



# COUNTY OF LOS ANGELES PROBATION DEPARTMENT

9150 EAST IMPERIAL HIGHWAY - DOWNEY, CALIFORNIA 90242

562-940-2501



**ADOLFO GONZALES**  
Chief Probation Officer

January 25, 2022

# ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

49 January 25, 2022

CELIA ZAVALA  
EXECUTIVE OFFICER

Dear Supervisors:

## **APPROVAL OF A STANDARDIZED MASTER AGREEMENT TO PROVIDE AS-NEEDED POLYGRAPH EXAMINATION SERVICES FOR ADULT SEX OFFENDERS AND POST-CONVICTION SEX OFFENDERS**

**(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

### **SUBJECT**

Approval of a Standardized Master Agreement to provide as-needed polygraph examination services for adult sex offenders and post-conviction sex offenders for the County of Los Angeles Probation Department (Probation).

### **IT IS RECOMMENDED THAT YOUR BOARD:**

1. Authorize the Chief Probation Officer to prepare and execute Master Agreements substantially similar to the attached Standardized Master Agreement (Attachment I) with vendors, to provide as-needed polygraph examination services for adult sex offenders and post-conviction sex offenders, upon approval as to form by County Counsel, projected to commence February 1, 2022 through January 31, 2025 with an option to extend for up to four (4) twelve-month option periods, not to exceed seven (7) years.
2. Authorize the Chief Probation Officer to execute 1) Master Agreements with vendors as they become qualified throughout the term of the Agreement and 2) applicable amendments to these Agreements when an original contracting entity has merged, been purchased or has otherwise changed.

3. Delegate authority to the Chief Probation Officer to prepare and execute amendments to the Agreements for any decrease or increase, not to exceed ten percent (10%) of the Agreement rates and/or one hundred eighty (180) days to the period of performance, pursuant to the terms of the Agreement, upon approval as to form by County Counsel.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS**

The purpose of the recommended actions is to authorize the Chief Probation Officer to prepare and execute Master Agreements with qualified vendors to provide as-needed polygraph examination services for adult sex offenders and post-conviction sex offenders and enable Probation to maintain a pool of qualified vendors.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommended actions are consistent with the County of Los Angeles Strategic Plan, Goal 1, Operational Effectiveness/Fiscal Sustainability Service Delivery.

### **FISCAL IMPACT/FINANCING**

The annual cost of these Services is estimated at approximately \$500,000 and is fully funded under Adult Field Services Bureau.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The terms and conditions of the Standardized Agreement have been approved as to form by County Counsel and contains all standard terms and conditions approved by your Board.

These Agreements are not subject to Proposition A as a result of the services falling within two of the statutory exceptions, namely, that they are highly-specialized in nature and are also needed only on a part-time or intermittent basis. The Living Wage Program (County Code Chapter 2.2001) also does not apply to the recommended Model Agreement.

### **CONTRACTING PROCESS**

To solicit for these services, a competitive Request for Statement of Qualifications (RFSQ) process was utilized and issued on April 7, 2021. Through the RFSQ process, approximately forty-three (43) letters were sent to service providers. Advertisements were placed in both the Los Angeles Times and the Lynwood Journal. The RFSQ was also made available through the Internet on the County of Los Angeles Internal Services Department and Probation websites. As a result, four (4) vendors registered for and attended the Proposers' Conference.

Two (2) Statement of Qualifications (SOQs) were received in response to this solicitation. The SOQs were evaluated using a “pass/fail” grading system for adherence to the Minimum Mandatory Requirements. An evaluation of the two (2) SOQs was completed and found that Advanced Polygraph and Background Services was non-responsive for failing to meet the Minimum Mandatory Requirements of the RFSQ. The Vendor that met the Minimum Mandatory Requirements of the RFSQ is Applied Polygraph LLC.

Probation intends to issue polygraph work on an as-needed basis. In order to ensure that work is dispersed equitably and fairly, vendors will be utilized on a rotational basis, by availability, and geographical area. Probation will prioritize the scheduling of polygraph examinations at locations most beneficial to the polygraph examinees.

The RFSQ will remain open until the needs of Probation are met.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of the recommended actions will enable Probation to receive and maintain a pool of qualified vendors to provide as-needed polygraph examination services.

Respectfully submitted,



ADOLFO GONZALES  
Chief Probation Officer

AG:TH:DS:or

Enclosure

c: Executive Office  
Chief Executive Office  
County Counsel



**MASTER AGREEMENT  
BY AND BETWEEN  
COUNTY OF LOS ANGELES  
AND  
(CONTRACTOR)  
TO PROVIDE**

**AS-NEEDED POLYGRAPH EXAMINATION SERVICES  
FOR ADULT SEX OFFENDERS AND POST-CONVICTION SEX OFFENDERS**

**MASTER AGREEMENT  
FOR  
AS-NEEDED POLYGRAPH EXAMINATION SERVICES  
FOR ADULT SEX OFFENDERS AND POST-CONVICTION SEX OFFENDERS**

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**MASTER AGREEMENT  
FOR  
AS-NEEDED POLYGRAPH EXAMINATION SERVICES  
FOR ADULT SEX OFFENDERS AND POST-CONVICTION SEX OFFENDERS**

THIS MASTER AGREEMENT is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the County of Los Angeles (“County”) and [ \_\_\_\_\_ ] a [ \_\_\_\_\_ ] organized under the laws of the [ \_\_\_\_\_ ] located at [ \_\_\_\_\_ ] (“Contractor”), to provide As-Needed Polygraph Examination Services for Adult Sex Offenders and Post-Conviction Sex Offenders for the Los Angeles County Probation Department (“Department”).

**RECITALS**

**WHEREAS**, the Department has a need for the services of Contractor to provide As-Needed Polygraph Examination Services for Adult Sex Offenders and Post-Conviction Sex Offenders; and

**WHEREAS**, Contractor represents that it possesses the necessary special skills, knowledge, technical competence, and sufficient staffing to provide As-Needed Polygraph Examination Services for Adult Sex Offenders and Post-Conviction Sex Offenders; and

**WHEREAS**, the County Board of Supervisors has authorized the Los Angeles County Probation Department to execute this Master Agreement on its behalf; and

**WHEREAS**, this Master Agreement (as defined below) is authorized pursuant to California Government Code Section 31000.

**WHEREAS**, the County through its Probation Officer, is authorized to contract under California Governmental Code section 26227; and

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Contractor hereby agree as follows:

**1.0 MASTER AGREEMENT AND INTERPRETATION**

- 1.1 Master Agreement. This base document along with Exhibits A through W, attached hereto, together with any Attachments attached hereto or thereto, incorporated herein by this reference, and any fully executed Amendment from time to time hereto or thereto collectively constitute and throughout and hereinafter are referred to as the “Master Agreement”. This Master Agreement shall constitute the complete and exclusive statement of understanding between the County and the Contractor and supersedes any

and all prior or contemporaneous agreements, written or oral, and all communications between the parties relating to the subject matter of this Master Agreement.

1.2 Interpretation. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, subtask, deliverable, goods, service, or other Work, or otherwise, such conflict or inconsistency shall be resolved by giving precedence first to this base document, and then to the Exhibits and any Attachments thereto, according to the following descending priority:

- 1.2.1 Exhibit A- Additional Terms and Conditions
- 1.2.2 Exhibit B- Statement of Work
- 1.2.3 Exhibit C- Pricing Schedule
- 1.2.4 Exhibit D- Vendor's EEO Certification
- 1.2.5 Exhibit E- Certification of employee Status
- 1.2.6 Exhibit E1- Contractor Acknowledgement and Confidentiality Agreement
- 1.2.7 Exhibit E2- Contractor Employee Acknowledgement and Confidentiality Agreement
- 1.2.8 Exhibit E3- Contractor Non-Employee Acknowledgement and Confidentiality Agreement
- 1.2.9 Exhibit F- Contractor Employee Jury Service Ordinance
- 1.2.10 Exhibit G- Intentionally Omitted
- 1.2.11 Exhibit H- Defaulted Property Tax Reduction Program Ordinance
- 1.2.12 Exhibit I- Contract Discrepancy Report
- 1.2.13 Exhibit J- Invoice Discrepancy Report
- 1.2.14 Exhibit K- County's Administration
- 1.2.15 Exhibit L- Contractor's Administration
- 1.2.16 Exhibit M- Intentionally Omitted

- 1.2.17 Exhibit M1- Intentionally Omitted
  - 1.2.18 Exhibit N- Background Request Form
  - 1.2.19 Exhibit N1- Contractor Background Application
  - 1.2.20 Exhibit O- Guidelines for Distribution of Work
  - 1.2.21 Exhibit P- Sex Offender Polygraph Examination Log
  - 1.2.22 Exhibit Q- Contractor Sex Offender Polygraph Billing Log
  - 1.2.23 Exhibit R- Sex Offender Polygraph Services Referral
  - 1.2.24 Exhibit S- Business Associate Agreement Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)
  - 1.2.25 Exhibit T- Service Areas
  - 1.2.26 Exhibit U- Model Policy for Post-Conviction Sex Offender Testing
  - 1.2.27 Exhibit V- Confidentiality of CORI Information
  - 1.2.28 Exhibit W- Performance Requirement Summary (PRS) Chart
  - 1.2.29 Exhibit X- Information Security and Privacy Requirements
- 1.3 Additional Terms and Conditions. Without limiting the generality of Subparagraph 1.1 (Master Agreement) of this Master Agreement, attached hereto as Exhibit A (Additional Terms and Conditions), and incorporated by reference herein, are additional terms and conditions to this Master Agreement. Contractor acknowledges and agrees that it shall be bound by the additional terms and conditions enumerated in such Exhibit as if such terms and conditions were enumerated in the body of this base document.
- 1.4 Construction. The words “herein”, “hereof”, and “hereunder” and words of similar import used in this Master Agreement refer to this Master Agreement, including all annexes, attachments, Exhibits, and schedules as the context may require. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural. Whenever examples are used in this Master Agreement with the words “including”, “for example”, “e.g.”, “such as”, “etc.”, or any derivation of such words, such examples are intended to be illustrative and not limiting. Caption, Section, and Paragraph headings used in this Master

Agreement are for convenience only and are not a part of this Master Agreement and shall not be used in construing this Master Agreement. References in this Master Agreement to Federal, State and/or other governmental statutes, codes, rules, regulations, ordinances, guidelines, directives and/or policies, including those copies of which are attached to this Master Agreement, shall mean and shall be to such statutes, codes, rules, regulations, ordinances, guidelines, directives, and/or policies as amended from time to time.

## **2.0 DEFINITIONS**

The following terms and phrases shall have the following specific meaning when used in this Master Agreement.

- 2.1 “Amendment” has the meaning set forth in Paragraph 6.0 (Amendments) of this Master Agreement.
- 2.2 “Board of Supervisors” means the Los Angeles County Board of Supervisors.
- 2.3 “Business Day” means Monday through Friday, excluding the County observed holidays.
- 2.4 “Contractor” means the sole proprietor, partnership, or corporation that has entered into a Master Agreement with the County to perform or execute the work covered by the Statement of Work.
- 2.5 “Contract Discrepancy Report or CDR” is a report prepared by the County’s Program Manager to inform the Contractor of faulty service.
- 2.6 “Contractor Project Manager” has the meaning set forth in Subparagraph 4.1 (Contractor Project Manager), of this Master Agreement.
- 2.7 “County” has the meaning set forth in the preamble.
- 2.8 “County’s Contract Manager” has the meaning set forth in Subparagraph 3.1 (County Contract Manager) of this Master Agreement.
- 2.9 “County’s Contract Monitor” has the meaning set forth in Subparagraph 3.3 (County Contract Monitor) of this Master Agreement.
- 2.10 “County Counsel” means County’s Office of the County Counsel.
- 2.11 “County Program Manager” has the meaning set forth in Subparagraph 3.2 (County Program Manager) of this Master Agreement.
- 2.12 “Department” has the meaning set forth in the preamble.

- 2.13 “Dispute Resolution Procedure” has the meaning set forth in Paragraph 2.0 (Dispute Resolution Procedure) of Exhibit A (Additional Terms and Conditions) of this Master Agreement.
- 2.14 “Infringement Claims” has the meaning set forth in Paragraph 14.0 (Intellectual Property Indemnification) of Exhibit A (Additional Terms and Conditions) of this Master Agreement.
- 2.15 “Initial Term” has the meaning set forth in Paragraph 7.0 (Term) of this Master Agreement.
- 2.16 “Master Agreement” has the meaning set forth in Subparagraph 1.1 (Master Agreement) of this Master Agreement.
- 2.17 “Performance Requirements Summary (PRS)” key performance indicators of the Master Agreement which will be evaluated by the County to ensure the Master Agreement performance standards are met.
- 2.18 “Statement of Work” or “SOW” means the Statement of Work, attached as Exhibit B (Statement of Work) of this Master Agreement, together with all the Attachments, as the same may be amended by any fully executed Amendment.
- 2.19 “Term” has the meaning set forth in Paragraph 7.0 (Term) of this Master Agreement.
- 2.20 “Vendor” means a corporation or other entity that provides the polygraph examination services required under this RFSQ.
- 2.21 “Work” means any and all tasks, subtasks, deliverables, goods, and other services performed by or on behalf of the Contractor which are required pursuant to this Master Agreement, including Exhibit B (Statement of Work) and all other Exhibits, and any fully executed Amendment hereto.

### **3.0 ADMINISTRATION OF MASTER AGREEMENT – COUNTY**

A listing of all County Administration referenced in the following Paragraphs are designated in Exhibit K (County’s Administration). County shall notify Contractor in writing of any change in the names or addresses shown.

#### **3.1 COUNTY’S CONTRACT MANAGER**

The responsibilities of County’s Contract Manager include:

- Ensuring that the objectives of this Master Agreement are met; and

- Providing direction to Contractor in the areas relating to County policy, information requirements, and procedural requirements.

### **3.2 COUNTY'S PROGRAM MANAGER**

The responsibilities of County's Program Manager include:

- Meeting with Contractor's Project Manager on a regular basis; and
- Inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of Contractor.

County's Program Manager is not authorized to make any changes in any of the terms and conditions of this Master Agreement and is not authorized to further obligate County in any respect whatsoever.

### **3.3 COUNTY'S CONTRACT MONITOR**

County's Contract Monitor is responsible for the monitoring of the Master Agreement and Contractor. County's Contract Monitor provides reports to County's Contract Manager and County's Program Manager.

### **3.4 COUNTY PERSONNEL**

All County personnel assigned to this Master Agreement shall be under the exclusive supervision of County. Contractor understands and agrees that all such County personnel are assigned only for the convenience of County.

## **4.0 ADMINISTRATION OF MASTER AGREEMENT – CONTRACTOR**

A listing of all Contractor Administration referenced in the following Paragraph is designated in Exhibit L (Contractor's Administration). Contractor shall notify County in writing of any change in the names or addresses shown.

### **4.1 Contractor Project Manager**

4.1.1 Contractor Project Manager shall be responsible for Contractor's performance of all of the Work and ensuring Contractor's compliance with this Master Agreement.

4.1.2 Contractor Project Manager shall be responsible for Contractor's day-to-day activities as related to this Master Agreement.

4.1.3 During the Term of this Master Agreement, Contractor Project Manager shall be available to meet and confer with County Program

Manager, in person or by telephone, as necessary, to review project progress and discuss project coordination.

4.1.4 Contractor shall notify County in writing of any change in the name or address of Contractor Project Manager.

4.1.5 Contractor Project Manager shall provide County Program Manager with emergency contact information in the event of an emergency.

#### 4.2 Approval of Contractor's Staff

4.2.1 County Program Manager has the right to approve or disapprove any proposed replacement for Contractor Project Manager or Contractor's staff. If Contractor desires to replace, or if County, at its discretion, requires removal of, Contractor Project Manager or staff, Contractor shall provide County with a resume of such proposed replacement, and an opportunity to interview such person prior to such person performing any Work hereunder. County shall not unreasonably delay its approval of a replacement of Contractor Project Manager or staff.

4.2.2 All staff employed by and on behalf of Contractor shall be adults, 21 years of age and older, who are legally eligible to work under the laws of the United States of America and the State of California. Contractor's staff having direct contact with County (either by telephone, electronic or written correspondence, or in person) shall be fully fluent in both spoken and written English.

4.2.3 The Contractor shall ensure that by the first day of employment, all persons working on this Contract have signed a confidentiality form that meets the standards of the County of Los Angeles Probation Department regarding access to confidential Criminal Offender Record Information (CORI). **The Contractor shall retain the original CORI form and forward a copy to the County's Program Manager within five (5) business days of start of employment.** The CORI form is listed in Exhibit V (Confidentiality of CORI Information).

### 5.0 WORK

5.1 Contractor shall fully and timely perform all Work required under this Master Agreement, including pursuant to any fully executed Amendment, in accordance with the terms and conditions of this Master Agreement.

5.2 It is the intent of the Department to issue Work to Contractors on a rotational basis by availability and geographical area in accordance with Exhibit O

(Guidelines for the Distribution of Work) of this Master Agreement, based upon the need of the Department, in its sole discretion. However, County Program Manager has the sole discretion to issue Work to any of the qualified Contractors.

- 5.3 County will refer Polygraph Examinees to Contractor for services as set forth in Exhibit B (Statement of Work) of this Master Agreement.
- 5.4 If Contractor provides any tasks, deliverables, goods, services, or Work, other than as specified in this Master Agreement, the same shall be deemed to be a gratuitous effort on the part of Contractor, and Contractor shall have no claim whatsoever against County.
- 5.5 Contractor acknowledges that, subject to this Paragraph 5.0 (Work), all Work performed under this Master Agreement, including pursuant to any fully executed Amendment, is payable in arrears on a monthly basis in accordance with the terms and conditions of this Master Agreement, including this Paragraph 5.0 (Work), Paragraph 8.0 (Prices and Fees), and Paragraph 10.0 (Invoices and Payments) of this Master Agreement.
- 5.6 All such Work must be provided solely as specified under this Master Agreement and must receive the written approval of County Program Manager in order to qualify for payment. In no event shall County be liable or responsible for payment for any Work prior to approval from County Program Manager of such Work.
- 5.7 During the Term of this Master Agreement, Contractor shall at all times possess and maintain all licenses and certifications required to perform Contractor's services under this Master Agreement. In the event of suspension or revocation of such licenses and/or certifications, Contractor shall immediately notify the County Program Manager and cease all services provided under this Master Agreement.
- 5.8 The execution of this Master Agreement does not guarantee a Contractor any minimum amount of business. County does not promise, warrant, or guarantee that County will utilize any particular level of Contractor's service, or any services at all, during the Term of this Master Agreement.
- 5.9 Contractor shall establish and maintain sufficient accounting, internal control, financial reporting, and administrative capacity to effectively administer the services required by this Master Agreement.

## **6.0 AMENDMENTS**

- 6.1 For any change which affects the scope of work, term, contract sum, payments, or any term or condition included under this Master Agreement,

an amendment to the Master Agreement shall be prepared and executed by the Contractor and by the Chief Probation Officer or his/her designee.

- 6.2 The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the Master Agreement during the term of this Master Agreement. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or Chief Executive Officer. To implement such changes, an amendment to the Master Agreement shall be prepared and executed by the Contractor and by the Chief Probation Officer or his/her designee.
- 6.3 The Chief Probation Officer or his/her designee, may at his/her sole discretion, authorize extensions of time as defined in Paragraph 7.0 (Term). The Contractor agrees that such extensions of time shall not change any other term or condition of this Master Agreement during the period of such extensions. To implement an extension of time, an Amendment to the Master Agreement shall be prepared and executed by the Contractor and by the Chief Probation Officer or his/her designee.

## **7.0 TERM**

- 7.1 The Term of this Master Agreement shall commence \_\_\_\_\_, 20\_\_ or upon execution by the Chief Probation Officer or designee, whichever is later for a three (3) year period, unless terminated or extended, in whole or in part, as provided in this Master Agreement.
- 7.2 The County has the option, at the Chief Probation Officer or designee's discretion and upon notice to Contractor prior to the end of the then-current Term of the Agreement, to extend the Term of this Agreement for up to four (4) additional one (1) year option periods (each an "Option Term"), for a total maximum Term of the Agreement not to exceed seven (7) years. As used herein, the "Term" shall mean the Initial Term and, if extended, each Option Term, as the case may be. Each such extension shall be exercised individually by written Amendment executed by the Department and Contractor in accordance with Subparagraph 6.3 above.
- 7.3 Contingent upon available funding, the term of the Master Agreement may also be extended beyond the stated expiration date on a month-to-month basis, for a period of time not to exceed six (6) months, upon the written request of the Chief Probation Officer or designee and the written concurrence of Contractor. All terms of the Master Agreement in effect at the time of extending the term shall remain in effect for the duration of the extension.

- 7.4 Contractor shall notify the Department when this Master Agreement is within six (6) months from the expiration of the Term as provided for hereinabove. Upon occurrence of this event, Contractor shall send written notification to County Program Manager at the address herein provided in Exhibit K (County's Administration).
- 7.5 County maintains databases that track/monitor contractor performance history. Information entered into such databases may be used for a variety of purposes, including determining whether County will exercise an Option Term extension of the Master Agreement.

## **8.0 PRICES AND FEES**

### **8.1 General**

8.1.1 The prices and fees for this Master Agreement payable by County to Contractor for performing all tasks, deliverables, goods, services and any other Work required under this Master Agreement shall be as set forth on Exhibit C (Pricing Schedule) of this Master Agreement. Such prices and fees shall be firm and fixed for the Term of this Master Agreement.

8.1.2 Contractor shall not be entitled to payment or reimbursement for any tasks, deliverables, goods, services and any other work, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified in this Master Agreement.

### **8.2 Maximum Contract Sum**

The "Maximum Contract Sum" under this Master Agreement shall be the total monetary amount that would be payable by County to Contractor for providing required Work under this Master Agreement for the Term of the Agreement, including all Option Terms. In no event shall the annual total of all amounts expended by County, expressly or by implication, exceed the sum allocated in that fiscal year's budget.

