.2 Contractor shall provide County with the identity of each Individual whose PHI has been, or is reasonably believed to have been accessed, acquired or disclosed during such Breach and all other information set forth in 45 CFR 164.404(c) or required by law or other regulation or as may be required by County for County to meet its notification obligations. This information shall be provided at the time of providing County with notice of Breach or promptly thereafter as it becomes available;

3.4.3 Contractor shall confer with County as to the preparation and issuance of appropriate notice(s). Time is of the essence in this obligation to confer with County.

3.4.4 Notifications required by this section are required to be made without unreasonable delay and in no case later than 60 calendar days after the Discovery of a Breach (except where a law enforcement official determines a delay due to criminal investigation or national security is warranted). Accordingly, the notification of a Breach to the County shall be made as soon as possible, and every effort made to provide required information no later than 30 days after Discovery of a Breach. Contractor shall confer with County as soon as practicable.

3.5 Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI or breach of unsecured PHI by Contractor that violates the requirements of this Agreement/Amendment. Contractor agrees to report to the County, the remedial action taken or proposed to be taken with respect to such use or disclosure. In the event Contractor fails to mitigate in accordance with this provision, Contractor shall cooperate with and conduct any mitigation efforts requested by County.

3.6 Contractor agrees to ensure that any agent, including any subcontractor to whom it provides PHI or makes PHI available, executes an agreement with the same terms, conditions, and restrictions that apply through this Agreement/Amendment to Contractor with respect to such information This includes ensuring that any agent, including subcontractor, agrees to implement reasonable and appropriate safeguards to protect electronic PHI.

3.7 The parties do not anticipate that, at any point in time, the County will be unable to access and control PHI that it uses, discloses or creates or that any change to PHI required below would affect Contractor's performance under the Service Contract. However, in the event Contractor does have access and control of PHI in a Designated Record Set of the County:

a. At the request of the County and within five business days, and unless directed otherwise, Contractor shall provide access of their PHI to an Individual to meet the requirements under 45 CFR § 164.524.

b. Contractor shall make any amendment(s) or add a statement of disagreement from the Individual, to PHI that the County directs or agrees to pursuant to 45 CFR § 164.526 at the request of the County or an Individual with 10 working days of the request.

c. Contractor shall document such disclosures of PHI and information related to such disclosures as are required for the County to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. On request of the County, Contractor shall provide the documentation made in accordance with this Agreement to permit County to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528 within 10 working days..

d. As to Contractor's obligations in 3.7. a., b., and c. above, Contractor shall document and retain for six years from the date of creation or date last in effect, whichever is later:

i. The titles of the person or offices responsible for receiving and processing requests for access, for amendments, and for accounting of disclosures; and

ii. The PHI that are subject to access by individuals under 45 CFR 164.524, subject to the County's direction otherwise;

iii. The written accounting that is provided to the individual;

iv. The information required to be included in the accounting in paragraph (c) above.

3.8 Contractor agrees to make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI received from, or created or received by, or made available or accessed by Contractor on behalf of the County, available to the County or to the Secretary within five business days or within the time frame designated by the Secretary, for purposes of determining the County's compliance with the Privacy and Security Rules, or for audit purposes.

3.9 Contractor is solely responsible for determining its obligation to use and the provisions of any Notice of Privacy Rights consistent with the HIPAA Privacy Rule and its services to the extent that they may affect Contractor's creation, receipt, use or disclosure of PHI. Contractor shall rely on its own judgment, and County's Notice of Privacy Rights has been made available as an example only.

ARTICLE 4. Obligations of County's Covered Component

4.1 The County shall notify Contractor of any restrictions, limitations, changes in, or revocation of, permission by Individual to access, receive, use or disclose PHI, to the extent that Contractor's access, receipt, use or disclosure of PHI may be affected.

4.2 The County shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the Privacy or Security Rules if done by the County, unless the Contractor will use or disclose PHI for data aggregation for County or management and administrative activities of Contractor.

ARTICLE 5. Term and Termination

5.1 The term of this Agreement/Amendment shall begin the date the last party signs this Agreement/Amendment, and shall terminate when all of the PHI provided by the County to Contractor, or created or received by Contractor on behalf of the County, is destroyed or returned to the County, and all ability to access such information is terminated, or if it is infeasible to return or destroy PHI, protections are extended to the information in accordance with the termination provisions in this Agreement/Amendment.

5.2 Termination for Cause. In addition to any other rights or remedies provided in this Agreement, upon either the County's or Contractor's knowledge of a material breach by the other party of that party's obligations under this Agreement, the non-breaching party shall: :

a. Notify the other party of the breach and provide a reasonable opportunity in a notice of breach to cure the breach or end the violation and terminate this Agreement and the Services Agreement(s) if Contractor does not cure the breach or end the violation within the time specified. Contractor shall notify County in writing of the actions taken to cure the breach or end the violation; or

b. Immediately terminate this Agreement/Amendment and the Services Agreement(s) if there has been a breach of a material term of this Agreement/Amendment and cure is not possible in the reasonable judgment of the non-breaching party; or

c. If neither termination nor cure is feasible, the non-breaching party shall report the violation to the Secretary;

d. The County's remedies under this Agreement/Amendment are cumulative and the exercise of any one remedy shall not preclude the exercise of any other.

5.3 This Agreement/Amendment terminates when the Service Contract terminates.

5.4 Except as provided in subsection 5.5 or 5.6, upon termination of this Agreement/Amendment, for any reason, Contractor shall, at the County's option, return or destroy all PHI belonging to the County, or created or received by Contractor on behalf of the County if in Contractor's possession. This provision shall apply to PHI that is in the possession of subcontractors or agents of Contractor. Contractor and subcontractors or agents shall not retain any copies of the PHI.