### **8.3 Rate of Compensation**

Contractor shall be paid for Work performed at the rates of compensation set forth on Exhibit C (Pricing Schedule) of this Master Agreement. The rates shall be firm and fixed for the Term of this Master Agreement.

8.4 No Payment for Services Provided Following Expiration/Termination of Master Agreement

Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Master Agreement. Should Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Master Agreement shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Master Agreement.

**9.0 COUNTY'S OBLIGATION FOR FUTURE FISCAL YEARS**

Notwithstanding any other provision of this Master Agreement, either expressly or by implication, County shall not be obligated for Contractor's performance hereunder or by any provision of this Master Agreement during any of County's future fiscal years unless and until the Board appropriates funds for this Master Agreement in County's budget for each such future fiscal year. In the event that funds are not appropriated for this Master Agreement, then this Master Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated and such termination shall be deemed a termination for convenience pursuant to Paragraph 6.0 (Termination for Convenience) of Exhibit A (Additional Terms and Conditions) of this Master Agreement. County shall endeavor to notify Contractor in writing of any such non-appropriation of funds at the earliest possible date.

**10.0 INVOICES AND PAYMENTS**

10.1 Payments

Contractor shall not be entitled to any payment by County under this Master Agreement except pursuant to satisfactorily performed Work and a validly executed invoice. Contractor shall submit the monthly invoices to County by the 15<sup>th</sup> calendar of the month following the month of service.

10.2 Approval of Invoices

All invoices submitted by Contractor for payment must have the written approval of County Program Manager or designee, as evidenced by County Program Manager or designee's signature on invoice, prior to any payment thereof. In no event shall County be liable or responsible for any payment prior to such written approval.

### 10.3 Invoice Detail

Each Invoice submitted by Contractor for each Polygraph Examinee shall:

- Contractor name and telephone;
- County Master Agreement number;
- Invoice date;
- Invoice number, approved by and date;
- Charge for each service;
- Total amount due for the month;
- A logs of all billed exams as well shall be attached to the invoice. See Exhibit P (Sex Offender Polygraph Examination Log) and Exhibit Q (Contractor Sex Offender Polygraph Billing Log) of this Master Agreement; and
- Any additional supporting documentation and/or information reasonably requested by County.

### 10.4 Monthly Reports

Contractor shall submit a monthly report with the original invoice to the County Program Manager with the following minimum information:

- Name of each Polygraph Examinee for which polygraph examination services were performed in the billing period;
- Date the service was performed during the billing period;
- Total number of exams;
- Total number of hours; and
- Total billing

#### 10.5 Submission of Invoices

Contractor shall submit an original and one (1) copy of each invoice to:

Original to: **Post Release Services (AB 109 Bureau) and Adult Core Services Bureau**  
**County of Los Angeles Probation Department**  
**9150 East Imperial Highway, Room P-73**  
**Downey, CA 90242**

Contractor shall submit invoice by the fifteenth (15<sup>th</sup>) calendar day of the month following the month in which services were performed. The Department will not be responsible for invoices submitted more than sixty (60) calendar days after the date of service rendered. County shall be under no obligation to remit payment for late, lost or mishandled invoices. Contractor is responsible for the accuracy of invoices submitted to the Department.

#### 10.6 No Out-of-Pocket Expenses

Contractor acknowledges that out-of-pocket expenses, including travel, meal, and lodging expenses, are not reimbursable by County. Accordingly, Contractor's invoices shall not include out-of-pocket expenses.

#### 10.7 Contractor Responsibility

Contractor is responsible for the accuracy of invoices submitted to the Department. Further, it is the responsibility of Contractor to reconcile or otherwise correct inaccuracies or inconsistencies in the invoices submitted by Contractor.

#### 10.8 Invoice Discrepancy Report

County Program Manager or designee shall review all invoices for any discrepancies and issue an Invoice Discrepancy Report (IDR), attached hereto as Exhibit J (Invoice Discrepancy Report) of this Master Agreement, to Contractor within ten (10) Business Days of receipt of invoice if payment amounts are disputed. Contractor shall review the disputed charges and submit to County Program Manager a written explanation detailing the basis for the charges within ten (10) Business Days of receipt of the IDR from County Program Manager. If County Program Manager does not receive a written response from Contractor within (10) Business Days of County's notice to Contractor of an IDR, then County payment will be made, less the disputed charges. None of the foregoing shall preclude County from seeking remedy from Contractor for invoice discrepancies discovered at any time during the Term of the Agreement.

## 10.9 County's Right to Withhold

In addition to any rights of County provided in this Master Agreement, or at law or in equity, County may, upon notice to Contractor, withhold payment for any Work while Contractor is in default hereunder, or at any time that Contractor has not provided County approved Work.

## 10.10 Local Small Business Enterprises – Prompt Payment Program

Certified Local Small Business Enterprises (LSBEs) will receive prompt payment for services they provide to the County departments. Prompt payment is defined as fifteen (15) calendar days after receipt of an undisputed invoice.

## 10.11 Default Method of Payment: Direct Deposit or Electronic Funds Transfer

10.11.1 The County, at its sole discretion, has determined that the most efficient and secure default form of payment for goods and/or services provided under the Master Agreement with the County shall be Electronic Funds Transfer (EFT) or direct deposit, unless an alternative method of payment is deemed appropriate by the Auditor-Controller (A-C).

10.11.2 The Contractor shall submit a direct deposit authorization request via the website <https://directdeposit.lacounty.gov> with banking and vendor information, and any other information that the A-C determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.

10.11.3 Any provision of law, grant, or funding agreement requiring a specific form or method of payment other than EFT or direct deposit shall supersede this requirement with respect to those payments.

10.11.4 At any time during the duration of the Master Agreement, a Contractor may submit a written request for an exemption to this requirement. Such request must be based on specific legal, business or operational needs and explain why the payment method designated by the A-C is not feasible and an alternative is necessary. The A-C, in consultation with the contracting department(s), shall decide whether to approve exemption requests.

## **11.0 LIQUIDATED DAMAGES**

- 11.1 If, in the judgment of the Chief Probation Officer, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Chief Probation Officer, or his/her designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Contractor from the County, will be forwarded to the Contractor by the Chief Probation Officer, or his/her designee, in a written notice describing the reasons for said action.
- 11.2 If the Chief Probation Officer determines that there are deficiencies in the performance of this Master Agreement that the Chief Probation Officer or his/her designee, deems are correctable by the Contractor over a certain time span, the Chief Probation Officer or his/her designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Chief Probation Officer may:
- (a) Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or
  - (b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars (\$100) per day per infraction, or as may be specified in any Performance Requirements Summary (PRS) Charts, hereunder, and that the Contractor shall be liable to the County for liquidated damages in said amount. Said amount shall be deducted from the County's payment to the Contractor; and/or
  - (c) Upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the County may correct any and all deficiencies and the total costs incurred by the County for completion of the work by an alternate source, whether it be the County forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by the County.
- 11.3 The action noted in Subparagraph 11.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover the County cost due to the failure of the Contractor to complete or comply with the provisions of this Master Agreement.

11.4 This Subparagraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Master Agreement provided by law or as specified in the PRS or Subparagraph 11.2, and shall not, in any manner, restrict or limit the County's right to terminate this Master Agreement as agreed to herein.

## **12.0 NOTICES**

All notices or demands required or permitted to be given or made under this Master Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibits K (County's Administration) and L (Contractor's Administration). Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The Chief Probation Officer or his/her designee shall have the authority to issue all notices or demands required or permitted by the County under this Master Agreement.

## **13.0 ARM'S LENGTH NEGOTIATIONS**

This Master Agreement is the product of an arm's length negotiation between Contractor and County. Each party has had at all times the opportunity to receive advice from independent counsel of its own choosing. Accordingly, this Master Agreement is to be interpreted fairly as between the parties, and not strictly construed as against either party as drafter or creator.

## **14.0 NO GUARANTY OF WORK**

This Master Agreement is intended to provide County with polygraph examination services on an "as-needed," basis. As such, County does not promise, guaranty, or warrant that it will utilize any particular level of Contractor services or any services at all during the Term of this Master Agreement. The determination as to the need for such services shall rest solely within the discretion of County.

## **15.0 NON EXCLUSIVITY**

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Master Agreement shall not restrict the Department from acquiring similar, equal or like goods and/or services from other entities or sources. The Department reserves the right to add Qualified Contractors during the Term of this Master Agreement.

## **16.0 SURVIVAL**

The following Paragraphs of this Master Agreement shall survive its expiration or termination for any reason: Paragraph 1.0 (Master Agreement and Interpretation), Paragraph 2.0 (Definitions), Paragraph 8.0 (Prices and Fees), Paragraph 10.0

(Invoices and Payments), Paragraph 12.0 (Notices), Paragraph 13.0 (Arm's Length Negotiations), Paragraph 16.0 (Survival) and all the terms and conditions set forth in Exhibit A (Additional Terms and Conditions) of this Master Agreement. In addition, any other Paragraph, Subparagraph of, or Exhibit or Attachment to, this Agreement that by their nature may reasonably be presumed to survive any termination or expiration of this Master Agreement, shall so survive.

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**MASTER AGREEMENT  
FOR  
AS NEEDED POLYGRAPH EXAMINATION SERVICES FOR  
ADULT SEX OFFENDERS AND POST-CONVICTION SEX OFFENDERS**

**IN WITNESS WHEREOF**, the County of Los Angeles and the Contractor have caused this Master Agreement to be executed on their behalf by their authorized representatives, the day, month, and year first above written. The person signing on behalf of the Contractor warrants that he or she is authorized to bind the Contractor, and attest under penalty of perjury to the truth and authenticity of representations made and documents submitted and incorporated as part of this Master Agreement.

COUNTY OF LOS ANGELES  
PROBATION DEPARTMENT

By \_\_\_\_\_  
ADOLFO GONZALES  
CHIEF PROBATION OFFICER

By \_\_\_\_\_  
Contractor

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

RODRIGO A. CASTRO-SILVA  
County Counsel

By \_\_\_\_\_  
Deputy County Counsel

# **EXHIBIT A**

## **ADDITIONAL TERMS AND CONDITIONS**

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The following additional terms and conditions are applicable to, and form a part of, the Master Agreement. Capitalized terms not otherwise defined in this Exhibit A (Additional Terms and Conditions) (this “Exhibit”) have the meanings given to such terms in Paragraph 2.0 (Definitions) of the Master Agreement.

## **1.0 SUBCONTRACTING**

- 1.1 The requirements of this Master Agreement may not be subcontracted by the Contractor **without the advance approval of the County**. Any attempt by the Contractor to subcontract without the prior consent of the County may be deemed a material breach of this Master Agreement.
- 1.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County’s request:
  - A description of the work to be performed by the subcontractor;
  - A draft copy of the proposed subcontract; and
  - Other pertinent information and/or certifications requested by the County.
- 1.3 The Contractor shall indemnify and hold the County harmless with respect to the activities of each and every subcontractor in the same manner and to the same degree as if such subcontractor(s) were Contractor employees.
- 1.4 The Contractor shall remain fully responsible for all performances required of it under this Master Agreement, including those that the Contractor has determined to subcontract, notwithstanding the County’s approval of the Contractor’s proposed subcontract.
- 1.5 The County’s consent to subcontract shall not waive the County’s right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Master Agreement. The Contractor is responsible to notify its subcontractors of this County right.
- 1.6 The County’s Program Manager is authorized to act for and on behalf of the County with respect to approval of any subcontract and subcontractor employees. After approval of the subcontract by the County, Contractor shall forward a fully executed subcontract to the County for their files.
- 1.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County’s consent to subcontract.

- 1.8 The Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by the County from each approved subcontractor. The Contractor shall ensure delivery of all such documents to:

**Los Angeles County Probation Department  
Contracts & Grants Management Division  
9150 East Imperial Highway, Room D 29  
Downey, CA 90242  
Attention: Oscar Rivas, Contract Analyst  
[Oscar.Rivas@probation.lacounty.gov](mailto:Oscar.Rivas@probation.lacounty.gov)**

before any subcontractor employee may perform any work hereunder.

## **2.0 DISPUTE RESOLUTION PROCEDURE**

### **2.1 General**

Contractor and County agree to act immediately to resolve mutually any disputes that may arise with respect to the Master Agreement. All such disputes shall be subject to the provisions of this Paragraph 2.0 (Dispute Resolution Procedure), (such provisions are collectively referred to as the "Dispute Resolution Procedures"). Time is of the essence in the resolution of disputes.

### **2.2 Continued Work**

Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance, other than payment by County for approved Work, which the parties mutually determine should be delayed as a result of such dispute.

2.2.1 If Contractor fails to continue without delay its performance hereunder that County, in its discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor or County as a result of Contractor's failure to continue to so perform shall be borne by Contractor, and Contractor shall make no claim whatsoever against County for such costs. Contractor shall promptly reimburse County for such County costs, as determined by County, or County may deduct or offset all such additional costs from any amounts due to Contractor from County.

2.2.2 If County fails to continue without delay to perform its responsibilities under the Master Agreement which County, in its

discretion, determines should not be delayed as a result of such dispute, then any additional costs incurred by Contractor or County as a result of County's failure to continue to so perform shall be borne by County, and County shall make no claim whatsoever against Contractor for such costs. County shall promptly reimburse Contractor for all such additional Contractor costs subject to the approval of such costs by County.

## 2.3 Dispute Resolution Procedures

In the event of any dispute between the parties with respect to the Master Agreement, Contractor and County shall submit the matter as follows:

2.3.1 Contractor and County shall submit the matter to the County Program Manager and Contractor Project Manager for the purpose of endeavoring to resolve such dispute.

2.3.2 If the County Program Manager and Contractor Project Manager are unable to resolve the dispute within a reasonable time, not to exceed five (5) Business Days from the date of submission of the dispute, then the matter immediately shall be submitted to the County's Administrative Deputy Director and Contractor's president or chief operating officer. These persons shall have five (5) business days to attempt to resolve the dispute.

2.3.3 In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under the Master Agreement and its rights and remedies as provided by law.

## 2.4 Documentation of Dispute Resolution Procedures

All disputes utilizing the Dispute Resolution Procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At all three (3) levels described in Paragraph 2.3 (Dispute Resolution Procedures), the efforts to resolve a dispute shall be undertaken by conference between the parties' respective representatives, either orally, by face-to-face meeting or by telephone, or in writing by exchange of correspondence.

## 2.5 Not Applicable to County's Right to Terminate

Notwithstanding any other provision of the Master Agreement, County's right to terminate the Master Agreement pursuant to Paragraph 4.0 (Termination for Insolvency), Paragraph 5.0 (Termination for Default),

Paragraph 6.0 (Termination for Convenience), or Paragraph 7.0 (Termination for Improper Consideration), in each case, of this Exhibit, or any other termination provision under the Master Agreement, shall not be subject to the Dispute Resolution Procedure. The preceding sentence is intended only as a clarification of County's rights, and shall not be deemed to impair any claims that Contractor may have against County or Contractor's rights to assert such claims after any such termination or such injunctive relief has been obtained.

### **3.0 CONFIDENTIALITY**

The Contractor shall be responsible for safeguarding all the County information provided for use by the Contractor.

- 3.1 The Contractor shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, the County policies concerning information technology security and the protection of confidential records and information.
- 3.2 The Contractor shall inform all of its officers, employees, agents and the subcontractors providing services hereunder of the confidentiality provisions of the Master Agreement.
  - 3.2.1 The Contractor shall sign and adhere to this provisions of Exhibit E1 (Contractor Acknowledgement and Confidentiality Agreement).
  - 3.2.2 The Contractor shall require each employee performing services covered by this the Contract to sign and adhere to the provisions of Exhibit E2 (Contractor Employee Acknowledgement and Confidentiality Agreement)
  - 3.2.3 The Contractor shall require each non-employee performing services covered by the Master Agreement to sign and adhere to the provisions of Exhibit E3 (Contractor Non-Employee Acknowledgement and Confidentiality Agreement)
- 3.3 The Contractor shall indemnify, defend, and hold harmless the County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by the Contractor, its officers, employees, agents, or the subcontractors, to comply with this Paragraph 3.0 (Confidentiality), as determined by the County in its sole judgment. Any legal defense pursuant

to the Contractor indemnification obligations under this Paragraph 3.0 (Confidentiality), shall be conducted by the Contractor and performed by counsel selected by the Contractor and approved by the County. Notwithstanding the preceding sentence, the County shall have the right to participate in any such defense at its sole cost and expense, except that in the event the Contractor fails to provide the County with a full and adequate defense, as determined by the County in its sole judgment, the County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from the Contractor for all such costs and expenses incurred by the County in doing so. The Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without the County prior written approval.

#### 3.4 Confidentiality of Adult Records

By state law (California Welfare and Institutions Code sections 827 and 828, and Penal Code sections 1203.05, 1203.09, and 11140 through 11144) all adult records and Probation case information provided to the Contractor is confidential and no such information shall be disclosed except those authorized employees of the County of Los Angeles Probation Department and law enforcement agencies.

3.5 The Contractor's employees shall be given copies of all cited code sections, and a CORI form to sign, as provided in Exhibit V (Confidentiality of CORI Information) regarding confidentiality of the information in adult records. The Contractor shall retain original CORI forms and forward copies to the County's Program Manager within five (5) business days of start of employment.

3.6 Violations: The Contractor agrees to inform all of its employees, agents, subcontractors, and partners of the above provision and that any person knowingly and intentionally violating the provisions of said state law is guilty of a misdemeanor.

### 4.0 TERMINATION FOR INSOLVENCY

4.1 The County may terminate the Master Agreement forthwith in the event of the occurrence of any of the following:

4.1.1 Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;

- 4.1.2 The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
  - 4.1.3 The appointment of a Receiver or Trustee for the Contractor; or
  - 4.1.4 The execution by the Contractor of a general assignment for the benefit of creditors.
- 4.2 The rights and remedies of the County provided in this Paragraph 4.0 shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Master Agreement.

## **5.0 TERMINATION FOR DEFAULT**

- 5.1 The County may, by written notice to the Contractor, terminate the whole or any part of the Master Agreement, if, in the judgment of the County's Program Manager:
- 5.1.1 The Contractor has materially breached the Master Agreement;
  - 5.1.2 The Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under the Master Agreement issued hereunder; or
  - 5.1.3 The Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under the Master Agreement, or of any obligations of the Master Agreement and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.
- 5.2 In the event that the County terminates the Master Agreement in whole or in part as provided in Paragraph 5.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of the Master Agreement to the extent not terminated under the provisions of this subparagraph.
- 5.3 Except with respect to defaults of any subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in Paragraph 5.2 if its failure to perform the Master Agreement issued hereunder, arises out of causes beyond the control and without the fault or negligence of the

Contractor. Such causes may include but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this subparagraph 5.3, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

- 5.4 If, after the County has given notice of termination under the provisions of this Paragraph 5.0, it is determined by the County that the Contractor was not in default under the provisions of this Paragraph 5.0, or that the default was excusable under the provisions of subparagraph 5.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 6.0 (Termination for Convenience).
- 5.5 The rights and remedies of the County provided in this Paragraph 5.0 shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Master Agreement.

## **6.0 TERMINATION FOR CONVENIENCE**

### **6.1 Termination for Convenience**

The Master Agreement may be terminated, in whole or in part from time to time, by County in its sole discretion for any reason. Termination of Work hereunder shall be effected by delivery to Contractor of a notice of termination specifying the extent to which performance of Work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than thirty (30) calendar days after notice.

### **6.2 No Prejudice; Sole Remedy**

Nothing in this Paragraph 6.0 (Termination for Convenience), is deemed to prejudice any right of Contractor to make a claim against County in accordance with the Master Agreement and applicable law and County procedures for payment for Work through the effective date of termination. Contractor, however, acknowledges that the rights and remedies set forth

in this Subparagraph 6.2 (No Prejudice; Sole Remedy), shall be the only remedy available to Contractor in the event of a termination or suspension pursuant to this Paragraph 6.0 (Termination for Convenience) by County.

## **7.0 TERMINATION FOR IMPROPER CONSIDERATION**

- 7.1 The County may terminate the Master Agreement, issued hereunder, in whole or in part, from time to time or permanently, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.
- 7.2 Upon receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall immediately:
- Stop work under the Master Agreement, as identified in such notice;
  - Transfer title and deliver to the County all completed work and work in process; and
  - Complete performance of such part of the work as shall not have been terminated by such notice.
- 7.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under the Master Agreement shall be maintained by the Contractor in accordance with Paragraph 42.0 (Record Retention and Inspection/Audit Settlement) of this Exhibit.

## **8.0 INTENTIONALLY OMITTED**

## **9.0 EFFECT OF TERMINATION**

### **9.1 Remedies**

In the event that County terminates the Master Agreement in whole or in part as provided in Paragraph 4.0 (Termination for Insolvency), Paragraph 5.0 (Termination for Default), Paragraph 6.0 (Termination for Convenience), Paragraph 7.0 (Termination for Improper Consideration), in each case, of this Exhibit, then:

- 9.1.1 Contractor shall (a) stop performing Work under the Master Agreement on the date and to the extent specified in such notice, (b) promptly transfer and deliver to County copies of all completed Work

and Work that is in process, in a media reasonably requested by County, (c) promptly transfer and deliver all items previously paid for by County, and (d) complete performance of such part of the Work as shall not have been terminated by such notice;

- 9.1.2 Unless County has terminated the Master Agreement pursuant to Paragraph 6.0 (Termination for Convenience), of this Exhibit, County shall have the right to procure, upon such terms and in such a manner as County may determine appropriate, goods, services, and other Work, similar and competitive to those so terminated, and Contractor shall be liable to County for, and shall promptly pay to County by cash payment, any and all excess costs reasonably incurred by County, as determined by County, to procure and furnish such similar goods, services, and other Work;
- 9.1.3 Contractor shall promptly return to County any and all of County's confidential information that relates to that portion of the Master Agreement or Work terminated by County;
- 9.1.4 Contractor shall tender prompt payment to County, and shall continue to tender payment for the duration of any liquidated damages levied pursuant to Paragraph 11.0 (Liquidated Damages), of the Master Agreement, to the extent applicable; and
- 9.1.5 Contractor and County shall continue the performance of the Master Agreement to the extent not otherwise terminated.

## 9.2 Transition Services

Contractor agrees that in the event of any termination of the Master Agreement, as a result of the breach hereof by either party, or for any other reason, including expiration, Contractor shall fully cooperate with County in the transition by County to a new contractor so that there shall be no interruption of County's day to day operations due to the unavailability of the Work during such transition. Contractor agrees that if County terminates the Master Agreement pursuant to Paragraph 6.0 (Termination for Convenience) of this Exhibit or Paragraph 5.4 of this Exhibit, Contractor shall perform transition services, and shall invoice County for such transition services determined in accordance with the rates specified in Exhibit C (Pricing Schedule) of the Master Agreement, and the agreed upon maximum amount in accordance with a transition plan to be agreed upon, in advance, by County Program Manager and Contractor Project Manager. Contractor further agrees that in the event that County terminates the Master Agreement for any other breach by Contractor, Contractor shall perform transition services at no cost to County. In connection with the provision of any transition services pursuant to this Paragraph 9.2 (Transition Services), Contractor shall provide to County Program Manager,

upon request by County Program Manager, documentation that reasonably details the source and amount of the expenses Contractor purports to have incurred in the provision of such transition services.

### 9.3 Remedies Not Exclusive

The rights and remedies of County set forth in this Paragraph 9.0 (Effect of Termination) are not exclusive of any other rights and remedies available to County at law or in equity, or under the Master Agreement of this Exhibit.

## **10.0 WARRANTY AGAINST CONTINGENT FEES**

10.1 Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Master Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

10.2 For breach of this warranty, County shall have the right to terminate the Master Agreement and, in its discretion, deduct from the Master Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

## **11.0 AUTHORIZATION WARRANTY**

Contractor and the person executing the Master Agreement on behalf of Contractor hereby represent and warrant that the person executing the Master Agreement for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of the Master Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.

## **12.0 FURTHER WARRANTIES**

In addition to the warranties elsewhere in the Master Agreement, Contractor represents warrants and further covenants and agrees to the following:

12.1 Contractor bears the full risk of loss due to total or partial destruction of all or any part of any goods acquired from Contractor, as applicable, until acceptance by the County.

12.2 At the time of delivery to and acceptance by County, all goods shall be new, in good working order, in conformity with manufacturer's published specifications and descriptions, and free from defects in workmanship and materials, as determined by County.

- 12.3 Contractor shall, in the performance of all Work, strictly comply with the descriptions and representations (including performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions, and requirements) as set forth in the Master Agreement, including Exhibit B (Statement of Work).
- 12.4 All Work shall be performed in a timely and professional manner by qualified personnel.
- 12.5 Contractor and each of its personnel performing Work hereunder have all permits, licenses, and certifications necessary to perform Contractor's obligations under the Agreement.

### **13.0 INDEMNIFICATION AND INSURANCE**

#### **13.1 Indemnification**

Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, agents and volunteers ("County Indemnitees") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from and/or relating to the Master Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.

#### **13.2 General Provisions for All Insurance Coverage**

Without limiting Contractor's indemnification of County, and in the performance of the Master Agreement and until all of its obligations pursuant to the Master Agreement have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Subparagraphs 13.2 (General Provisions for All Insurance Coverage) and 13.3 (Insurance Coverage) of the Master Agreement of this Exhibit. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to the Master Agreement. County in no way warrants that the Required Insurance is sufficient to protect Contractor for liabilities which may arise from or relate to the Master Agreement.

##### **13.2.1 Evidence of Coverage and Notice to County**

- Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been

given Insured status under Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under the Master Agreement.

- Renewal Certificates shall be provided to County not less than ten (10) calendar days prior to Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or subcontractor insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference the Master Agreement by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of Contractor identified as the contracting party in the Master Agreement. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.
- Neither County's failure to obtain, nor County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.
- Certificates and copies of any required endorsements shall be sent to:

County of Los Angeles Probation Department  
Contracts & Grants Management Division  
9150 East Imperial Highway, Room D 29  
Downey, California 90242  
Attention: Oscar Rivas, Contract Analyst  
[Oscar.Rivas@probation.lacounty.gov](mailto:Oscar.Rivas@probation.lacounty.gov)  
Fax#: (562) 658-2307

- Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County

property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its sub-Contractors which arises from or relates to the Master Agreement, and could result in the filing of a claim or lawsuit against Contractor and/or County.

### **13.2.2 Additional Insured Status and Scope of Coverage**

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of County. County and its Agents additional insured status and their entitlement to insurance benefits including defense of suits, shall apply with respect to any claims or proceedings asserting any liability arising out of Contractor's acts or omissions, whether such liability is attributable in whole or in part to Contractor or to County. The full policy limits and scope of protection also shall apply to County and its Agents as an additional insured, even if they exceed County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable provided it satisfies the Required Insurance provisions herein.

### **13.2.3 Cancellation of or Changes in Insurance**

Contractor shall provide County with, or Contractor's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) calendar days in advance of cancellation for non-payment of premium and thirty (30) calendar days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Master Agreement, in the sole discretion of the County, upon which the County may suspend or terminate the Master Agreement.

### **13.2.4 Failure to Maintain Insurance**

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Master Agreement, upon which County immediately

may withhold payments due to Contractor, and/or suspend or terminate the Master Agreement. County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

#### **13.2.5 Insurer Financial Ratings**

Coverage shall be placed with insurers acceptable to County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

#### **13.2.6 Contractor's Insurance Shall Be Primary**

Contractor's insurance policies, with respect to any claims related to the Master Agreement, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

#### **13.2.7 Waivers of Subrogation**

To the fullest extent permitted by law, Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to the Master Agreement. Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

#### **13.2.8 Subcontractor Insurance Coverage Requirements**

Contractor shall include all subcontractors as insureds under Contractor's own policies or shall provide County with each subcontractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each subcontractor complies with the Required Insurance provisions herein and shall require that each subcontractor name County and Contractor as additional insureds on the subcontractor's General Liability policy. Contractor shall obtain County's prior review and approval of any subcontractor request for modification of the Required Insurance.

#### **13.2.9 Deductibles and Self-Insured Retentions (SIRs)**

Contractor's policies shall not obligate County to pay any portion of any Contractor deductible or SIR. County retains the right to

require Contractor to reduce or eliminate policy deductibles and SIRs as respects County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

#### **13.2.10 Claims Made Coverage**

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of the Master Agreement. Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Master Agreement expiration, termination or cancellation.

#### **13.2.11 Application of Excess Liability Coverage**

Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

#### **13.2.12 Separation of Insureds**

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

#### **13.2.13 Alternative Risk Financing Programs**

County reserves the right to review, and then approve, Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. County and its Agents shall be designated as an Additional Covered Party under any approved program.

#### **13.2.14 County Review and Approval of Insurance Requirements**

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

### 13.3 Insurance Coverage

13.3.1 **Commercial General Liability** insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

13.3.2 **Automobile Liability** insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Contractor's use of autos pursuant to the Master Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

13.3.3 **Workers Compensation and Employers' Liability** insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) calendar days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law. There shall be no exclusions for animal-related liability.

If Contractor does not have employees, a written statement will be acceptable acknowledging that Contractor does not have employees and therefore, Worker's Compensation Insurance does not apply.

13.3.4 **Professional Liability/Errors and Omissions** insurance covering Contractor's liability arising from or related to the Master Agreement, with limits of not less than \$1 million per claim and \$2 million aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3)

years following the Master Agreement's expiration, termination or cancellation.

**13.3.5 Cyber Liability Insurance** the Contractor shall secure and maintain cyber liability insurance coverage with limits of \$10 million per occurrence and in the aggregate during the term of the Master Agreement, including coverage for: network security liability; privacy liability; privacy regulatory proceeding, defense, response, expenses and fines; technology professional liability (errors and omissions); privacy breach expense reimbursement (liability arising from the loss or disclosure of County Information no matter how it occurs); system breach; denial or loss of service; introduction, implantation, or spread of malicious software code; unauthorized access to or use of computer systems; and Data/Information loss and business interruption; any other liability or risk that arises out of the Master Agreement. The Contractor shall add the County as an additional insured to its cyber liability insurance policy and provide to the County certificates of insurance evidencing the foregoing upon the County's request. The procuring of the insurance described herein, or delivery of the certificates of insurance described herein, shall not be construed as a limitation upon the Contractor's liability or as full performance of its indemnification obligations hereunder. No exclusion/restriction for unencrypted portable devices/media may be on the policy.

## **14.0 INTELLECTUAL PROPERTY INDEMNIFICATION**

### **14.1 Indemnification Obligation**

Contractor shall indemnify, hold harmless and defend County, its agents, officers, and employees from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees and attorney's fees, as such are incurred, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure or misappropriation, arising from or related to software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder or the operation and utilization of Contractor's work under the Master Agreement (collectively in this Paragraph 14.0 (Intellectual Property Indemnification) "Infringement Claim(s)") of this Exhibit. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 14.0 (Intellectual Property Indemnification), shall be conducted by Contractor and performed by counsel selected by Contractor and approved in writing by County (which approval shall not be unreasonably withheld).

Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as required by law or the Master Agreement, County shall be entitled to reimbursement for all such costs and expenses.

#### 14.2 Procedures

County shall notify Contractor, in writing, as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure. Upon such notice, Contractor shall, at no cost to County, as remedial measures, either: (i) procure the right, by license or otherwise, for County to continue to use the software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder, or part(s) or component(s) thereof, to the same extent of County's license or ownership rights under the Master Agreement; or (ii) to the extent Contractor is unable to procure such right, replace or modify the software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder, or part(s) or component(s) thereof, with another software or product of services, or part(s) or component(s) thereof, of at least equivalent quality and performance capabilities, in County's determination, until it is determined by County that the software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder and all parts and components become non-infringing, non-misappropriating and non-disclosing.

#### 14.3 Remedial Acts

If Contractor fails to complete the remedial measures in Subparagraph 14.2 above within forty-five (45) calendar days of the date of the written notice from County or County has not approved in writing (such approval not to be unreasonably withheld) Contractor's plan of completing such remediation, then, County shall have the right to take such remedial acts as County determines to be reasonable to mitigate any impairment of its use of the software or services or damages or other costs or expenses (in this Subparagraph 14.3, "Remedial Acts"). Contractor shall indemnify County under Subparagraph 13.1 (Indemnification), for all amounts paid and all direct and indirect costs associated with County's Remedial Acts. Failure by Contractor to pay such amounts within ten (10) calendar days of invoice by County shall, in addition to, and cumulative to all other remedies, entitle County to immediately withhold payments due to Contractor under the Master Agreement up to the total of the amounts paid in connection with County's Remedial Acts.

## **15.0 BUDGET REDUCTIONS**

In the event that the Board adopts, in any fiscal year, a County budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County master agreements, County reserves the right to reduce its payment obligation correspondingly for that fiscal year and any subsequent fiscal year during the Term of the Master Agreement (including any extensions), and the services to be provided by Contractor under the Master Agreement shall also be reduced correspondingly. County's notice to Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentences, Contractor shall continue to provide all of the services set forth in the Master Agreement.

## **16.0 FORCE MAJEURE**

- 16.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with the Master Agreement, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this Paragraph as "force majeure events").
- 16.2 Notwithstanding the foregoing, a default by a subcontractor of the Contractor shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both the Contractor and such subcontractor, and without any fault or negligence of either of them. In such case, the Contractor shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this Paragraph, the term "subcontractor" and "subcontractors" mean subcontractors at any tier.
- 16.3 In the event the Contractor's failure to perform arises out of a force majeure event, the Contractor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

## **17.0 CONTRACTOR RESPONSIBILITY AND DEBARMENT**

### **17.1 Responsible Contractor**

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Master Agreement. It is the County's policy to conduct business only with responsible Contractors.

### **17.2 Chapter 2.202 of the County Code**

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other Master Agreements which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Master Agreement, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Contractor may have with the County.

### **17.3 Non-responsible Contractor**

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a Master Agreement with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a Master Agreement with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

### **17.4 Contractor Hearing Board**

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit

evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that the Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of

Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

17.5 Subcontractors of Contractor

These terms shall also apply to the subcontractors of the County Contractors.

**18.0 COMPLIANCE WITH APPLICABLE LAW**

18.1 In the performance of the Master Agreement, Contractor's shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, guidelines, directives, policies and procedures, and all provisions required thereby to be included in the Master Agreement are hereby incorporated herein by reference.

18.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 18.0 (Compliance with Applicable Law) shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

**19.0 FAIR LABOR STANDARDS**

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal

Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

## **20.0 NONDISCRIMINATION, AFFIRMATIVE ACTION, AND ASSURANCES**

- 20.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 20.2 The Contractor shall certify to, and comply with, the provisions of Exhibit D (Vendor's EEO Certification).
- 20.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 20.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 20.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Master Agreement or under any project, program, or activity supported by the Master Agreement.
- 20.6 The Contractor shall allow the County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Paragraph 20.0 when so requested by the County.
- 20.7 If the County finds that any provisions of this Paragraph 20.0 have been violated, such violation shall constitute a material breach of the Master

Agreement upon which the County may terminate or suspend the Master Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of the Master Agreement have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of the Master Agreement.

- 20.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of the Master Agreement, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending the Master Agreement.

## **21.0 NONDISCRIMINATION IN SERVICES**

Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, or physical or mental handicap, in accordance with all applicable requirements of Federal and State law. For the purpose of this Paragraph 21.0 (Nondiscrimination in Services), discrimination in the provision of services may include the following: (a) denying any person any service or benefit or the availability of the facility, (b) providing any service or benefit to any person which is not equivalent or is not provided in an equivalent manner or at an equivalent time to that provided to others, (c) subjecting any person to segregation or separate treatment in any manner related to the receipt of any service, (d) restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit, and (e) treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirements or conditions which persons must meet in order to be provided any service or benefit.

## **22.0 EMPLOYMENT ELIGIBILITY VERIFICATION**

- 22.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under the Master Agreement meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

22.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under the Master Agreement.

### **23.0 HIRING OF EMPLOYEES**

Contractor and County agree that, during the Term of the Master Agreement and for a period of one (1) year thereafter, except with the prior written consent of the other party, neither party shall in any way intentionally induce or solicit any employee, of one party to become an employee or agent of the other party. Notwithstanding the foregoing, County shall be entitled to make offers of employment to employees of Contractor necessary or desirable to perform Work described in the Master Agreement, in the event that: (a) County has the right to terminate the Master Agreement pursuant to Paragraph 4.0 (Termination for Insolvency) of this Exhibit, (b) the Master Agreement is terminated by County due to Contractor's default pursuant to Paragraph 5.0 (Termination for Default) of this Exhibit, (c) without resolution acceptable to both parties, Contractor and County have followed Subparagraph 2.3 (Dispute Resolution Procedures), or (d) Contractor either announces the withdrawal of support of, or otherwise no longer provides services County deems essential to, the ongoing support of the Work as applicable.

### **24.0 CONFLICT OF INTEREST**

24.1 No County employee whose position with County enables such employee to influence the award of the Master Agreement or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in the Master Agreement. No officer or employee of Contractor, who may financially benefit from the performance of Work hereunder, shall in any way participate in County's approval, or ongoing evaluation, of such Work, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such Work.

24.2 Contractor shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the Term of the Master Agreement. Contractor warrants that it is not now aware of any facts that do or could create a conflict of interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all

relevant circumstances. Failure to comply with the provisions of this Paragraph 24.0 (Conflict of Interest) shall be a material breach of the Master Agreement of this Exhibit.

## **25.0 RESOLICITATION OF BIDS, PROPOSALS, SOQs, OR INFORMATION**

25.1 Contractor acknowledges that, prior to the expiration or earlier termination of the Master Agreement, County, in its discretion, may exercise its right to invite bids, request information, request for statement of qualifications or request proposals for the continued provision of the goods and services delivered or contemplated under the Master Agreement. County shall make the determination to re-solicit bids, request information, request for statement of qualifications or request proposals in accordance with applicable County policies.

25.2 Contractor acknowledges that County, in its discretion, may enter into a Master Agreement for the future provision of goods and services, based upon the bids, information, or proposals received, with a provider or providers other than Contractor. Further, Contractor acknowledges that it obtains no greater right to be selected through any future invitation for bids, request for information, request for statement of qualifications or request for proposals by virtue of its present status as Contractor.

## **26.0 TERMINATION FOR NON-ADHERENCE TO COUNTY LOBBYIST ORDINANCE**

Contractor and each County Lobbyist or County Lobbying Firm as defined in Los Angeles County Code Section 2.160.010 retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County Lobbyist or County Lobbying Firm retained by Contractor to fully comply with County Lobbyist Ordinance shall constitute a material breach of the Master Agreement upon which County may immediately terminate or suspend the Master Agreement.

## **27.0 CONSIDERATION OF HIRING GAIN/GROW PARTICIPANTS**

27.1 Should the Contractor require additional or replacement personnel after the effective date of the Master Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN-GROW participants by job category to the Contractor. The Contractors shall report all job openings with job requirements to: [GAINGROW@DPSS.LACOUNTY.GOV](mailto:GAINGROW@DPSS.LACOUNTY.GOV) and

[BSERVICES@WDACS.LACOUNTY.GOV](mailto:BSERVICES@WDACS.LACOUNTY.GOV) and DPSS will refer qualified GAIN-GROW job candidates.

27.2 In the event that both laid-off County employees and GAIN-GROW participants are available for hiring, the County employees shall be given first priority.

## **28.0 STAFF PERFORMANCE WHILE UNDER THE INFLUENCE**

Subject to all applicable laws and regulations, Contractor shall use reasonable efforts to ensure that no employee will perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic, or other substance, which might reasonably, or have been observed to, impair such person's physical or mental performance.

## **29.0 CONTRACTOR PERFORMANCE DURING CIVIL UNREST**

Contractor recognizes that County provides services essential to the residents of the communities it serves, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster or similar event. Notwithstanding any other provision of this Exhibit or the Master Agreement, full performance by Contractor during any riot, insurrection, civil unrest, natural disaster or similar event is not excused if such performance remains physically possible without related danger to Contractor's employees or suppliers. During any such event in which the health or safety of any of Contractor's staff members would be endangered by performing their services on-site, such staff members may perform any or all of their services remotely. Failure to comply with this requirement shall be considered a material breach of the Master Agreement by Contractor, for which County may immediately terminate the Master Agreement.

## **30.0 INTENTIONALLY OMITTED**

## **31.0 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

31.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Purchase Order or Master Agreement are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

31.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under the Master Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of the Master Agreement maintain in compliance with employment and wage

reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

### **32.0 RECYCLED-BOND PAPER**

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on the Master Agreement.

### **33.0 COMPLIANCE WITH JURY SERVICE PROGRAM**

33.1 Jury Service Program: The Master Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Exhibit F and incorporated by reference into and made part of the Master Agreement.

#### **33.2 Written Employee Jury Service Policy**

33.2.1 Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

33.2.2 For purposes of this paragraph, "Contractor" means a person, partnership, corporation or other entity which has a Master Agreement with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County Master Agreements or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) the Contractor has a

long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any subcontractor to perform services for the County under the Master Agreement, the subcontractor shall also be subject to the provisions of this subparagraph. The provisions of this subparagraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

33.2.3 If the Contractor is not required to comply with the Jury Service Program when the Master Agreement commences, the Contractor shall have a continuing obligation to review the applicability of its “exception status” from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program’s definition of “Contractor” or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Master Agreement and at its sole discretion, that the Contractor demonstrate to the County’s satisfaction that the Contractor either continues to remain outside of the Jury Service Program’s definition of “Contractor” and/or that the Contractor continues to qualify for an exception to the Program.

33.2.4 The Contractor’s violation of this subparagraph of the Master Agreement may constitute a material breach of the Master Agreement. In the event of such material breach, the County may, in its sole discretion, terminate the Master Agreement and/or bar the Contractor from the award of future County Master Agreements for a period of time consistent with the seriousness of the breach.

#### **34.0 BACKGROUND AND SECURITY INVESTIGATIONS**

Background and security investigations of Contractor’s staff are required as a condition of beginning and continuing work under the resulting Master Agreement. The cost of background checks is the responsibility of the Contractor. The Contractor shall be responsible for the ongoing implementation and monitoring of Master Agreement Subparagraphs 34.1 through 34.6. On at least a quarterly basis, Contractor shall report, in writing, monitoring results to the County, indicating compliance or problem areas. The elements of monitoring report shall receive prior written approval from County.

- 34.1 Contractor shall submit the names of Contractor's or Subcontractor's employees to the County Program Manager prior to the employee starting work on the Master Agreement. The COUNTY will schedule appointments to conduct background investigation/record checks based on fingerprints of Contractor's or Subcontractor's employees and shall conduct background investigations of Contractor's or Subcontractor's employees at any time. **The Contractor's or Subcontractor's employees shall not begin work on the Master Agreement before receiving written notification of clearance from County.**
- 34.2 No personnel employed by the Contractor or Subcontractor for this service having access to Probation information or records shall have a criminal conviction record or pending criminal trial unless such information has been fully disclosed to County and employment of the employee for this service is approved in writing by the County.
- 34.3 County reserves the right to preclude Contractor or Subcontractor from employment or continued employment of any individual performing services under the Master Agreement.
- 34.4 No Contractor or Subcontractor staff providing services under the Master Agreement shall be on active probation or parole.
- 34.5 Contractor or Subcontractor staff performing services under the Master Agreement shall be under a continuing obligation to disclose any prior or subsequent criminal conviction record or any pending criminal trial to the County.
- 34.6 Because the County is charged by the State for checking the criminal records of the Contractor's or the subcontractor's employees; the County will bill the Contractor to recover these expenses. The current amount is forty-nine (\$49.00) per record check, which is subject to change by the State.