5.5 In the event that Contractor determines that returning or destroying PHI is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon written agreement by the County that return or destruction of PHI is infeasible, Contractor shall extend the protections of this Agreement/Amendment to such PHI and limit further uses and disclosures of PHI to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such PHI.

5.6 If it is infeasible for the Contractor to obtain any PHI in the possession of a subcontractor or agent, the Contractor shall provide the notification in 5.5 above within five business days upon learning of the infeasibility. The Contractor shall require the subcontractor or agent to agree to extend the protections as in 5.5 above.

ARTICLE 6. Miscellaneous

6.1 Amendment; waiver.

a. The parties agree to take such action as is necessary to amend this Agreement/Amendment from time to time in order for the County to comply with the requirements of the HIPAA Privacy and Security Rules and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.. The parties agree that any modifications to those laws shall modify the obligations of the parties to this Agreement/Amendment without the need for formal amendment of this Agreement/Amendment. Any other modifications, alterations, variations, or waivers of any provisions shall be valid only when then have been executed in writing.

b. As of the effective dates for each applicable section in HITECH, Contractor acknowledges its statutory duties include, among other duties:

i. Complying with HIPAA Security rules regarding administrative, physical and technical safeguards, as well as policies and procedures and maintenance of documentation (45 CFR 164.316).

ii. Using and disclosing PHI only in compliance with the business associate contract provision rule, 45 CFR 164.504(e). which provisions have been incorporated into this Agreement.

iii. Not receiving direct or indirect remuneration in exchange for PHI unless permitted by the Act or regulations issued by the Secretary.

iv. Complying with all other applicable provisions of HITECH, including but not limited those relating to security and breaches of unsecured PHI and those that are made applicable to covered entities, as if Contractor were a covered entity.

c. No provision in this Agreement/Amendment shall be deemed waived unless in writing, and duly executed. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this Agreement/Amendment.

6.2 Survival. The respective rights and obligations of the parties under the following paragraphs shall survive the termination of this Agreement/Amendment:

a. Subsection 3.7d of the section "ADDITIONAL BUSINESS ASSOCIATE OBLIGATIONS OF CONTRACTOR"

b. Subsections 5.4, 5.5, 5.6 of the section "TERM AND TERMINATION"

c. Subsections 6.1, 6.2, 6.3, 6.4, 6.6, 6.7, and 6.8 of the section "MISCELLANEOUS" shall survive the termination of this Agreement/Amendment.

6.3 Interpretation; order of precedence. Any ambiguity in this Agreement/Amendment shall be resolved to permit the County to comply with HIPAA and the regulations promulgated in support. The terms of this Agreement/Amendment supplement the terms of the Service Contract and, whenever possible, all terms and conditions of this Agreement/Amendment and the Service Contract are to be harmonized. In the event of a conflict between the terms of this Agreement/Amendment and the terms of the Service Contract, the terms of this Agreement/Amendment shall control, provided that this Agreement/Amendment shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Service Contract as amended by this Agreement/Amendment and the Privacy or Security Rules, the Privacy and Security Rules shall control.

6.4 Indemnity. In addition to any other indemnification obligations of Contractor in the Services Contract(s), Contractor shall save, hold harmless, and indemnify the County and its Commissioners, officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, monetary penalties imposed, costs, and expenses of any nature whatsoever resulting from or arising out of Contractor's, or its agent's or subcontractor's performance or failure to perform under this Business Associate Agreement/Amendment, including but not limited to, unauthorized use or disclosure of PHI, or breach of security, privacy or integrity of PHI. Without limiting the generality of the preceding indemnity obligation, Contractor shall also be required to indemnify County consistent with the preceding, including for any claim related to its failure to mitigate and to County's request or failure to request mitigation in Section 3.5, Contractor shall be liable to and indemnify County for any and all costs incurred by the County, including but not limited to, costs associated with Breach notification requirements of HITECH or any other applicable law or rule because of a breach by Contractor.

6.5 Insurance. Contractor shall provide a certificate of insurance establishing coverage for Contractor's activities under this Agreement/Amendment.

6.6 Independent Contractor. Contractor will function as an independent contractor and shall not be considered an employee of the County for any purpose. Contractor is responsible for determining the appropriate means and manner of performance. Nothing in this Agreement/Amendment shall be interpreted as authorizing Contractor or its agents, subcontractors and/or employees to act as an agent or representative for or on behalf of the County.

6.7 Successors and Assigns. The provisions of this Agreement/Amendment and the Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns, if any. Neither the obligations under this Agreement/Amendment, nor the responsibilities for providing services, shall be assigned or delegated by Contractor without the prior written consent of the County.

6.8 No Third-Party Beneficiaries. The County and Contractor are the only parties to this Agreement/Amendment and are the only parties entitled to enforce its terms. Nothing in this Agreement/Amendment gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to any other third parties.

6.9 Notices. Any notices between the parties or notices to be given under this Agreement/Amendment shall be given in writing by personal or overnight courier delivery, or by mailing by certified mail with return receipt requested, to Contractor or to the County, to the addresses given for each below or to the address either party gives to the other. Any notice so addressed and mailed shall be deemed given five days after mailing, or by facsimile. Any notice delivered by personal or overnight courier delivery shall be deemed given upon receipt. Any notice by facsimile shall be deemed given upon confirmation that notice was received.

6.10 Except as Amended. Except as amended by this Agreement/Amendment, all terms and conditions of the Service Contract, including any prior amendments shall remain in full force and effect.

6.11 This Agreement/Amendment may be executed in any number of counterparts, all of which taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this contract so executed shall constitute an original.