**35.0 INTENTIONALLY OMITTED**

**36.0 INTENTIONALLY OMITTED**

**37.0 INTENTIONALLY OMITTED**

**38.0 INTENTIONALLY OMITTED**

**39.0 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME TAX CREDIT**

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income

Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

#### **40.0 ASSIGNMENT AND DELEGATION/MERGERS OR ACQUISITIONS**

- 40.1 The Contractor shall notify the County of any pending acquisitions/mergers of its company unless otherwise legally prohibited from doing so. If the Contractor is restricted from legally notifying the County of pending acquisitions/mergers, then it should notify the County of the actual acquisitions/mergers as soon as the law allows and provide to the County the legal framework that restricted it from notifying the County prior to the actual acquisitions/mergers.
- 40.2 The Contractor shall not assign its rights or delegate its duties under the Master Agreement, or both, whether in whole or in part, without the prior written consent of the County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, the County consent shall require a written amendment to the Master Agreement, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under the Master Agreement shall be deductible, at the County's sole discretion, against the claims, which the Contractor may have against the County.
- 40.3 Shareholders, partners, members, or other equity holders of the Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Master Agreement, such disposition is an assignment requiring the prior written consent of the County in accordance with applicable provisions of the Master Agreement.
- 40.4 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without the County's express prior written approval, shall be a material breach of the Master Agreement which may result in the termination of the Master Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

#### **41.0 INDEPENDENT CONTRACTOR STATUS**

- 41.1 The Master Agreement is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
- 41.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to the Master Agreement all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.
- 41.3 The Contractor understands and agrees that all persons performing work pursuant to the Master Agreement are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to the Master Agreement.
- 41.4 The Contractor shall adhere to the provisions stated in Paragraph 3.0 (Confidentiality) of this Exhibit A (Additional Terms and Conditions).

#### **42.0 RECORD RETENTION AND INSPECTION-AUDIT SETTLEMENT**

- 42.1 The Contractor shall maintain accurate and complete financial records of its activities and operations relating to the Master Agreement in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of the Master Agreement. The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to the Master Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of the Master Agreement and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be

maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

42.1.1 In the event that an audit of the Contractor is conducted specifically regarding the Master Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under the Master Agreement. The County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

42.1.2 Failure on the part of the Contractor to comply with any of the provisions of this subparagraph shall constitute a material breach of the Master Agreement upon which the County may terminate or suspend the Master Agreement.

42.1.3 If, at any time during the term of the Master Agreement or within five (5) years after the expiration or termination of the Master Agreement, representatives of the County may conduct an audit of the Contractor regarding the work performed under the Master Agreement, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under the Master Agreement or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for the Master Agreement exceed the funds appropriated by the County for the purpose of the Master Agreement.

#### **43.0 LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, AND CERTIFICATIONS**

Contractor shall obtain and maintain in effect during the Term of the Master Agreement all licenses, permits, registrations, accreditations, and certifications required by all Federal, state, and local laws, ordinances, rules, and regulations, which are applicable to Contractor's services under the Master Agreement,

including but not limited to licenses and board certifications. Contractor shall further ensure that all of its officers, employees, and agents who perform services hereunder, obtain and maintain in effect during the Term of the Master Agreement all licenses, permits, registrations, accreditations, and certifications which are applicable to their performance hereunder. If and to the extent requested by County, Contractor shall provide a copy of each license, permit, registration, accreditation, and certificate, in duplicate, to:

County of Los Angeles Probation Department  
Contracts & Grants Management Division  
9150 East Imperial Highway, Room D 29  
Downey, California 90242  
Attention: Oscar Rivas, Contract Analyst

#### **44.0 NO THIRD PARTY BENEFICIARIES**

Notwithstanding any other provision of the Master Agreement, Contractor and County do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of the Master Agreement, except that this Paragraph 44.0 (No Third Party Beneficiaries) of this Exhibit shall not be construed to diminish Contractor's indemnification obligations hereunder.

#### **45.0 MOST FAVORED PUBLIC ENTITY**

If the Contractor's prices decline, or should the Contractor at any time during the term of the Master Agreement provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in the Master Agreement, then such lower prices shall be immediately extended to the County.

#### **46.0 COUNTY'S QUALITY ASSURANCE PLAN**

The County or its agent(s) will monitor the Contractor's performance under the Master Agreement on not less than an annual basis. Such monitoring will include assessing the contractor's compliance with all Master Agreement terms and conditions and performance standards. The Contractor deficiencies which the County determines are significant or continuing and that may place performance of the Master Agreement in jeopardy if not corrected will be reported to the Board of Supervisors and listed in the appropriate Contractor performance database. The report to the Board will include improvement/ corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate the Master Agreement or impose other penalties as specified in the Master Agreement.

**47.0 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST**

Should the Contractor require additional or replacement personnel after the effective date of the Master Agreement to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of the Master Agreement.

**48.0 INTENTIONALLY OMITTED**

**49.0 NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION OR TERMINATION OF MASTER AGREEMENT**

Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor under the Master Agreement, after the expiration or other termination of the Master Agreement. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration or termination of the Master Agreement shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of the Master Agreement.

**50.0 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO SAFELY SURRENDERED BABY LAW**

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster, in a prominent position at the contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. Information and posters for printing are available at [www.babysafela.org](http://www.babysafela.org).

**51.0 PROHIBITION AGAINST INDUCEMENT OR PERSUASION**

Notwithstanding the above, the Contractor and the County agree that, during the term of the Master Agreement and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

## **52.0 PUBLIC RECORDS ACT**

- 52.1 Any documents submitted by Contractor, all information obtained in connection with County's right to audit and inspect Contractor's documents, books, and accounting records, pursuant to Paragraph 42.0 (Records Retention and Inspection-Audit Settlement) of this Exhibit, as well as those documents which were required to be submitted in response to the Request for Statement of Qualifications (RFSQ) used in the solicitation process for the Master Agreement, become the exclusive property of County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "Trade Secret," "Confidential," or "Proprietary." County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.
- 52.2 In the event County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a bid/proposal marked "Trade Secret," "Confidential," or "Proprietary," Contractor agrees to defend and indemnify County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

## **53.0 INTENTIONALLY OMITTED**

## **54.0 WAIVER**

No waiver by County of any breach of any provision of the Master Agreement shall constitute a waiver of any other breach or of such provision. Failure of County to enforce at any time, or from time to time, any provision of the Master Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in the Master Agreement shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity, or under the Master Agreement.

## **55.0 GOVERNING LAW, JURISDICTION, AND VENUE**

The Master Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding the Master Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

## **56.0 SEVERABILITY**

If any provision of the Master Agreement is adjudged void or invalid for any reason whatsoever, but would be valid if part of the wording thereof were deleted or changed, then such provision shall apply with such modifications as may be necessary to make it valid and effective. In the event that one or more of the provisions of the Master Agreement is found to be invalid, illegal or unenforceable in any respect, such provision shall be deleted here from and the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the Master Agreement fails of its essential purpose because of such deletion.

## **57.0 RIGHTS AND REMEDIES**

The rights and remedies of County provided in any given Paragraph, as well as throughout the Master Agreement, including throughout this Exhibit, are non-exclusive and cumulative with any and all other rights and remedies under the Master Agreement, at law, or in equity.

## **58.0 NON EXCLUSIVITY**

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. The Master Agreement shall not restrict County or the Department from acquiring similar, equal or like goods and/or services from other entities or sources.

## **59.0 COUNTERPARTS AND ELECTRONIC SIGNATURES AND REPRESENTATIONS**

This Master Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Master Agreement. The facsimile, email or electronic signature of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

The County and the Contractor hereby agree to regard electronic representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to Paragraph 6.0 (Amendments) of the Master Agreement and received via communications facilities (facsimile, email or electronic signature), as legally sufficient evidence that such legally binding signatures have been affixed to Amendments to the Master Agreement.

## **60.0 LOCAL SMALL BUSINESS ENTERPRISE (LSBE) PREFERENCE PROGRAM**

- 60.1 The Master Agreement is subject to the provisions of the County's ordinance entitled LSBE Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.
- 60.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a LSBE.
- 60.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a LSBE.
- 60.4 If the Contractor has obtained certification as a LSBE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded the Master Agreement to which it would not otherwise have been entitled, shall:
1. Pay to the County any difference between the Master Agreement amount and what the County's costs would have been if the Master Agreement had been properly awarded;
  2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten (10) percent of the amount of the Master Agreement; and
  3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State and the Department of Consumer and Business Affairs of this information prior to responding to a solicitation or accepting a Master Agreement award.

**61.0 LOCAL SMALL BUSINESS ENTERPRISES (LSBE) PROMPT PAYMENT PROGRAM**

Certified Local Small Business Enterprises (LSBEs) will receive prompt payment for services they provide to the County departments. Prompt payment is defined as fifteen (15) calendar days after receipt of an undisputed invoice.

**62.0 TERMINATION FOR NON-APPROPRIATION OF FUNDS**

Notwithstanding any other provision of the Master Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of the Master Agreement during any of County's future fiscal years unless and until County's Board of Supervisors appropriates funds for the Master Agreement in County's Budget for each such future fiscal year. In the event that funds are not appropriated for the Master Agreement, then the Master Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated. County shall notify Contractor in writing of any such non-allocation of funds at the earliest possible date.

**63.0 WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

63.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals and businesses that benefit financially from the County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

63.2 Unless the Contractor qualifies for an exemption or exclusion, the Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of the Master Agreement will maintain compliance, with Los Angeles County Code Chapter 2.206.

**64.0 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in Paragraph 63.0 (Warranty of Compliance with County's Defaulted Property Tax Reduction Program) of this Exhibit shall constitute default under the Master Agreement. Without limiting the rights and remedies available to County under any other provision of the Master Agreement, failure of the Contractor to cure such default within 10 days of notice shall be grounds upon which the County may terminate the Master Agreement and/or pursue debarment of the Contractor, pursuant to County Code Chapter 2.206.

**65.0 DISABLED VETERAN BUSINESS ENTERPRISE PREFERENCE PROGRAM (DVBE)**

- 65.1 The Master Agreement is subject to the provisions of the County's ordinance entitled DVBE Preference Program, as codified in Chapter 2.211 of the Los Angeles County Code.
- 65.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a DVBE.
- 65.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a DVBE.
- 65.4 If the Contractor has obtained certification as a DVBE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this Master Agreement to which it would not otherwise have been entitled, the Contractor shall:
1. Pay to the County any difference between the Master Agreement amount and what the County's costs would have been if the Master Agreement had been properly awarded;
  2. In addition to the amount described in subdivision (1) above, the Contractor will be assessed a penalty in an amount of not more than 10 percent of the amount of the Master Agreement; and
  3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

Notwithstanding any other remedies in the Master Agreement, the above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State and the Department of Consumer and Business Affairs of this information prior to responding to a solicitation or accepting a Master Agreement award.

## **66.0 TIME OFF FOR VOTING**

The Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than 10 days before every statewide election, every Contractor and subcontractors shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

## **67.0 INTENTIONALLY OMITTED**

## **68.0 COMPLAINTS**

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

- 68.1 Within fifteen (15) business days after the Master Agreement effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.
- 68.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.
- 68.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for County approval.
- 68.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.
- 68.5 The Contractor shall preliminarily investigate all complaints and notify the County's Program Manager of the status of the investigation within five (5) business days of receiving the complaint.
- 68.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 68.7 Copies of all written responses shall be sent to the County's Program Manager within three (3) business days of mailing to the complainant.

## **69.0 COMPLIANCE WITH CIVIL RIGHTS LAWS**

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end

that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Master Agreement or under any project, program, or activity supported by the Master Agreement. The Contractor shall comply with Exhibit D (Vendor's EEO Certification).

## **70.0 PUBLICITY**

70.1 The Contractor shall not disclose any details in connection with the Master Agreement to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under the Master Agreement within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of the Master Agreement, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Program Director. The County shall not unreasonably withhold written consent.

70.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded the Master Agreement with the County of Los Angeles, provided that the requirements of this Paragraph 70.0 (Publicity), shall apply.

## **71.0 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in Paragraph 31.0 (Contractor's Warranty of Adherence to County's Child Support Compliance Program), shall constitute a default under the Master Agreement. Without limiting the rights and remedies available to the County under any other provision of the Master Agreement, failure of the Contractor to cure such default within 90 calendar days of written notice shall be grounds upon which the County may terminate the Master Agreement pursuant to Paragraph 5.0 (Termination for Default) and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

## **72.0 VALIDITY**

If any provision of the Master Agreement or the application thereof to any person or circumstance is held invalid, the remainder of the Master Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

## **73.0 COMPLIANCE WITH COUNTY'S ZERO TOLERANCE POLICY ON HUMAN TRAFFICKING**

The Contractor acknowledges that the County has established a Zero Tolerance Policy on Human Trafficking prohibiting the contractors from engaging in human trafficking.

If a Contractor or member of the Contractor's staff is convicted of a human trafficking offense, the County shall require that the Contractor or member of the Contractor's staff be removed immediately from performing services under the Master Agreement. The County will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.

Disqualification of any member of the Contractor's staff pursuant to this paragraph shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of the Master Agreement.

## **74.0 COMPLIANCE WITH FAIR CHANCE EMPLOYMENT PRACTICES**

The Contractor shall comply with fair chance employment hiring practices set forth in California Government Code Section 12952, Employment Discrimination: Conviction History. The Contractor's violation of this Paragraph of the Master Agreement may constitute a material breach of the Master Agreement. In the event of such material breach, the County may, in its sole discretion, terminate the Master Agreement.

## **75.0 COMPLIANCE WITH THE COUNTY POLICY OF EQUITY**

The Contractor acknowledges that the County takes its commitment to preserving the dignity and professionalism of the workplace very seriously, as set forth in the County Policy of Equity (CPOE) (<https://ceop.lacounty.gov/>). The Contractor further acknowledges that the County strives to provide a workplace free from discrimination, harassment, retaliation and inappropriate conduct based on a protected characteristic, and which may violate the CPOE. The Contractor, its employees and subcontractors acknowledge and certify receipt and understanding of the CPOE. Failure of the Contractor, its employees or its subcontractors to uphold the County's expectations of a workplace free from harassment and discrimination, including inappropriate conduct based on a protected characteristic, may subject the Contractor to termination of contractual agreements as well as civil liability.

**76.0 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) BUSINESS ASSOCIATE LANGUAGE:**

76.1 The County is subject to the Administrative Simplification requirements and prohibitions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the “HIPAA Rules”). Under this Agreement, the Contractor provides services to the County and the Contractor creates, has access to, receives, maintains, or transmits Protected Health Information as defined in Exhibit S in order to provide those services. The County and the Contractor therefore agree to the terms of Exhibit S (Business Associate Under Health Insurance Portability and Accountability Act of 1996 [HIPAA]).

**77.0 SOCIAL ENTERPRISE (SE) PREFERENCE PROGRAM**

77.1 The Master Agreement is subject to the provisions of the County’s ordinance entitled SE Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.

77.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a SE.

77.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a SE.

77.4 If the Contractor has obtained the County certification as a SE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded the Master Agreement to which it would not otherwise have been entitled, the Contractor shall:

1. Pay to the County any difference between the Master Agreement amount and what the County’s costs would have been if the Master Agreement had been properly awarded;

2. In addition to the amount described in subdivision (1) above, the Contractor will be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the Master Agreement; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the Department of Consumer and Business Affairs of this information prior to responding to a solicitation or accepting a Master Agreement award.

## **78.0 DATA DESTRUCTION**

The Contractor(s) and the Vendor(s) that have maintained, processed, or stored the County of Los Angeles' ("County") data and/or information, implied or expressed, have the sole responsibility to certify that the data and information have been appropriately destroyed consistent with the National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled *Guidelines for Media Sanitization*. (Available at: <http://csrc.nist.gov/publications/PubsDrafts.html#SP-800-88 Rev.%201>)

The data and/or information may be stored on purchased, leased, or rented electronic storage equipment (e.g., printers, hard drives) and electronic devices (e.g., servers, workstations) that are geographically located within the County, or external to the County's boundaries. The County must receive within ten (10) business days, a signed document from the Contractor(s) and the Vendor(s) that certifies and validates the data and information were placed in one or more of the following stored states: unusable, unreadable, and indecipherable.

The Vendor shall certify that any County data stored on purchased, leased, or rented electronic storage equipment and electronic devices, including, but not limited to printers, hard drives, servers, and/or workstations are destroyed consistent with the current National Institute of Standard and Technology (NIST) Special Publication SP-800-88, *Guidelines for Media Sanitization*. The Vendor shall provide the County with written certification, within ten (10) business days of removal of any electronic storage equipment and devices that validates that any and all County data was destroyed and is unusable, unreadable, and/or undecipherable.

## **79. PROHIBITION FROM PARTICIPATION IN FUTURE SOLICITATION(S)**

A Proposer, or a Contractor or its subsidiary or Subcontractor ("Proposer/Contractor"), is prohibited from submitting a bid or proposal in a

County solicitation if the Proposer/Contractor has provided advice or consultation for the solicitation. A Proposer/Contractor is also prohibited from submitting a bid or proposal in a County solicitation if the Proposer/Contractor has developed or prepared any of the solicitation materials on behalf of the County. A violation of this provision shall result in the disqualification of the Contractor/Proposer from participation in the County solicitation or the termination or cancellation of any resultant County contract.

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# **APPENDIX B**

## **STATEMENT OF WORK**

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## 1.0 SCOPE OF WORK

- 1.1 The Contractor shall provide polygraph examination services to Adult Sex Offenders and Post-Conviction Sex Offenders (hereinafter referred to as examinee), on an as-needed basis. Services shall be provided at the Contractor's service area site within the Service Areas listed in Exhibit T (Service Areas) proposed. The County anticipates making approximately 3,000 referrals for polygraph examinations annually.

Approval and execution of a Master Agreement does not guarantee Work. Work will be distributed to qualified Contractors as specified in Exhibit O (Guidelines for the Distribution of Work).

- 1.2 The Contractor shall provide the following services in a fee-for-service basis:
  - 1.2.1 Full Disclosure/Sexual History Polygraph Examination
  - 1.2.2 Specific Issue Polygraph Examination
  - 1.2.3 Maintenance/Monitoring Polygraph Examination
  - 1.2.4 Polygraph Interpreter Services
- 1.3 The County will develop protocols for examination interviews, question formulation, reporting, and use of results. Contractor shall make specific decisions relative to instrumentation, interpretation of data, and question formulation.
- 1.4 Contractor shall provide polygraph examination services that are legally defensible throughout the examination preparation, analysis, result confirmation, storage, and written result reported to the County. The Contractor shall utilize the techniques and procedures outlined herein to ensure maximum validity and reliability of diagnostic opinions and to ensure that opinions rendered are defensible in court.
- 1.5 The Contractor shall adhere to the following County referral process:
  - 1.5.1 Designated County staff will refer examinee to Contractor. The County referral form, Exhibit R (Sex Offender Polygraph Services Referral) shall include examinee's identification, type of examination and case related information.
  - 1.5.2 All referrals must originate from the County. Self-referrals by the Contractor are not permitted. All referrals must be signed by the referring DPO in order to be considered valid.

- 1.5.3 The Contractor shall be required to establish and maintain a corporate email address that will be a depository for all County referrals, Exhibit R (Sex Offender Polygraph Services Referral).
- 1.5.4 The Contractor shall acknowledge through email receipt of all County referrals within one business day. The Contractor shall sign each referral indicating requested services will be provided within County's required timeline. The Contractor shall send a signed copy of the County referral Exhibit R (Sex Offender Polygraph Services Referral) within 48 hours to the referring DPO and County's central email depository [SOPolygraphExamination@Probation.lacounty.gov](mailto:SOPolygraphExamination@Probation.lacounty.gov).
- 1.5.5 The Contractor shall contact the examinee within 48 hours of receiving the County referral, Exhibit R (Sex Offender Polygraph Services Referral) to schedule an appointment.
- 1.5.6 The Contractor shall schedule an appointment for the examinee within two weeks of receipt of referral.
- 1.5.7 The Contractor shall ensure the examinee signs an approved waiver/release statement form, approved by County, confirming that he/she was advised that the polygraph examination is a condition of his/her treatment. Copies of such waiver shall be distributed to the referring DPO and treatment provider on a weekly basis via email.
- 1.5.8 The Contractor shall verify the identity of examinee by examining/comparing his/her picture identification with the referral received from the referring DPO.
- 1.5.9 If the Contractor is unable to verify the identity of examinee, Contractor shall contact the referring DPO and the County Program Manager, by telephone and e-mail within 24 hours.
- 1.5.10 The Contractor shall immediately notify the referring DPO, the County Program Manager and Treatment Provider (herein referred to as "the Containment Team"), of the examinee's failure to keep appointments, lack of cooperation, or obstructive behavior, upon its occurrence but no later than the next working day, and preferably the same working day. Notification to the referring DPO, the County Program Manager and treatment provider must be by e-mail.
- 1.5.11 On occasion, when urgently needed, Contractor must be available to schedule and conduct a polygraph examination within a 24-hour notice.

## **2.0 SPECIFIC WORK REQUIREMENTS**

### **2.1 Polygraph Examinations/Interpreter Services**

#### **2.1.1 Full Disclosure/Sexual History Polygraph Examination**

##### **2.1.1.1 Pre-Test Interview:**

The Contractor shall first conduct a pre-test interview before proceeding to the examination phase. A pre-test interview shall consist of, but is not limited to the following:

- a. Examinees shall be advised of the purpose of the examination;
- b. Examinees shall be advised that the examination may be terminated upon request; however, such request will constitute failure of the examination and may result in violation of probation; and
- c. Examiner shall elicit relevant biographical and background information from the examinee prior to administering the actual polygraph examination, such as marital status, children, employment, and living situation.

##### **2.1.1.2 Examination Phase:**

The Contractor shall provide Full Disclosure/Sexual History Polygraph Examination which shall consist of a examination of an examinee's lifetime sexual history. The examination shall be included as part of a comprehensive psychosexual evaluation and is inclusive of the "Sexual History Exam I" and "General Sexual History Exam II" as discussed in Section 8.3 of the Model Policy for Post-Conviction Sex Offender Testing (Model Policy PCSOT), Exhibit U (Model Policy PCSOT).

##### **2.1.1.3 Post-test Review:**

The Contractor shall conduct a post-test review right after the examination phase. The Contractor shall review the test results with the examinee, advise the examinee of any significant responses to any of the test questions, and provide the examinee an opportunity to explain or resolve any reactions or inconsistencies.

## **2.1.2 Specific Issue Polygraph Examination**

### **2.1.2.1 Pre-Test Review:**

The Contractor shall first conduct a pre-test interview before proceeding to the examination phase. A pre-test interview shall consist of, but is not limited to the following:

- a. Examinees shall be advised of the purpose of the examination;
- b. Examinees shall be advised that the examination may be terminated upon request; however, such request will constitute failure of the examination and may result in violation of probation; and
- c. Examiner shall elicit relevant biographical and background information from the examinee prior to administering the actual polygraph examination, such as marital status, children, employment, and living situation.

### **2.1.2.2 Examination Phase:**

The Contractor shall provide Specific Issue Polygraph Examination consisting of a specific behavior, allegation or event. The exam will only be required if an incident occurs or if the County deems it necessary. This examination is inclusive of the "Instant Offense Exam" and "Prior Allegation Exam" as discussed in Sections 8.1 and 8.2, Exhibit U (Model Policy PCSOT). These examinations shall be implemented at the onset of, or during, the treatment process.

### **2.1.2.3 Post-test Review:**

The Contractor shall conduct a post-test review right after the examination phase. The Contractor shall review the test results with the examinee, advise the examinee of any issues that arise in which examinee may have been in violation of conditions of supervision or a new law violation, or activities that could lead to a violation.

### **2.1.3 Maintenance/Monitoring Polygraph Examination**

The Contractor shall provide Maintenance/Monitoring Polygraph Examination within six (6) months after each Full Disclosure/ Sexual History Polygraph Examination and Specific Issue Polygraph Examination.

#### **2.1.3.1 Pre-Test Interview:**

The Contractor shall first conduct a pre-test interview before proceeding to the examination phase. A pre-test interview shall consist of, but is not limited to the following:

- a. Examinees shall be advised of the purpose of the examination;
- b. Examinees shall be advised that the examination may be terminated upon request; however, such request will constitute failure of the examination and may result in violation of probation; and
- c. Examiner shall elicit relevant biographical and background information from the examinee prior to administering the actual polygraph examination, such as marital status, children, employment, and living situation.

#### **2.1.3.2 Examination Phase:**

The Maintenance/Monitoring Polygraph Examination shall consist of periodic examination of an examinee's compliance with treatment and/or probation restrictions, as discussed in Sections 8.4. ("Maintenance Exam") and 8.5 ("Sex Offense Monitoring Exam") of Exhibit U (Model Policy PCSOT). This examination serves to identify and deter high-risk behaviors. The Maintenance/ Monitoring Polygraph Examination explores the possibility that the examinee may have been involved in unlawful sexual behaviors during a specified period of time, discussed in Section 8.5 ("Sex Offense Monitoring Exam") of Exhibit U (Model Policy PCSOT). Maintenance/Monitoring Polygraph Examinations shall be performed for examinees that are determined to present a high risk, at intervals recommended by the "Containment Team" consisting of DPOs, treatment providers, and Contractor.

### 2.1.3.3 Post-test Review:

The Contractor shall conduct a post-test review right after the examination phase. The Contractor shall review the test results with the examinee, advise the examinee of any significant responses to any of the test questions, and provide the examinee an opportunity to explain or resolve any reactions or inconsistencies.

### 2.1.4 **Polygraph Interpreter Service**

If an interpreter is required for a language other than English and Spanish, Contractor shall be compensated at the rate proposed in Exhibit C (Pricing Schedule).

## 2.2 Polygraph Examination Recording Guidelines

The Contractor shall perform polygraph testing on referred examinees' in the following manner:

2.2.1 All polygraph examinations shall either be paper chart or digitally recorded for diagnostic and documentation purposes.

2.2.2 The Contractor shall use recording channels/components for polygraph examinations that have been prescribed by APA, as follows:

2.2.2.1 For respiration patterns made by pneumograph components, at least one respiration component will record the thoracic (upper chest) respiration and/or abdominal (lower stomach) respiration pattern.

2.2.2.2 To reflect relative changes in the conductivity/resistance of very small amounts of current by the epidermal tissue, one of the chart tracings will record the Skin Conductance Response (SCR), also commonly referred to as Galvanic Skin Response (GSR).

2.2.2.3 To record changes in the pulse rate, pulse amplitude, and changes in the relative blood pressure, a cardiograph tracing will be utilized.

2.2.3 The Contractor shall ensure that easily readable trace recordings are obtained to effectively evaluate the polygraph tracings collected during any polygraph examination. Tracings that are either too large or too small, or that have extraneous responses to outside

stimuli, shall not be accepted. Chart tracings consistently less than one-half inch in amplitude in the pneumograph and/or cardiograph tracings, without sufficient documented explanation of physiological cause, shall be considered insufficient for analysis purposes.

- 2.2.4 The Contractor shall video record all polygraph examinations. The recording shall include the entire examination from the beginning of the pre-test interview to the completion of the post-test review. The recording should be maintained for a minimum of five years.

### 2.3 Polygraph Instrument Calibration

- 2.3.1 The Contractor shall ensure all chart markings are standardized and recognized within the polygraph profession.

- 2.3.2 The Contractor shall annotate all calibration and examination charts.

- 2.3.3 The Contractor shall calibrate each polygraph instrument in accordance with the following criteria to ensure the instrument is functioning properly:

- 2.3.3.1 If the instrument remains stationary, all analog polygraph instruments will be calibrated at least once each week.

- 2.3.3.2 If the instrument was moved subsequent to its last calibration procedure, each analog instrument will be calibrated prior to being used.

- 2.3.3.3 Digital polygraph instruments will be calibrated according to factory specifications and the manufacturer's recommendations.

- 2.3.4 The Contractor shall maintain true and accurate records of such calibration. The Contractor shall maintain the records of these calibrations for no less than five years.

### 2.4 Length and Frequency of Polygraph Examinations

The Contractor shall follow the established guidelines under Section 5.7 of Exhibit U (Model Policy PCSOT) and incorporated herein by reference, relating to the number and length of polygraph examinations in order to maximize validity and reliability of examination results:

- 2.4.1 No more than three (3) examinations per day.
- 2.4.2 No more than three Full Disclosure/Sexual History Polygraph Examinations per day.
- 2.4.3 No less than 90 minutes in duration from the start of the pre-test interview through the end of the post-test interview.
- 2.4.4 No more than four separate examinations per year on the same examinee.
- 2.4.5 The first polygraph shall be administered by the Contractor within three to six months at the discretion of the Containment Team.
- 2.4.6 For compensation purposes, of the Contract, a repeat examination to resolve a previously failed examination, or where no clear opinion was formed as to the subject's truthfulness, will not be considered a separate examination.

## 2.5 Polygraph Testing Techniques and Procedures

- 2.5.1 Polygraph examination techniques will be limited to those techniques that are recognized by the industry as standardized and validated examination procedures, using APA standards.
- 2.5.2 To be an approved examination format, the examination procedure will include appropriately designed relevant questions, appropriately designed control questions for diagnostic purposes, and appropriately designed irrelevant questions as applicable to that defined and standardized procedure.
- 2.5.3 A standardized examination technique or procedure is defined as:
  - 2.5.3.1 A technique or procedure which has achieved a published scientific database sufficient to support and demonstrate validity and reliability from the application and use of that specific polygraph technique.
  - 2.5.3.2 A technique or procedure that is evaluated according to the published methods for that specific procedure and provides for numerical scoring and quantification of the chart data.
  - 2.5.3.3 A technique or procedure that has not been modified without the support of published validity and reliability studies for that particular modification.

2.5.3.4 A technique or procedure that has been taught as part of the formal course work at a basic polygraph school accredited by the APA.

2.5.4 Recognized/approved procedures shall include:

2.5.4.1 Standardized and published Zone Comparison Techniques (ZCT).

2.5.4.2 Standardized and published Control Question Techniques (CQT).

2.5.4.3 Other standardized and published procedures that meet the guidelines and requirements described above as approved by the County.

2.5.5 The Contractor shall utilize the techniques and procedures outlined herein to ensure maximum validity and reliability of diagnostic opinions and to ensure that opinions rendered are defensible in court.

2.5.6 The Stimulation/Acquaintance Test is used to demonstrate that the psychological set of the examinee and the examinee's reaction capabilities are established for diagnostic purposes. This test is a recognized procedure utilized in conjunction with professional examination formats and shall be a part of the polygraph examination.

2.5.7 Due to the diverse requirements from various jurisdictions of the criminal justice system, the Contractor shall be aware and cognizant of the general implications and local judicial policies regarding newly reported crimes and self-incrimination.

## 2.6 Number of Relevant Questions

2.6.1 All standardized and recognized published examination formats and procedures define the number of relevant questions that may be used. Those applications shall not be modified or altered by the Contractor.

2.6.2 For the purposes of this Contract, no more than four relevant questions shall be asked during any given examination as stated in Section 5.8 of Exhibit U (Model Policy PCSOT).

## 2.7 Relevant Question Construction

2.7.1 The importance of psychological set, satiation, adrenaline exhaustion and other principles forming the foundation of the polygraph science must be maintained.

2.7.2 In order to design an effective polygraph examination and to adhere to standardized and recognized procedures, relevant questions shall be constructed under the following guidelines:

2.7.2.1 Mixing issues shall not be allowed as it can significantly reduce the ability to form valid and reliable opinions.

2.7.2.2 Questions shall:

- a. Be as simple, direct and short as possible;
- b. Do not include legal terminology such as sexual assault, homicide, incest, as this terminology may allow for examinee rationalization and utilization of other defense mechanisms;
- c. Be clear in meaning, not allow for multiple interpretations, and not be accusatory in nature;
- d. Be free of assumption of guilt or deception; never presuppose knowledge of the history, disposition or status of the examinee's offense(s); current probation supervision arrangements or compliance with probation terms and conditions; and any other examinee characteristics or behaviors that could trigger pre-planned or unnatural responses to examination questions (i.e., free of assumption of guilt or deception);
- e. Contain reference to only one element of the issue under investigation;
- f. Use language easily understood by the examinee;
- g. Be easily answerable by a "yes" or "no"; and
- h. Avoid the use of any emotionally laden terminology such as rape, molest, and murder.

## 2.8 Test Result Reporting/Scoring

- 2.8.1 The Contractor shall report all test results to the referring DPO, the County Program Manager and Treatment Provider in writing within five (5) business days of test administration. Test result reports will be emailed, faxed or delivered by an established courier service appointed and paid for by the Contractor.
- 2.8.2 Test results indicating a probation violation, a new law violation or continued victimization or any indication that an examinee poses an immediate threat to the public, shall be reported immediately upon completion of the examination, via telephone and e-mail to the referring DPO, the County Program Manager and the treatment provider in a collaborative effort.
- 2.8.3 The Contractor shall employ quantitative, numerical, and algorithm scoring for all polygraph examinations.
- 2.8.4 The Contractor shall analyze the Polygraph Examinee's physiological responses and form an opinion as to the subject exhibiting "Significant Response", "No Significant Response", "Deception Indicated", "No Deception Indicated", "Inconclusive" or "Countermeasures". Exam results with the outcome of failed, deceptive, inconclusive, no opinion, no significant response, etc. should be redone within 90 days at the expense of the examinee.
- 2.8.5 The Contractor's notes of the polygraph examination evaluation shall have sufficient clarity and precision so that another examiner could read them.
- 2.8.6 The Contractor shall not disclose the results of the polygraph examination until it has been adequately and sufficiently analyze.
- 2.8.7 The Contractor shall obtain a signed waiver/release statement from the Polygraph Examinee prior to conducting any exams.
- 2.8.8 The Contractor may only provide copies of any written opinions rendered as a result of the examination to the Examinee through a subpoena.

## 2.9 Reporting Standards

Contractor shall not knowingly submit a misleading or false polygraph examination report. Each polygraph report shall be factual and impartial.

Each polygraph examination report shall represent an objective account of the information developed during the examination.

2.9.1 Contractor shall log polygraph examinations using Exhibit P (Sex Offender Polygraph Examination Log). The Examination Log shall be attached to Exhibit Q (Sex Offender Polygraph Billing Log) and emailed to the County's central email depository [SOPolygraphExamination@Probation.lacounty.gov](mailto:SOPolygraphExamination@Probation.lacounty.gov), no later than one week following the month of service.

2.9.2 Contractor shall keep the referring DPO and the County Program Manager informed of all pertinent information concerning Polygraph Examinee, pre-employment polygraph examinations, scheduling conflicts, conflicts of interest, or personal criminal issues.

## 2.10 Court Appearance and/or Testimony

The Contractor shall provide necessary persons including technical representatives for testimony at court trial occurrences upon request, and upon short notice, to present information to the court related to such topics as test preparation, testing methodology and chain of custody issues. Court appearances and/or testimony shall be provided by the Contractor to County free of charge.

## 2.11 Chain of Custody

The Contractor shall have a written procedure in place that will ensure a legally defensible written and performed chain of custody procedure effective from the point of polygraph examination through individual exam preparation, analysis, result confirmation, and result storage, to the point of written result reporting to the County and the treatment provider. This procedure shall be submitted for County review and approval prior to the commencement of services.

## 2.12 Additional Requirements

2.12.1 All Contractor examiners working under this Master Agreement shall be subject to compliance with the established ethical standards and practices of recognized experts in the industry, such as the APA, the American Association of Police Polygraphists, the National Polygraph Association, the California Association of Polygraph Examiners, and the Association for the Treatment of Sex Offender. The California Sex Offender Management Board (CASOMB) post-conviction sex offender polygraph certification standards are set forth under Exhibit U (Model Policy PCSOT).

- 2.12.2 The California Sex Offender Management Board shall have final authority to develop and update standards for certification of polygraph examiners conducting post- conviction polygraph examinations of sex offenders.
- 2.12.3 The Contractor shall notify the County Program Manager, as soon as practical, of any emergency situation related to the provision of services, the steps taken to ensure the health and safety of the examinees or the affected public, and take such additional actions as may be deemed necessary by the County Program Manager in order to resolve the emergency.
- 2.12.4 The Contractor shall attend "Containment Team" meetings on a monthly basis, or as requested by the County Program Manager. Meetings will be attended by the County Program Manager, referring DPO, treatment providers and law enforcement agencies.
- 2.12.5 Examiners shall successfully complete a minimum of thirty (30) continuing education hours every two (2) years and fifteen (15) of those hours shall pertain to specialized sex offender polygraph training. The Contractor shall provide a copy of the certificate to the County Program Manager within two (2) business days of receipt of certificate.
- 2.12.6 The Contractor shall maintain all test results on file for a period of five years from date of examination. All test results will be maintained in such a manner as to preserve admissibility as evidence in a court of law, and as may be required or requested by the County, to maintain security and confidentiality, and to provide accessibility to DPOs, the County Program Manager and treatment providers.
- 2.12.7 Standards for Contractor's Polygraph Services Area Site(s) Office.

The Contractor shall provide and maintain a polygraph service area site(s) office, at its own cost. The County reserves the right to inspect the Contractor's office to ensure compliance with the following minimum standards:

- 2.12.7.1 Afford privacy and freedom from interruptions by securing adequate space to conduct one on one sessions with the examinee.
- 2.12.7.2 Secure adequate space that affords privacy and freedom from interruptions.

- 2.12.7.3 Have comfortable temperature and adequate ventilation as determined by the examinee.
- 2.12.7.4 Have examination room furniture to adequately conduct the interviews.
- 2.12.7.5 Telephone, fax machine, copier, and computer with software.
- 2.12.7.6 Office space required to prepare for, and follow-up on, polygraph examinations, and prepare required reports.
- 2.12.7.7 The Contractor shall provide all equipment required to conduct polygraph examination and audio/video-recording sessions at no additional cost to the County. Such equipment shall be guaranteed to operate in accordance with recognized industry standards.
- 2.12.7.8 The Contractor shall video record all polygraph examinations. The recording shall be maintained for a minimum of five years.
- 2.12.7.9 The County assumes no responsibility for Contractor-provided office space, utilities, administrative services, or for the safety or suitability of the Contractor's facility.

### **3.0 QUALITY CONTROL**

- 3.1 Contractor shall conduct an independent Quality Control review in accordance with guidelines established by the California Association of Polygraph Examiners, of each polygraph completed at no additional cost to the County.
- 3.2 Contractor shall be required to perform Quality Control and/or Peer Review on each examination prior to submission to the County Program Manager.
- 3.3 Contractor shall maintain all completed work, including audio/video recordings, computerized charts, reports and any written documentation produced as a result of any and all polygraph examinations for review, if necessary, by the County Program Manager.
- 3.4 The Contractor shall abide by Quality Control guidelines established by the County, including completing any corrective action as identified by County Program Manager.

- 3.5 The County will evaluate the Contractor's performance under this Master Agreement on not less than an annual basis, pursuant to Exhibit A (Additional Terms and Conditions) Paragraph 46 (County's Quality Assurance Plan) of the Master Agreement.

#### **4.0 QUALITY ASSURANCE**

The County or its agent will evaluate the Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and performance standards. Any deficiencies which the County determines are severe, continuing, or that may place performance of the Contract in jeopardy, will be reported to the Board of Supervisors. The report will include all remedial action taken by the County and the Contractor. If the Contractor fails to implement appropriate remedial action, the County may terminate this Contract or impose other penalties as specified in this Contract.

The County will evaluate the Contractor's performance under this Contract using the quality assurance procedures specified in Exhibit W (Performance Requirements Summary Chart) or other such procedures as may be necessary to ascertain the Contractor's compliance with this Master Agreement.

##### **4.1 Performance Evaluation Meetings**

The County's Program Manager may meet weekly with the Contractor's Project Manager during the first three (3) months of the Contract if the County's Program Manager determines it necessary. However, a meeting will be held whenever a Contract Discrepancy Report (CDR) is issued. A mutual effort will be made to resolve all problems identified.

- 4.2 After the first three (3) months of operation, regular performance evaluation meetings shall be held monthly in accordance with a mutually agreed upon schedule, or as required by the County.
- 4.3 The County shall have the right to remove any Contractor personnel under this Master Agreement, who are deemed unsatisfactory in the sole judgement of the County's Program Manager. The Contractor personnel will be removed and replaced by the Contractor within twenty-four (24) hours at the request of the County's Program Manager.

##### **4.4 Contract Discrepancy Report**

Verbal notification of a Contract discrepancy shall be made to the Contractor's Project Manager whenever a Contract discrepancy is identified. The problem

shall be resolved within a time mutually agreed upon by the County and the Contractor.

The County's Program Manager will determine whether a formal Contract Discrepancy Report shall be issued as referenced in Exhibit I (Contract Discrepancy Report). Upon receipt of a Contract Discrepancy Report, the Contractor is required to respond in writing to the County's Program Manager within five (5) business days, acknowledging the reported discrepancies, and presenting rebuttal evidence, if applicable. The Contractor shall submit a remedial plan to correct all deficiencies identified in the Contract Discrepancy Report to the County's Program Manager within ten (10) business days of receipt of the Contract Discrepancy Report.

#### **4.5 County Observations**

In addition to departmental contracting staff, other County personnel may observe performance, activities, and review documents relevant to this Contract at any time during normal business hours. However, these personnel may not unreasonably interfere with the Contractor's performance.

- 4.6 The Contractor shall participate in a proficiency-testing program by an accredited agency on a quarterly basis and submit results to the County. If the County finds a quality assurance problem, Contractor shall be required to provide written plans for corrective action.

### **5.0 DEFINITIONS**

- 5.1 Adult Records – A personal and social history, including criminal information of an adult offender ordered by the court. Adult Records are an accumulation of facts associated with an individual and his/her criminal activity.
- 5.2 Business Day – Monday through Friday, 8:00 a.m. to 5:00 p.m., not including any County holidays.
- 5.3 Contract Discrepancy Report (CDR) – A report prepared by the County's Program Manager to inform the Contractor of substandard service.
- 5.4 Contract Start Date – The date the Contractor begins work in accord with the terms of the Contract.
- 5.5 Contractor's Project Manager – Person designated by the Contractor to administer Contract operations after the Contract award.

- 5.6 County's Contract Manager – Person designated by the County with actual and apparent authority on contractual and/or administrative matters relating to this Contract.
- 5.7 County's Contract Monitor – Person who monitors the Contract and provides reports to the County's Contract Manager and the County's Program Manager.
- 5.8 County's Program Manager – Person designated by the County to manage the operations under this Contract.
- 5.9 Liquidated Damages – The monetary amount deducted from the Contractor's payment due to non-compliance with the Contract and/or substandard performance.
- 5.10 Performance Requirements Summary (PRS) – The statement that identifies the key performance indicators of the Contract which will be evaluated by the County to ensure Contract performance standards are met.
- 5.11 Quality Assurance (Surveillance Plan) – The plan developed by the Probation Department, specifically to monitor Contract compliance with the elements listed in the Performance Requirements Summary (PRS).
- 5.12 Quality Control – All necessary measures taken by the Contractor(s) to assure that the quality of service meets the Contract requirements regarding security, accuracy, timeliness, appearance, completeness, consistency and conformity to the requirements set forth in the Statement of Work.
- 5.13 Subcontractor – Any person, entity, or organization to which the Contractor has delegated any of its obligations hereunder.

## **6.0 RESPONSIBILITIES**

The County and the Contractor's responsibilities are as follows:

### **COUNTY**

#### **6.1 Personnel**

The County will administer the Contract according to the Contract, Paragraph 6.0, Administration of Contract - County. Specific duties will include:

- 6.1.1 Monitoring the Contractor's performance in the daily operation of this Contract.

6.1.2 Providing direction to the Contractor in areas relating to policy, information and procedural requirements.

6.1.3 Preparing Amendments in accordance with the Master Agreement, Paragraph 6.0.

## **6.2 Intentionally Omitted**

### **CONTRACTOR**

## **6.3 Project Manager**

6.3.1 The Contractor shall have a Project Manager pursuant to Subparagraph 4.1 (Contractor Project Manager) of the Master Agreement.

## **6.4 Personnel**

6.4.1 The Contractor shall be responsible for providing competent staff pursuant to Subparagraph 4.2 (Approval of Contractor's Staff), of the Master Agreement.

## **6.5 Intentionally Omitted**

## **6.6 Materials and Equipment**

The purchase of all materials/equipment to provide the needed services is the responsibility of the Contractor. The Contractor shall use materials and equipment that are safe for the environment and safe for use by the employee.

## **6.7 Intentionally Omitted**

## **6.8 Contractor's Office**

Contractor shall maintain an office with a telephone in the company's name where Contractor conducts business. The office shall be staffed during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, Pacific Time, by at least one employee who can respond to inquiries and complaints which may be received about Contractor's performance of the Contract. When the office is closed, an answering service shall be provided to receive calls. **Contractor shall respond to calls received by the answering service within two (2) hours of receipt of the call.**

## **7.0 HOURS/DAYS OF WORK**

7.1 Contractor shall conduct Polygraph examinations seven days a week,

except on approved County Holidays, depending on the needs of the Department. County Program Manager will provide Contractor a list of approved County Holidays upon request by Contractor.

- 7.2 Contractor's Work hours may vary, depending on the needs of the Department. Generally, Work hours range from 7:00 a.m. to 7:00 p.m. (Pacific Time).

## **8.0 WORK SCHEDULE**

- 8.1 Polygraph examinations will be scheduled in accordance with Exhibit O (Guidelines for the Distribution of Work).
- 8.2 Contractor's requests for scheduling variances shall be made and approved by the County Program Manager. Requests must be made via telephone to the County Program Manager one week prior to the date change.

## **9.0 INTENTIONALLY OMITTED**

## **10.0 INTENTIONALLY OMITTED**

## **11.0 GREEN INITIATIVES**

- 11.1 The Contractor shall use reasonable efforts to initiate "green" practices for environmental and energy conservation benefits.
- 11.2 The Contractor shall notify County's Project Manager of the Contractor's new green initiatives prior to the Contract commencement.

## **12.0 PERFORMANCE REQUIREMENTS SUMMARY**

- 12.1 All listings of services used in the Performance Requirements Summary (PRS) are intended to be consistent with the Contract and the Statement of Work (SOW), and are not meant to create, extend, revise, or expand any obligation of the Contractor beyond that defined in the Contract and the SOW. In the event of an apparent inconsistency between services as stated in the Contract, SOW and the PRS, the meaning apparent in the Contract and the SOW will prevail. If any service appears to be created in the PRS which is not clearly set forth in the Contract and the SOW, that service will be invalid and place no obligation on the Contractor.
- 12.2 A standard level of performance will be required of the Contractor for the required services. Exhibit W (Performance Requirements Summary Chart) the required services, performance standards, maximum allowable deviation from the standards, methods of surveillance by the County, and liquidated damages to be imposed for substandard performance. The

County will evaluate the Contractor's performance under this Contract using the quality assurance procedures specified in Exhibit W (Performance Requirements Summary Chart) or other such procedures as may be necessary to ascertain the Contractor compliance with this Contract. Failure of the Contractor to achieve this standard may result in an assessment of liquidated damages against the Contractor's monthly payment as determined by the County.

12.3 When the Contractor's performance fails to conform to the terms of this Contract, the County will have the option to apply the following remedies:

12.3.1 Require the Contractor to implement a formal corrective action plan, subject to approval by the County. In the plan, the Contractor must include reasons for the substandard performance, specify steps to return performance to an acceptable level, and the monitoring methods to prevent recurrence.

12.3.2 Reduce payment to the Contractor by a computed amount based on the assessment fee(s) in the PRS.

12.3.3 Reduce, suspend or cancel this Contract for systematic, deliberate misrepresentations or substandard levels of performance.

12.3.4 Failure of the Contractor to comply with the County's request(s) to improve performance or to perform work specified within ten (10) business days shall constitute a breach of Contract, and authorize the County to have the service(s) performed by another. The entire cost of the replacement work due to the Contractor's breach, as solely determined by the County, shall be credited to the County on the Contractor's future invoice.

This subparagraph does not limit the County's exclusive right to terminate the Contract upon ten (10) business days' written notice, with or without cause, as provided for in Paragraph 6.0 (Termination for Convenience) of the Master Agreement) and Exhibit A (Additional Terms and Conditions).

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## PRICING SCHEDULE

### AS-NEEDED POLYGRAPH EXAMINATION SERVICES FOR ADULT SEX OFFENDERS AND POST-CONVICTION SEX OFFENDERS

The Contractor shall provide polygraph examination services to adult sex offenders and post-conviction sex offenders on an as-needed basis.

Said work shall be done for the period prescribed and in the manner set forth in said specifications, and compensation therefore shall be on a fixed-fee basis as provided upon the hereinafter proposal fixed rates.

I agree that if the County of Los Angeles Board of Supervisors accepts my proposal, I will commence services immediately following contract execution. I agree to provide the specified services for the County of Los Angeles Probation Department in accordance with the Statement of Work (SOW), Exhibit B.

**I PROPOSE A FIXED RATE/FEE FOR THE FOLLOWING REQUIRED EXAMS:**

PROVIDE THE PROPOSED COST PER EXAM FOR THE FOLLOWING SERVICES:		
<b>Full Disclosure/Sexual History Polygraph Exam</b>		\$
	<i>(Write out dollar amount in full, per Exam)</i>	<i>(Use figure amount)</i>
<b>Specific Issue Polygraph Exam</b>		\$
	<i>(Write out dollar amount in full, per Exam)</i>	<i>(Use figure amount)</i>
<b>Maintenance/Monitoring Polygraph Exam</b>		\$
	<i>(Write out dollar amount in full, per Exam)</i>	<i>(Use figure amount)</i>

PROVIDE THE PROPOSED HOURLY COST PER INTERPRETER: <i>(Contractor shall bill COUNTY per Interpreter for any language other than English or Spanish)</i>	
	\$
<i>(Write out dollar amount in full, per Interpreter)</i>	<i>(Use figure amount)</i>

**VENDOR'S EEO CERTIFICATION**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Internal Revenue Service Employer Identification Number

**GENERAL**

In accordance with provisions of the County Code of the County of Los Angeles, the Vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

**CERTIFICATION**

**YES**

**NO**

- |   |     |     |
|---|-----|-----|
| 1. Vendor has written policy statement prohibiting discrimination in all phases of employment.  | ( ) | ( ) |
| 2. Vendor periodically conducts a self-analysis or utilization analysis of its work force.  | ( ) | ( ) |
| 3. Vendor has a system for determining if its employment practices are discriminatory against protected groups.   | ( ) | ( ) |
| 4. When areas are identified in employment practices, Vendor has a system for taking reasonable corrective action to include establishment of goal and/or timetables. | ( ) | ( ) |

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of Signer (please print)

**SERVICES MASTER AGREEMENT  
CERTIFICATION OF EMPLOYEE STATUS**

(Note: This certification is to be executed and returned to County with Contractor's executed Agreement. Work cannot begin on the Agreement until County receives this executed document.)

\_\_\_\_\_ CONTRACTOR NAME

Work Order No. \_\_\_\_\_

County Master Agreement No. \_\_\_\_\_

I CERTIFY THAT: (1) I am an Authorized Official of Contractor; (2) the individual(s) named below is(are) this organization's employee(s); (3) applicable state and federal income tax, FICA, unemployment insurance premiums, and workers' compensation insurance premiums, in the correct amounts required by state and federal law, will be withheld as appropriate, and paid by Contractor for the individual(s) named below for the entire time period covered by the attached Agreement.

EMPLOYEES

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Printed Name of Authorized Official

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_  
Date

**CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT**

(Note: This certification is to be executed and returned to County with Contractor's executed Master Agreement. Work cannot begin on the Master Agreement until County receives this executed document.)

Contractor Name \_\_\_\_\_

County Master Agreement No. \_\_\_\_\_

GENERAL INFORMATION:

The Contractor referenced above has entered into a Master Agreement with the County of Los Angeles to provide certain services to the County. The County requires the Corporation to sign this Contractor Acknowledgement and Confidentiality Agreement.

CONTRACTOR ACKNOWLEDGEMENT:

Contractor understands and agrees that the Contractor employees, consultants, Outsourced Vendors and independent contractors (Contractor's Staff) that will provide services in the above referenced agreement are Contractor's sole responsibility. Contractor understands and agrees that Contractor's Staff must rely exclusively upon Contractor for payment of salary and any and all other benefits payable by virtue of Contractor's Staff's performance of work under the above-referenced Master Agreement.

Contractor understands and agrees that Contractor's Staff are not employees of the County of Los Angeles for any purpose whatsoever and that Contractor's Staff do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced Master Agreement. Contractor understands and agrees that Contractor's Staff will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

CONFIDENTIALITY AGREEMENT:

Contractor and Contractor's Staff may be involved with work pertaining to services provided by the County of Los Angeles and, if so, Contractor and Contractor's Staff may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, Contractor and Contractor's Staff may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. Contractor and Contractor's Staff understand that if they are involved in County work, the County must ensure that Contractor and Contractor's Staff, will protect the confidentiality of such data and information. Consequently, Contractor must sign this Confidentiality Agreement as a condition of work to be provided by Contractor's Staff for the County.

Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Master Agreement between Contractor and the County of Los Angeles. Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

Contractor and Contractor's Staff agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to Contractor and Contractor's Staff under the above-referenced Master Agreement. Contractor and Contractor's Staff agree to protect these confidential materials against disclosure to other than Contractor or County employees who have a need to know the information. Contractor and Contractor's Staff agree that if proprietary information supplied by other County vendors is provided to me during this employment, Contractor and Contractor's Staff shall keep such information confidential.

Contractor and Contractor's Staff agree to report any and all violations of this agreement by Contractor and Contractor's Staff and/or by any other person of whom Contractor and Contractor's Staff become aware.

Contractor and Contractor's Staff acknowledge that violation of this agreement may subject Contractor and Contractor's Staff to civil and/or criminal action and that the County of Los Angeles may seek all possible legal redress.

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINTED NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

**CONTRACTOR EMPLOYEE ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT**

(Note: This certification is to be executed and returned to County with Contractor's executed Master Agreement. Work cannot begin on the Master Agreement until County receives this executed document.)

Contractor Name \_\_\_\_\_ Employee Name \_\_\_\_\_

Master Agreement No. \_\_\_\_\_

GENERAL INFORMATION:

Your employer referenced above has entered into a Master Agreement with the County of Los Angeles to provide certain services to the County. The County requires your signature on this Contractor Employee Acknowledgement and Confidentiality Agreement.

EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the Contractor referenced above is my sole employer for purposes of the above-referenced Master Agreement. I understand and agree that I must rely exclusively upon my employer for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced Master Agreement.

I understand and agree that I am not an employee of the County of Los Angeles for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced Master Agreement. I understand and agree that I do not have and will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of work under the above-referenced Master Agreement is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this and/or any future Master Agreement.

CONFIDENTIALITY AGREEMENT:

I may be involved with work pertaining to services provided by the County of Los Angeles and, if so, I may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, I may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. I understand that if I am involved in County work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I understand that I must sign this agreement as a condition of my work to be provided by my employer for the County. I have read this agreement and have taken due time to consider it prior to signing.

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Master Agreement between my employer and the County of Los Angeles. I agree to forward all requests for the release of any data or information received by me to my immediate supervisor.

I agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to or by me under the above-referenced Master Agreement. I agree to protect these confidential materials against disclosure to other than my employer or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me during this employment, I shall keep such information confidential.

I agree to report to my immediate supervisor any and all violations of this agreement by myself and/or by any other person of whom I become aware. I agree to return all confidential materials to my immediate supervisor upon completion of this Master Agreement or termination of my employment with my employer, whichever occurs first.

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINTED NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

**CONTRACTOR NON-EMPLOYEE ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT**

(Note: This certification is to be executed and returned to County with Contractor's executed Master Agreement. Work cannot begin on the Master Agreement until County receives this executed document.)

Contractor Name \_\_\_\_\_ Non-Employee Name \_\_\_\_\_

County Master Agreement No. \_\_\_\_\_

GENERAL INFORMATION:

The Contractor referenced above has entered into a Master Agreement with the County of Los Angeles to provide certain services to the County. The County requires your signature on this Contractor Non-Employee Acknowledgement and Confidentiality Agreement.

NON-EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the Contractor referenced above has exclusive control for purposes of the above-referenced Master Agreement. I understand and agree that I must rely exclusively upon the Contractor referenced above for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced Master Agreement.

I understand and agree that I am not an employee of the County of Los Angeles for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced Master Agreement. I understand and agree that I do not have and will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

I understand and agree that I may be required to undergo a background and security investigation(s). I understand and agree that my continued performance of work under the above-referenced Master Agreement is contingent upon my passing, to the satisfaction of the County, any and all such investigations. I understand and agree that my failure to pass, to the satisfaction of the County, any such investigation shall result in my immediate release from performance under this and/or any future Master Agreement.

CONFIDENTIALITY AGREEMENT:

I may be involved with work pertaining to services provided by the County of Los Angeles and, if so, I may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, I may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. I understand that if I am involved in County work, the County must ensure that I, too, will protect the confidentiality of such data and information. Consequently, I understand that I must sign this agreement as a condition of my work to be provided by the above-referenced Contractor for the County. I have read this agreement and have taken due time to consider it prior to signing.

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Master Agreement between the above-referenced Contractor and the County of Los Angeles. I agree to forward all requests for the release of any data or information received by me to the above-referenced Contractor.

I agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information, and all other original materials produced, created, or provided to or by me under the above-referenced Master Agreement. I agree to protect these confidential materials against disclosure to other than the above-referenced Contractor or County employees who have a need to know the information. I agree that if proprietary information supplied by other County vendors is provided to me, I shall keep such information confidential.

I agree to report to the above-referenced Contractor any and all violations of this agreement by myself and/or by any other person of whom I become aware. I agree to return all confidential materials to the above-referenced Contractor upon completion of this Master Agreement or termination of my services hereunder, whichever occurs first.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINTED NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

**Title 2 ADMINISTRATION**  
**Chapter 2.203.010 through 2.203.090**  
**CONTRACTOR EMPLOYEE JURY SERVICE**

**2.203.010 Findings.**

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.020 Definitions.**

The following definitions shall be applicable to this chapter:

- A. "Contractor" means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more such contracts or subcontracts.
- B. "Employee" means any California resident who is a full-time employee of a contractor under the laws of California.
- C. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
  - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
  - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
  - 3. A purchase made through a state or federal contract; or
  - 4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
  - 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
  - 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
  - 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or

**Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE**

8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.
- D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:
1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or
  2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

**2.203.030 Applicability.**

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

**2.203.040 Contractor Jury Service Policy.**

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.050 Other Provisions.**

- A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.060 Enforcement and Remedies.**

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

1. Recommend to the board of supervisors the termination of the contract; and/or,
2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

**Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE**

**2.203.070. Exceptions.**

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
  - 1. Has ten or fewer employees during the contract period; and,
  - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
  - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

“Dominant in its field of operation” means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

“Affiliate or subsidiary of a business dominant in its field of operation” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.090. Severability.**

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

**INTENTIONALLY OMITTED**

**CERTIFICATION OF COMPLIANCE WITH THE COUNTY'S  
DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

Company Name:		
Company Address:		
City:	State:	Zip Code:
Telephone Number:	Email address:	
Solicitation/Contract For _____ Services:		

The Proposer/Bidder/Contractor certifies that:

- It is familiar with the terms of the County of Los Angeles Defaulted Property Tax Reduction Program, Los Angeles County Code Chapter 2.206; **AND**

To the best of its knowledge, after a reasonable inquiry, the Proposer/Bidder/Contractor is not in default, as that term is defined in Los Angeles County Code Section 2.206.020.E, on any Los Angeles County property tax obligation; **AND**

The Proposer/Bidder/Contractor agrees to comply with the County's Defaulted Property Tax Reduction Program during the term of any awarded contract.

**- OR -**

- I am exempt from the County of Los Angeles Defaulted Property Tax Reduction Program, pursuant to Los Angeles County Code Section 2.206.060, for the following reason:

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*I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.*

Print Name:	Title:
Signature:	Date:



**INVOICE DISCREPANCY REPORT**

1. **INVOICE DISCREPANCY** to be completed by County Program Manager

Today's Date: \_\_\_\_\_ Contractor: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Date of Subject Invoice: \_\_\_\_\_

Description of Issues with Subject Invoice:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
County Program Manager (CPM)

2. **CONTRACTOR RESPONSE** (to be completed by Contractor Project Manager)

Date received from CPD: \_\_\_\_\_

Explanation regarding Issues with Subject Invoice: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Corrective Action Taken: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor Project Manager

3. **COUNTY EVALUATION** of Contractor's Response and Action taken.

\_\_\_\_\_  
\_\_\_\_\_

4. **Approved by COUNTY:**

\_\_\_\_\_  
\_\_\_\_\_  
Date: \_\_\_\_\_  
Date: \_\_\_\_\_

4. **Contractor Notified on** \_\_\_\_\_ **Date:** \_\_\_\_\_

**INSTRUCTIONS**

CPM: Forward Invoice Discrepancy Report to the Contractor for investigation and response.  
Contractor: Must respond to CPM in writing within ten (10) calendar days of receipt of Invoice Discrepancy Report.  
Copy Contract Analyst

**COUNTY'S ADMINISTRATION**

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**MASTER AGREEMENT NO.**

**COUNTY CONTRACT MANAGER:**

Name: Tasha Howard  
 Title: Contracts and Grants Division Director  
 Address: 9150 E. Imperial Highway  
Downey, CA 90242  
 Telephone: 562-940-2728  
 Facsimile 562-658-2307  
 Email address Latasha.Howard@probation.lacounty.gov

**COUNTY'S PROGRAM MANAGER:**

Name: Rene Martinez  
 Title: Probation Director  
 Address: 9150 E. Imperial Highway  
Downey, CA 90242  
 Telephone: 562-940-2525  
 Facsimile \_\_\_\_\_  
 Email address Rene.Martinez@probation.lacounty.gov

**COUNTY CONTRACT ANALYST:**

Name: Oscar Rivas  
 Title: Contract Analyst  
 Address: 9150 E. Imperial Highway  
Downey, CA 90242  
 Telephone: 562-940-2677  
 Facsimile 562-658-2307  
 Email address Oscar.Rivas@probation.lacounty.gov

**COUNTY CONTRACT PROJECT MONITOR:**

Name: Craig Norris  
 Title: ASM III  
 Address: 7639 S. Painter Avenue  
Whittier, CA 90602  
 Telephone: 562-907-3133  
 Facsimile 562-464-2831  
 Email address Craig.Norris@probation.lacounty.gov

**CONTRACTOR'S ADMINISTRATION**

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**CONTRACTOR'S NAME**

**MASTER AGREEMENT NO.** \_\_\_\_\_

**CONTRACTOR'S PROJECT MANAGER:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile \_\_\_\_\_

E-Mail address: \_\_\_\_\_

**CONTRACTOR'S AUTHORIZED OFFICIAL(S)**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile \_\_\_\_\_

E-Mail address: \_\_\_\_\_

**NOTICES TO CONTRACTOR SHALL BE SENT TO THE FOLLOWING:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile \_\_\_\_\_

E-Mail address: \_\_\_\_\_

**INTENTIONALLY OMITTED**

**INTENTIONALLY OMITTED**



COUNTY OF LOS ANGELES  
 PROBATION DEPARTMENT – INTERNAL AFFAIRS BUREAU  
 9150 East Imperial Highway  
 Downey, CA 90242



**BACKGROUND REQUEST FORM**

Email Form to: [Vivian.Gonzalez@probation.lacounty.gov](mailto:Vivian.Gonzalez@probation.lacounty.gov)

Requesting Agency: \_\_\_\_\_  
 Agency Address: \_\_\_\_\_  
 City and Zip Code: \_\_\_\_\_  
 Agency Contact Person: \_\_\_\_\_  
 Telephone No: \_\_\_\_\_  
 Fax No: \_\_\_\_\_  
 LEAD AGENCY (if different): \_\_\_\_\_

**LIVE SCAN SCHEDULE:**  
**Monday & Friday: 8:30 AM – 4:30 PM**

Please Note: We do not live scan on Tuesday, Wednesday, nor Thursday.  
**Please have applicant arrive 15 min. prior to scheduled appointment.**

Applicant's Name	Completed by Requesting Agency			Completed by Central Processing Unit	
	Applicant's Position	Work Location	Available Dates & Times	Appointment Date	Appointment Time

- Instructions to Applicants:
1. Prior to the background interview you will complete the application in black ink.
  2. Please bring valid photo identification. (Example: CA Driver's License, CA Identification Card)



LOS ANGELES COUNTY PROBATION DEPARTMENT
HUMAN RESOURCES DIVISION
ADMINISTRATIVE SERVICES BUREAU
CONTRACTOR BACKGROUND APPLICATION



Form with sections: 1. YOUR FULL NAME (LAST, FIRST, I., MIDDLE); 2. OTHER NAMES YOU HAVE USED OR BEEN KNOWN BY; 3. ADDRESS WHERE YOU LIVE (NUMBER / STREET, R., APT / UNIT, CITY, X., STATE, ZIP); 4. EMAIL ADDRESS; 5. CONTACT NUMBERS (HOME, E., WORK, G., EXT, H., OTHER, CELL, FAX); 10. BIRTHDATE (MM/DD/YYYY); 11. SOCIAL SECURITY NUMBER (MM. - -); 12. DRIVER'S LICENSE (NUMBER, QQ., STATE, EXPIRES).

Instructions: Indicate your response by using an "X" on the line next to "Yes" or "No".

- 1. Are you currently on any type of probation or parole? Yes \_\_\_ No \_\_\_
2. Do you have any outstanding failure to appear? Yes \_\_\_ No \_\_\_
3. Have you ever been convicted for a sex offense? Yes \_\_\_ No \_\_\_
4. Have you ever been convicted for a crime against children? Yes \_\_\_ No \_\_\_
5. Have you ever been convicted for crimes relating to the use of weapons? Yes \_\_\_ No \_\_\_
6. Have you ever been convicted of a crime that contained elements of violence (assault, battery, mayhem, etc.) Yes \_\_\_ No \_\_\_
7. Have you ever been arrested for prostitution, pandering or pimping? Yes \_\_\_ No \_\_\_
8. Do you have any felony conviction within the past three (3) years? Yes \_\_\_ No \_\_\_

If you answered "Yes" to question 8, please provide information below for each offense.

TT. Conviction Date	UU. Violation Code	Violation Title	WW. Conviction Type/Court Disposition	Court Name	YY. Sentence Imposed	S

**ACKNOWLEDGEMENT**

Please note that your application is subject to verification during your background investigation. It is in your best interest to be thorough and honest in your responses. Integrity weighs heavily in the evaluation of any applicant being considered for hire. Providing false information and/or withholding information, may disqualify your application.

By signing this acknowledgement, you certify that the above information is correct and current. You hereby authorize Los Angeles County Probation Department to obtain criminal record information from any agency which may have your background history, including any records of arrests, investigations, convictions, and other reports.

You hereby fully release and discharge Los Angeles County Probation Department, its officers, agents, and employees, and any agencies, from any and all claims for damages which may arise from participating in, or as a result of, the background check to the fullest extent authorized by the laws of the state of California.

**Do you understand this acknowledgement?** Yes \_\_\_\_\_ No \_\_\_\_\_

**Do you have any questions about this acknowledgement?** Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## GUIDELINES FOR DISTRIBUTION OF WORK

Contractors under the Master Agreement have no guarantee of Work. They are utilized on an intermittent, “as-needed” basis.

On or around the 15<sup>th</sup> of each calendar month, each Contractor with a Master Agreement will be asked to submit a calendar of availability for the following calendar month. The calendar shall be submitted to the County Program Manager or designee.

The calendar of availability will be used by the County Program Manager to assign Contractors to fill the daily polygraph schedules. Contractors will be scheduled in the following manner:

In order to ensure that Work is dispersed equitably and fairly, Contractors will be utilized on a rotational basis, by availability, and Service Areas (Exhibit T). The Department will prioritize the scheduling of polygraph exams at locations most beneficial to the Department and Polygraph Examinees. Each daily schedule will be finalized at least three calendar days prior to the actual testing date. It is the individual Contractor’s responsibility to contact the County Program Manager or designee to ascertain if they have Work scheduled for any individual day. County Program Manager has the sole discretion to issue Work to any of the Contractors.

SEX OFFENDER POLYGRAPH EXAMINATION LOG

Contractor Name: \_\_\_\_\_ Telephone #: \_\_\_\_\_ Month/Year: \_\_\_\_\_

NO #	Date	Examinee (Last, First Name)	Examinee Signature	Sex Offender (SO) or Post-Conviction Sex Offender (PCSO)	Exam Type (SH, SI, MM)	Examiner Name	Result (NSR, SR, Incl, NDI, DI No Show, Reject)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							

**CONTRACTOR SEX OFFENDER POLYGRAPH BILLING LOG**

Contractor Name: \_\_\_\_\_ Telephone #: \_\_\_\_\_ Month/Year: \_\_\_\_\_

Type of Sex Offender Polygraph Exam	Fee for Service Rate	No. of Completed Sex Offender (SO) exams	No. of Completed Post-Conviction Sex Offender (PCSO) exams	Total
Full Disclosure of Sexual History Polygraph Exam	\$			\$
Specific Issue Polygraph Exam	\$			\$
Maintenance/Monitoring Polygraph Exam	\$			\$
Non- Spanish Interpreter	\$			\$
<b>Billing Grand Total</b>				\$

\*Note: Submit billing log with a copy of each referral, examination log and Non-Spanish Interpreter approval pertaining to the billing month.

Contractor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Invoice Approved By AB 109: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Invoice Approved By Adult Core: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_



**Los Angeles County Probation Department**  
**SEX OFFENDER POLYGRAPH SERVICES REFERRAL**

(Fill out form completely and Distribute as follows to accurate processing)

Distribution: Scan/Email one (1) copy to \_\_\_\_\_ and \_\_\_\_\_

Scan email one (1) copy to \_\_\_\_\_



<b>Participant Information:</b>		
Name	Phone	Referral Date
Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/>		
LGBT <input type="checkbox"/>	DOB	X Number
	PB Number	Preferred Language
Polygraph: 1 <sup>st</sup> <input type="checkbox"/> 2 <sup>nd</sup> <input type="checkbox"/> 3 <sup>rd</sup> <input type="checkbox"/> Type of Polygraph: Sexual History (SH) <input type="checkbox"/> Specific Issue (SI) <input type="checkbox"/> Maintenance/Monitoring (MM) <input type="checkbox"/>		
Date and Type of Last Polygraph completed: _____ SH <input type="checkbox"/> SI <input type="checkbox"/> MM <input type="checkbox"/> Done By: _____		
<b>DPO Information:</b> (Must be completed in full) Adult Services DPO <input type="checkbox"/> AB 109 DPO <input type="checkbox"/>		
DPO Name	Phone	Date
DPO Email	Region/Area Office	
DPO Signature	<input type="checkbox"/> Authorization Form Signed and Attached to referral	
<b>Referred To:</b> (Completed by County Designee)		
Providers Name and Address		Phone
Service Areas (SPA): <input type="checkbox"/> SPA 1 Bell/Commerce/East Los Angeles <input type="checkbox"/> SPA 2 San Gabriel Valley/Pomona		
<input type="checkbox"/> SPA 3 Inglewood/Florence/Culver City <input type="checkbox"/> SPA 4 Carson/Compton/Lynwood <input type="checkbox"/> SPA 5 Hollywood/Fairfax/Venice		
<input type="checkbox"/> SPA 6 San Fernando Valley <input type="checkbox"/> SPA 7 Norwalk/Cerritos/Whittier <input type="checkbox"/> SPA 8 Torrance/Long Beach/Lakewood		
<input type="checkbox"/> SPA 9 Glendale/Pasadena/Arcadia <input type="checkbox"/> SPA 10 Antelope Valley		
County Designee Name: _____ Date: _____ <input type="checkbox"/> Confirmed Authorization Form is attached		
<b>Provider Confirmation of Referral Received:</b> (Provider complete the lower portion of this form and email response to Designee and DPO)		
Referral Accepted: Yes <input type="checkbox"/> No <input type="checkbox"/> If No, please explain: _____		
Appointment Scheduled With: _____		Date & Time: _____
Type of Polygraph: Sexual History (SH) <input type="checkbox"/> Specific Issue (SI) <input type="checkbox"/> Maintenance/Monitoring (MM) <input type="checkbox"/>		
Person's Name Completing Confirmation	Date Contacted Participant for Appt.	Date sent to County and DPO
Request for additional information (please detail): _____		

**BUSINESS ASSOCIATE AGREEMENT  
UNDER THE HEALTH INSURANCE PORTABILITY  
AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access, receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

**1. definitions**

- 1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.
- 1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.

- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.
- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S. C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 164.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) 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; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or Purchase Order or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.
  - 1.21 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
  - 1.22 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)
  - 1.23 Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.
- 2. Permitted and required Uses and Disclosures of Protected Health Information**
- 2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.
  - 2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.
  - 2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.
  - 2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures.
  - 2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.
  - 2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

**3. Prohibited Uses and Disclosures of Protected HEALTH INFORMATION**

3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.

3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.

3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

**4. OBLIGATIONS to safeguard protected health information**

4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.

4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.

**5. Reporting Non-Permitted Uses or Disclosures, Security Incidents, and Breaches of Unsecured Protected Health Information**

5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3.

5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.

5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.

5.1.3. Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to

Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.

5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2

5.2.1 Business Associate shall make an immediate telephonic report upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
- (d) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach

5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than three (3) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **HIPAA Compliance Officer at: Hall of Records, County of Los Angeles, Chief Executive Office, Risk Management Branch-Office of Privacy, 320 W. Temple Street, 7th Floor, Los Angeles,**

**California 90012, [PRIVACY@ceo.lacounty.gov](mailto:PRIVACY@ceo.lacounty.gov)**, that includes, to the extent possible:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
- (d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;
- (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
- (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
- (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and

- (h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.

5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.

5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.

5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

**6. Written assurances of subcontractors**

6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.

6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.

6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.

6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.

- 6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.
- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

**7. ACCESS TO PROTECTED HEALTH INFORMATION**

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.
- 7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.

7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

**8. Amendment of PROTECTED HEALTH INFORMATION**

8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that

are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.

8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

**9. Accounting of Disclosures of PROTECTED HEALTH INFORMATION**

9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order 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 C.F.R. § 164.528.

9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:

- (a) The date of the Disclosure;
- (b) The name, and address if known, of the entity or person who received the Protected Health Information;
- (c) A brief description of the Protected Health Information Disclosed; and

(d) A brief statement of the purpose of the Disclosure.

9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure.

9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity, information collected in accordance with Section 9.1.1 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 C.F.R. § 164.528

9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

**10. Compliance with applicable HIPAA rules**

10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).

10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.

**11. Availability of Records**

11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.

11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

**12. Mitigation of Harmful Effects**

12.1 Business Associate shall mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

**13. Breach Notification to individuals**

13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.

13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.

13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:

- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
- (b) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
- (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
- (e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

- 13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.
- 13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

**14. Indemnification**

- 14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California.
- 14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

**15. OBLIGATIONS OF COVERED ENTITY**

- 15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.
- 15.2 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 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

**16. Term**

16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

16.2 Notwithstanding Section 16.1, Business Associate's obligations under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

**17. Termination for Cause**

17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.

17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

**18. Disposition of Protected Health Information Upon Termination or Expiration**

18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.

- 18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.
- 18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.
- 18.3.1 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or  
  
Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.
- 18.3.2 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.
- 18.4 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

**19. Audit, inspection, and Examination**

- 19.1 Covered Entity reserves the right to conduct a reasonable inspection of the facilities, systems, information systems, books, records, agreements, and policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, as provided for in section 17.
- 19.2 Covered Entity and Business Associate shall mutually agree in advance upon the scope, timing, and location of any such inspection.
- 19.3 At Business Associate's request, and to the extent permitted by law, Covered Entity shall execute a nondisclosure agreement, upon terms and conditions mutually agreed to by the parties.
- 19.4 That Covered Entity inspects, fails to inspect, or has the right to inspect as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.
- 19.5 Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or Audit and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

**20. MISCELLANEOUS PROVISIONS**

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.
- 20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.

**SERVICE AREAS**

**LOS ANGELES SERVICE AREAS**

<b>No.</b>	<b>Service Area</b>
1	Bell/Commerce/East Los Angeles Area and contiguous cities*
2	San Gabriel Valley/Pomona Area and contiguous cities*
3	Inglewood/Florence/Culver City Area and contiguous cities*
4	Carson/Compton/Lynwood Area and contiguous cities*
5	Hollywood/Fairfax/Venice Area and contiguous cities*
6	San Fernando Valley Area and contiguous cities*
7	Norwalk/Cerritos/Whittier Area and contiguous cities*
8	Torrance/Long Beach/Lakewood Area and contiguous cities*
9	Glendale/Pasadena/Arcadia Area and contiguous cities*
10	Antelope Valley Area and contiguous cities*

## Model Policy for Post-Conviction Sex Offender Testing

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## Model Policy for Post-Conviction Sex Offender Testing

1. Model Policy. This Model Policy should be considered a description of recommended best- practices for polygraph professionals who engage in Post-Conviction Sex Offender Testing (PCSOT) activities. This Model Policy is intended to provide a basis for local programs developing or updating their PCSOT regulations, and does not attempt to address all aspects of PCSOT activities or policy implementation at the local level.
  - 1.1 Compliance and local authority. Examiners should acquaint themselves with and adhere to all legal and regulatory requirements of their local jurisdictions. In case of any conflict between the Model Policy and any local practice requirements, the local regulations should prevail. Examiners who work in jurisdictions and programs without local regulations should refer to this Model Policy as a guide.
    - 1.1.1. Compliance with this Model Policy. Examiners whose work varies from the recommendations of this Model Policy should be prepared to provide justification for doing so.
    - 1.1.2 Compliance with professional standards. Unless prohibited by law, regulation or agency policy, all members of the American Polygraph Association (APA) shall comply with the APA Standards of Practice.
  - 1.2 Periodic review and modification. This Model Policy should be reviewed and amended periodically in order to remain consistent with emerging information from new empirical studies.
2. Evidence-based approach. To the extent possible, this Model Policy relies on knowledge and principles derived from existing research pertaining to polygraph testing, risk assessment, risk management, and behavioral/mental health treatment of persons convicted of a sexual offense. Examiners should be cautious of field practices based solely on a system of values or beliefs. Some elements of this Model Policy are intended to promote reliability and professionalism through the implementation of standardized field practice recommendations in the absence of data from empirical studies.
  - 2.1 Face-valid principles. When an evidence-based approach is not possible, the Model Policy emphasizes face-valid principles pertaining to polygraph testing, field investigation principles and related fields of science. These include psychology, physiology, mental health treatment, forensic threat assessment, signal detection, decision theory, inferential statistics, and predictive analytics.
  - 2.2 Evolving evidence. In the event that evidence from future empirical studies reveals the practice recommendations of this Model Policy are inconsistent

## Model Policy for Post-Conviction Sex Offender Testing

with empirically based evidence, the evidence-based information should prevail.

3. PCSOT program goals. The primary goal of all PCSOT activities should be to increase public safety by adding incremental validity to risk-assessment, risk-management, and treatment-planning decisions made by professionals who provide supervision and sex- offense specific treatment to persons convicted of sexual offenses.
  - 3.1 Multidisciplinary collaboration. Examiners who engage in PCSOT activities should emphasize a multi-disciplinary or multi-systemic containment approach to the supervision and treatment of sex offenders. This approach involves a collaborative effort among professionals from varying disciplines and systems including treatment providers, supervising officers, polygraph examiners, medical and psychiatric professionals, child-protection/family-services workers, and other professionals.
  - 3.2 Operational objectives. Any or all of the following operational objectives should be considered a reasonable and sufficient basis to engage in PCSOT activities:
    - A. Increased disclosure of problem behavior that will be of interest to professionals who work with persons convicted of a sexual offense;
    - B. Deterrence of problem behavior among persons convicted of a sexual offense by increasing the likelihood that engagement in such behaviors will be brought to the attention of supervision and treatment professionals; and
    - C. Detection of involvement in or abstinence from problem behavior that would alert supervision and treatment professionals to any escalation in the level of threat to the community or potential victims of sexual abuse.
4. Decision-support. Psychophysiological Detection of Deception (PDD) (polygraph) testing of persons convicted of a sexual offense should be regarded as a decision-support tool intended to assist professionals in making important decisions regarding risk and safety. Polygraph testing should not replace the need for other forms of behavioral monitoring or traditional forms of supervision and field investigation.
  - 4.1 Professional judgment. Polygraph testing and polygraph test results should not supplant or replace the need for professional expertise and judgment. When used as a basis of information for professional decision-making, polygraph test results should be used with consideration for their

## Model Policy for Post-Conviction Sex Offender Testing

probabilistic value of the test.

- 4.2 Successive hurdles. Examiners should use a successive hurdles approach to testing to maximize both the informational efficiency and sensitivity of multi- issue (mixed-issue) screening polygraphs and the diagnostic efficiency and specificity of event-specific single-issue exams. Screening exams in PCSOT are conducted in the absence of known allegations or known incidents. Follow-up examinations should employ a single-issue technique whenever increased decision accuracy is required. Increased overall decision accuracy can be observed when tests are blind, independent and when results are conclusive. Successive-hurdles activities may include the use of mixed-issue or single-issue screening polygraphs followed by additional polygraph testing or other activities, including posttest discussion, additional field or background investigation. Follow-up examinations may be completed on the same date as the initial exam, or they may be scheduled for a later date.
  - 4.2.1 Screening exams. Examiners should use multi-issue polygraph techniques only in the absence of a known incident, known allegation, or a particular reason to suspect wrongful behavior. Screening exams may at times be narrowed to a single target issue of concern. However, most PCSOT screening exams will involve multiple target issues for which it is conceivable that a person could be involved in one or more behavioral issues and uninvolved other behavioral issues of concern.
  - 4.2.2 Event specific diagnostic exams. Event specific diagnostic/investigative exams are conducted in response to known allegations or known incidents for which there is reason to suspect the involvement of the examinee. Examiners should use single issue polygraph techniques for follow-up exams conducted in response to a previously unresolved multiple issue screening exam, and whenever a screening test can be reduced to a single issue of concern.
- 4.3 Confidentiality and mandatory reporting. Except as provided by law, information from the polygraph examination and test results (outcomes) should be kept confidential and provided only to those professionals involved in the multidisciplinary supervision and treatment of persons convicted of a sexual offense.
  - 4.3.1 Examiners are not mandated reporters. Examiners should follow local and state mandatory reporting laws.
  - 4.3.2 Other professionals and mandatory reporting. Examiners should

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remain aware that other professional members of the multi-systemic containment team may be subject to mandatory child-abuse reporting or other mandatory disclosure requirements.

5. General principles. Examiners who engage in PCSOT activities should adhere to all of the generally accepted principles that pertain to polygraph testing, including, but not limited to the following:

5.1 Rights and dignity of all persons. Examiners should respect the rights and dignity of all persons to whom they administer polygraph examinations. Examiners should conduct all polygraphs with sensitivity and awareness to diversity.

5.2 Polygraph examiner as part of the supervision and treatment team. Examiners should consider themselves to be an integral part of the multidisciplinary supervision and treatment team. Contact with supervision and treatment team should be on a regular basis as needed, though contact with an examinee will be periodic (i.e., the examiner will not maintain routine contact with the examinee between examinations).

5.3 Non-interference with ongoing investigations. Examiners who engage in PCSOT activities should not interfere with or circumvent the efforts of any open or ongoing investigation of a new criminal allegation.

5.4 Known and unknown allegations. Examiners who engage in PCSOT activities should investigate and attempt to resolve, if possible, known allegations and known incidents before attempting to investigate or resolve behavioral concerns that do not involve a known allegation or known incident.

5.5 Confirmatory testing. PCSOT activities should be limited to the Psychophysiological Detection of Deception (PDD). Confirmatory testing approaches involving attempts to verify truthfulness of partial or complete statements made subsequent to the issue of concern should not be utilized in PCSOT programs. Truthfulness may be inferred when it is determined that the examinee has not attempted to engage in deception regarding the investigation targets.

5.6 Ethical and professional roles. Examiners who possess multiple types of credentials (i.e., examiners who are also therapists, probation officers, or police officers) should be limited to one professional role with each examinee and should not conduct polygraph examinations on any individual whom they directly or indirectly treat or supervise.

5.7 Number and length of examinations. Examiners should not conduct more

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than five examinations in a single day,

5.7.1 Length of examination. Examiners should not plan to conduct examinations of less than 90 minutes in duration from the start of the pretest interview through the end of the post-test interview. Examiners should not conduct a complete polygraph examination in less than 90 minutes absent exigent circumstances such as when an examinee is not suitable for testing, an examinee refuses to continue with the examination, or when the issue under investigation is resolved prior to collection of data.

5.7.2 Number of exams per examinee. Examiners should not conduct more than four separate examinations per year on the same examinee except where unavoidable or required by law or local regulation. This does not include re-testing due to a lack of resolution during an initial or earlier examination.

5.8 Examination techniques. Examiners should use a recognized comparison question technique for which there is evidence of validity and reliability, including estimates of sensitivity and specificity, published in the *Polygraph* journal or a peer-reviewed scientific journal. There should not be more than four (4) relevant questions per test series.

6. Operational definitions. Examiners should ensure that every behavior of concern to the multi-disciplinary supervision and treatment team will be anchored by an operational definition that describes the behaviors of concern. Operational definitions should be common among all referring professionals, and should use language that is free of vague jargon. It should be easily understood by the examinee. Examples of operational definition include the following:

- A. Physical sexual contact: refers to rubbing or touching another person's sexual organs (i.e., breasts, buttocks, genitalia) whether over or under clothing, if for the purpose of sexual arousal, sexual gratification, sexual stimulation or sexual "curiosity." This includes having, allowing, or causing another person to rub or touch one's own sexual organs, whether over or under clothing, for purposes of sexual arousal, sexual gratification, sexual "curiosity," or sexual stimulation. This does not include parental contact with children's private areas in the form of diapering, wiping, bathing, dressing, or changing, unless done for the purpose of sexual arousal or stimulation.
- B. Sexual contact: includes the above definition, and also includes non-contact sexual behaviors such as exhibitionism, voyeurism, public masturbation, child- pornography, or other non-contact sexual behaviors.

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- C. Force (real or implied violence): includes any form of real or implied violence; physical restraint to prevent a victim from leaving, escaping or moving away from the assault; or threats of harm against a victim's family members or pets.
- D. Coercion (non-violent): includes any non-violent means of gaining the compliance of a victim who expresses his or her reluctance to comply (e.g., bribery, threats to end a relationship, etc.).
- E. Grooming (child grooming): includes any means of building trust or exploiting a relationship such that a victim tolerates an offense with a perception of complicity.
- F. Manipulation: includes any means of trickery to gain the compliance of a victim who is unaware of the sexual motives of the offender (e.g., wrestling, horseplay, tickling or other trickery).
- G. Relative (family member): includes aunts, uncles, nieces, nephews, children, grandchildren, parents, grandparents, brothers, sisters, cousins, or any person related by blood, marriage, or adoption, or where a relationship has a legal relationship or the appearance of a family relationship (e.g., a dating or live-in relationship with the person(s) natural, step or adoptive parent).
- H. Minor, child, youth, underage person: refers to anyone who has not yet reached the age of majority or adulthood (usually 18). Adolescence, though it refers to older/teenage children, is included in this broad category.
- I. Incidental contact: refers to any brief or unanticipated contact, typically concerning minors, including any greeting (e.g., waving, or smiling), interaction (i.e., verbal), or incidental physical contact (e.g., shaking hands, hugging, patting the head, bumping into, exchanging money or merchandise, etc.).
- J. Physical contact: includes shaking hands, hugging, patting the back or head, bumping into, exchanging money or merchandise along with other forms of physical contact including sitting on one's lap, holding, wrestling or athletic activities, etc.
- K. Alone or unsupervised with minors: refers to any contact or activity with minors in a location where one cannot be seen or heard, and where others are not aware of one's presence or activity with a minor, and in which the activity cannot be monitored or observed.
- L. Pornography: refers to the explicit depiction of sexual subject matter for the

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sole purpose of sexually arousing the viewer, sometimes referred to as X-rated or XXX material, though there is no formal rating system that includes these designations. Minors cannot purchase pornographic materials in most, if not all, jurisdictions.

- M. Sexually stimulating materials/erotica: refers to the use of sexually arousing imagery, especially for masturbation purposes.
  - N. Sexual fantasy/erotic fantasy: refers to thoughts or patterns of thoughts, often in the form of mental imagery, with the goal of creating or enhancing sexual arousal or sexual feelings. Sexual fantasy can be a developed or spontaneous story, or a short mental flash of sexual imagery.
  - O. Masturbation: refers to sexual stimulation of one's genitals, often, though not always, to the point of orgasm. Stimulation can be over or under clothing, either manually or through other types of bodily contact, through the use of objects or devices, or through a combination of these methods. Although masturbation with a partner is not uncommon, masturbation for the purpose of this Model Policy refers to self-masturbation.
7. Examination questions. Examiners should have the final authority and responsibility for the determination of test questions and question language, which must be reviewed with the examinee. Examiners should advise the supervision and treatment professionals to refrain from informing the examinee of the exact test questions and investigations targets, or coaching the examinee in the mechanics, principles or operations of the polygraph test. Technical questions about polygraph should be directed to the examiner at the time of the examination. Examiners should advise community supervision team members and treatment professionals that it is appropriate to inform the examinee of the purpose or type of each examination.
- 7.1 Relevant questions. Relevant questions should pertain to a single frame of reference, which refers to the type of PCSOT examination. (See section 8.)
    - 7.1.1 Content. Relevant questions should address behaviorally descriptive topical areas that have a common time of reference, which refers to the time-period under investigation. Content should bear operational relevance to actuarial or phenomenological risk assessment, risk management and treatment planning methods. Examiners should exercise caution to ensure they do not violate any rights of examinees regarding answering questions about criminal behaviors.

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7.1.2 Structure. Relevant question construction should be:

- A answerable by a “NO” without unnecessary mental exercise or uncertainty;
- B behaviorally descriptive of the examinee’s direct or possible involvement in an issue of concern and, whenever possible, not indirectly addressing that issue by targeting a subsequent denial of it;
- C simple, direct and easily understood by the examinee;
- D time-delimited (date of incident or time of reference);
- E free of assumptions of guilt or deception;
- F free of idiosyncratic jargon, legal terms; and
- G free of references to mental state or motivational terminology except to the extent that memory or sexual motivation may be the subject of an examination following an admission of behavior.

7.2 Comparison questions. Comparison questions should meet all common requirements for the type comparison question being applied.

7.2.1 Content. Comparison questions should address broad categorical concerns regarding honesty and integrity and should not be likely to elicit a greater physiological response than deception to any relevant question in the same test.

7.2.2 Structure. Comparison questions should be structurally separated from relevant questions by either frame of reference or time of reference. Nothing in this Model Policy should be construed as favoring exclusive or non- exclusive comparison questions.

8 Types of PCSOT examinations. Examiners should utilize five basic types of PCSOT examinations: instant offense exams, prior-allegation exams, sexual history disclosure exams, maintenance exams, and sex offense monitoring exams. These basic types of examinations provide both a frame of reference and a time of reference for each examination. Examiners should not mix investigation targets from different frames of reference (examination types) or times of reference within the structure of a single examination.

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- 8.1 Instant offense exams. Examiners should use two basic types of examinations to investigate the circumstances and details of the instant offense for which the examinee was convicted: the Instant Offense exam and the Instant Offense Investigative exam. These exams should be conducted prior to victim clarification or reunification in order to reduce offender denial and mitigate the possibility of further traumatizing a victim. These circumstances might result when an offender has attempted to conceal the most invasive or abusive aspects of an admitted offense or whenever the multi-disciplinary community supervision team determines that accountability for the circumstances and details of the instant offense represent a substantial barrier to an examinee's engagement and progress in sex offense specific treatment.
- 8.1.1 Instant offense exam. Examiners should conduct the Instant offense (IO) exam as an event-specific polygraph for examinees who deny any or all important aspects of the allegations pertaining to their present sex offense crime(s) of conviction.
- A Instant offense – examination targets. Examiners, along with the other members of the community supervision team, should select the relevant investigation targets from the circumstances of the allegation that the examinee denies.
- B Instant offense – testing approach. Examiners should conduct this exam as an event-specific diagnostic exam. However, nothing in this Model Policy should be construed as to prohibit the completion of the Instant Offense exam in a series of single-issue exams when such an approach will lend to more accurate or satisfactory resolution of the investigation targets.
- 8.1.2 Instant offense investigative exam. When necessary, examiners should use the Instant Offense Investigative (IOI) exam to test the limits of an examinee's admitted behavior and to search for other behaviors or offenses not included in the allegations made by the victim of the instant offense. This should happen prior to victim clarification or reunification.
- 8.1.2.1 Instant offense investigative – examination targets. Examiners, along with the other members of the community supervision team, should select relevant targets from their concerns regarding additional or unreported offense behaviors in the context of the instant offense. At the discretion of the examiner and the other professional members of the community supervision team, examination targets may include the following:

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- A. Number of offense incidents against the victim: when the admitted number of offense incidents is very small.
- B. Invasive offense behaviors: when the examinee denies intrusive or hands-on offense behaviors against the victim of the instant offense.
- C. Degree of physical force or violence: when the examinee denies use of violence, physical restraint, threats of harm, or physical force against the victim of the instant offense.
- D. Other sexual contact behaviors: when not included in the allegations made by the victim of the instant offense, at the discretion of the community supervision team.

8.1.2.2 Instant offense investigative – testing approach. Examiners should conduct this exam as a multi-facet or multi-issue (mixed- issue) screening exam. However, nothing in this Model Policy should be construed as to prohibit the completion of the Instant Offense Investigative exam in a series of single-issue exams (i.e., in the absence of an allegation involving the behavioral examination targets) when that approach will lend to more accurate or satisfactory resolution of the investigation targets.

8.2 Prior allegation exam. Examiners should use the Prior Allegation Exam (PAE) to investigate prior alleged sex offenses (i.e., allegations made prior to the current conviction) before attempting to investigate and resolve an examinee's history of unknown/unreported sexual offenses. This exam should be considered identical in design and structure to the Instant Offense Exam, except that the details of the allegation stem not from the present crime of conviction but from an allegation prior to the conviction resulting in the current supervision and treatment. This examination may be conducted irrespective of whether or not the examinee was charged with or convicted of the prior alleged offense. Examiners should exercise caution to ensure they do not violate any rights of an examinee regarding answering questions about criminal behaviors.

8.3 Sexual history exams I and II. Examiners should use two basic types of Sexual History examinations to investigate the examinee's history of

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involvement in unknown or unreported offenses and other sexual compulsivity, sexual pre-occupation, or sexual deviancy behaviors. Information and results from these examinations should be provided to the professional members of the supervision and treatment team to add incremental validity to decisions pertaining to risk assessment, risk management and treatment planning.

8.3.1 Sex history document. Examiners should work with the community supervision team to require that examinees complete a written sexual history document prior to the conduct of a sexual history polygraph. The sexual history document should provide operational definitions that unambiguously describe each sexual behavior of concern. The purpose of the document is to help examinees review and organize their sexual behavior histories. It aids in familiarizing examinees with the conceptual vocabulary necessary to accurately discuss sexual behaviors; it can assist examinees in recognizing sexual behavior that was abusive, unlawful, unhealthy, and identify behaviors that are considered within normal limits.

8.3.3.1. Prior review of the sex history document. Examiners should request that each examinee review the sexual history document with his or her community supervision team and treatment group prior to the examination date. The examiner does not need to review this document prior to the examination date, though the content should be reviewed thoroughly during the structured or semi-structured pretest interview.

8.3.1.2 Examiner authority. It should be the examiner's discretion to administer an alternative form of PCSOT examination if an examinee has not completed and reviewed the sexual history document prior to the examination date.

8.3.2 Sexual history exam I – unreported victims. When requested, examiners should conduct the Sex History Exam I (SHE-I) to investigate the examinee's lifetime history of sexually victimizing others, including behaviors related to victim selection, victim access, victim impact, and sexual offenses against unreported persons. These target issues provide a summary of several tangible signal issues that may provide usable information about victim-age, victim-profile, victim-selection, victim-control/access, and victim-silencing behaviors. SHE-I examinations may also provide information about the examinee's capacity for grooming,

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manipulation, violence, relationship-building and relationship-exploiting in addition to the capacity to offend in the absence of a relationship. Gathering information in these areas is additive to forensic risk assessment and risk management efforts. Ruling out matters in these SHE-I areas may permit the justification of a lower assessed risk level.

8.3.2.1 Sexual history exam I – examination targets. Examiners, along with the other members of the community supervision team, should select investigation targets that provide operational relevance to actuarial and phenomenological risk/threat assessment protocols pertaining to recidivism, victim selection, and risk management decisions. Examples include the following:

- A. Sexual contact with underage persons, (refer to local statutes) including sexual contact with persons younger than age 15 (or applicable local statute) while the examinee was legally adult, or sexual contact with persons 4 or more years younger than the examinee (or applicable local statute) if the examinee is a juvenile.
- B. Sexual contact with relatives, whether by blood, marriage, or adoption, or where a relationship has a legal relationship or the appearance of a family relationship (e.g., a dating or live-in relationship with the person(s) natural, step or adoptive parent).
- C. Use of violence to engage in sexual contact, including physical force/physical-restraint and threats of harm or violence toward a victim or victim's family members or pets through the use of a weapon or any verbal/non- verbal means.
- D. Sexual offenses against persons who appeared to be unconscious, asleep, or incapacitated, including touching or peeping against persons who were asleep, severely intoxicated, impaired due to drugs, or who were mentally/physically helpless for other reasons.

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8.3.2.2 Sexual history exam I – time of reference. The time of reference for the Sex History Exam I may be restricted to the period of time prior to the current court supervision order that mandated the present treatment program when there are concerns about 1) potential differences in consequences for pre-treatment or pre-conviction acts and those acts occurring post-conviction or after treatment onset, or 2) examinee rights pertaining to the behavioral targets after conviction while under the supervision of a court or in a treatment program.

8.3.2.3 Sexual history exam I - testing approach. Examiners should conduct this examination as a screening examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the Sex History I Exam in a series of more narrowly focused exams if this approach leads to more satisfactory resolution of the behavioral target issues.

8.3.3. Sexual history exam II – sexual deviancy, compulsivity, and preoccupation. When necessary, examiners should conduct the Sex History (SHE-II) examination to investigate the examinee's lifetime history of sexual deviancy, preoccupation, and compulsivity behaviors not including those behaviors described in the Sex History Exam I (Section 8.3.2). This examination may be most important with examinees who substantially deny involvement in sexual deviancy, compulsivity and preoccupation behaviors.

8.3.3.1. Sexual history exam II - examination targets. Investigation targets for the General Sexual History exam II should bear operational relevance to actuarial and phenomenological risk/threat assessment protocols pertaining to sexual deviancy, sexual compulsivity, and sexual preoccupation behaviors. Investigation targets may include any of the following:

- A. Voyeurism/sexual peeping activities, including all attempts to look into someone's home, bedroom or bathroom without the person's knowledge or permission, in an attempt to view someone naked, undressing/dressing, or engaging in sexual acts. Voyeurism activities include attempts involving the use or creation of a hole or opening to view others for sexual arousal, including all attempts to use any

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optical devices (e.g., cameras, mirrors, binoculars, or telescope) to view others for sexual purposes.

- B. Exhibitionism/indecent exposure, including all attempts to intentionally or to have appear to have “accidentally” exposed one's bare private parts to unsuspecting persons in public places. Exhibitionism may include wearing loose or baggy clothing that allows one's sexual organs to become exposed to others or other acts of exposure in public if done for sexual purposes.
- C. Theft or use of underwear/undergarments for sexual arousal or masturbation, including taking or keeping undergarments (including other personal property or “trophies”) from relatives, friends, sexual partners, or strangers for masturbation or sexual arousal. This may also include incidents of wearing another person's underwear or undergarments without that person's knowledge or permission, in addition to incidents in which underwear, undergarments, or personal property was returned after use for masturbation or other use for sexual arousal.
- D. Frottage/sexual rubbing, including all attempts to sexually rub or touch others without their knowledge or permission, by standing or walking too close in public locations (e.g., work, stores, school, or other crowded places), or during any form of play, horseplay, wrestling/ athletic activities, or other similar activities.

8.3.3.2. Sexual history exam II – additional investigation targets. Other possible investigation targets for the Sex History Exam include but are not limited to the following:

- A. Child pornography, including any history of ever viewing, possessing, producing, using, or distributing pornographic images of minors (i.e., infants, children or teenagers under age 18) who were engaging sexual acts.

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- B. Sexual contact with animals, refers to all sexual behaviors (including attempts) involving pets, (those belonging to the examinee or others) domesticated (farm/ranch) animals, or wild animals, whether living or deceased, and whether whole or dismembered.
- C. Prostitution activities, including ever paying anyone or being paid for sexual contact (including erotic massage activities) with either money, property, or any special favors. It also includes ever employing or managing others who were paid to engage in sexual activities.
- D. Coerced sexual contacts, including bribing, tricking, manipulating, lying, misuse of authority, badgering/pestering, wearing-down boundaries, or not accepting “no” for an answer.
- E. Stalking/following behaviors, including all incidents of following someone to his or her home, workplace or vehicle, or following others around a store, aisle, parking lot, workplace/school, campus, or community for sexual or aggressive/angry reasons. It also includes all other efforts to monitor or observe another person's behavior without that person's knowledge or permission,
- F. Use of a computer to solicit minors for sexual activities, including ever using a computer, the Internet, or any electronic communication device in attempt to solicit an underage person for sexual contact. It also includes ever engaging in online sex-chat or cyber-sex activities via IRC, Instant Messaging, Web Chat, email and/or any other electronic method.
- G. Masturbation or sexual acts in public places where one could be seen by others such as a vehicle, hiding place, standing outside someone's home or window, or anywhere one could watch others without their knowledge or permission. It also includes masturbation or sexual acts in workplace/school locations, public restrooms, or adult entertainment businesses.

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H. Online sex activities, including sex-chat, sex-games, and webcam sex activities; as well as on-line masturbation and/or tele-dildonic activities.

- 8.3.3.3. Sexual history exam II – time of reference. The time of reference for the Sex History Exam II may be restricted to the period of time prior to the current court supervision order that mandated the present treatment program when there are concerns about 1) potential differences in consequences for pre-treatment or pre-conviction acts and those acts occurring post-conviction or after treatment onset, or 2) examinee rights pertaining to the behavioral targets after conviction while under the supervision of a court or in a treatment program. The time of reference should be included in the test questions unless clearly established during the pretest interview.
- 8.3.3.4. Sexual history exam II - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) screening examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the Sex History Exam II in a series of more narrowly focused exams when that approach leads to more satisfactory resolution of the behavioral target issues. Nothing in this Model Policy should be construed as to require the investigation of all or any of the suggested investigation targets, or as to preclude the selection of alternative targets pertaining to sexual behavior that would assist the supervision and treatment team in determining and responding to the examinee's supervision and treatment needs
- 8.3.3.5 Testing the limits of admitted sexual compulsivity or sexual preoccupation. Examiners should attempt to prioritize the investigation of behaviors in which the examinee denies any involvement. It may not be realistic to hope to know everything when an examinee admits to substantial involvement in sexual behaviors that may be an expression of sexual compulsivity or sexual preoccupation.

- 8.4. Maintenance exam. Examiners should conduct the Maintenance Examination (ME) to thoroughly investigate, either periodically or randomly, the examinee's compliance with any of the designated terms and conditions of probation, parole, and treatment rules.

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- 8.4.1 Maintenance exam - scheduling. Maintenance Exams should be completed approximately each six to 12 months. Examiners should discuss with multidisciplinary team members the possible deterrent benefits of randomly scheduled maintenance exams for some examinees.
- 8.4.2. Maintenance exam - examination targets. Investigation targets for the Maintenance Exam should bear operational relevance to an examinee's stability of functioning and any changes in acute risk level as indicated by compliance or non-compliance with the terms and conditions of the supervision and treatment contracts. Any of the terms and conditions of the probation or treatment may be selected as examination targets. Investigation targets for Maintenance Exams should emphasize the development or verification of information that would add incremental validity to the early detection of an escalating level of threat or to the community or to potential victims.
- 8.4.2.1. Unknown allegations. Maintenance Exams should not address known allegations or known incidents, which are properly investigated in the context of an event-specific polygraph exam.
- 8.4.2.2. Compliance focus. Maintenance Exams should emphasize target questions about compliance or non-compliance with supervision and treatment rules. Questions about unlawful sex acts or re-offense behaviors may be included in the examination as long as circumstances related to rights against self-incrimination as listed in the section dealing with Sex Offense Monitoring Examinations (section 8.5) do not exist. An elevated level of concern regarding re-offense should warrant a Sex Offense Monitoring Exam (SOME) – not a Maintenance Exam. Examiners should exercise caution to ensure they do not violate any rights of an examinee regarding the answering of questions about new criminal behaviors.
- 8.4.2.3. Examination targets. Examination targets should include, but are not limited to the following:
- A. Sexual contact with unreported persons of any age, including any form of rubbing or touching of the sexual organs (i.e., breasts, buttocks, or genitalia) of any person not already known or

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reported to the supervision and treatment team, either over or under clothing, for the purpose of sexual arousal/stimulation, sexual gratification, or sexual “curiosity.” It also includes causing or allowing others to touch or rub one's own private parts either over of under clothing, for the purpose of sexual arousal/stimulation, sexual gratification, or sexual “curiosity”; and sexual hugging and kissing activities.

- B. Use of pornography, if prohibited. Pornography use includes viewing or using X-rated (or “XXX”), nude, or pornographic images or materials (e.g., pornographic magazines, pornographic movies on cable television, including scrambled television programming, pornographic movie theaters, pornographic video arcades, videotape, CD/DVD, or other recorded media including pornographic images or materials via computer or the Internet, iPod, cell phone, video games, or any electronic messaging system, or computer communication interaction system if used for sexual arousing imagery). It may also include using non-pornographic erotica (nude or non-nude) images or materials for sexual stimulation or masturbation purposes (e.g., sexually objectifying entertainment magazines, bikini or car magazines, nudity or erotic scenes in non- pornographic movies, sexually oriented stories in magazines, novels, or Internet/computer resources, and/or anything at all on television). This target may be restricted to using pornographic or sexually stimulating materials for masturbation purposes.
- C. Physical contact with underage persons, which can include purposeful activities such as hugging, shaking hands, or playing together, and may also include unplanned or incidental physical contact. Examinees may or may not be subject to restrictions and reporting requirements in this area. Question should address these restrictions as directly as possible. When there are no restrictions this target should be omitted. When a target involving contact with minors is used, examiners should select from either 8.4.2.3.C or 8.4.2.3.D to

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avoid an imbalanced loading of test target issues.

- D. Being alone or unsupervised with underage persons, refers to prohibited activities in which others cannot see, hear, monitor or observe the activities, or for which others are unaware of an activity involving the examinee and one or more underage persons.
- E. Sexual offenses while under supervision, including forced, coerced or violent sexual offenses, sexual offenses against underage persons, incest offenses, or sexual contact with unconscious persons. It may also include sexual deviancy/compulsivity/preoccupation behaviors such as voyeurism, exhibitionism, theft of undergarments, public masturbation or other behaviors.
- F. Use of alcohol, illegal drugs or controlled substances, including tasting or consuming any beverage containing alcohol (if prohibited), or consuming any product containing alcohol for the purpose of becoming intoxicated, inebriated, drunk, “buzzed,” or “relaxed.” It also includes any use of marijuana (whether inhaled or not) or any other illegal drugs. This target also includes any misuse of controlled prescription medications, whether borrowing, sharing, trading, loaning, giving away, or selling one’s own or another person’s prescription medications or using any medication in a manner that is inconsistent with the directions of the prescribing physician.
- G. Use of electronic communication devices for sexual purposes, including computers cell phones, tablets and other devices such a cameras or surveillance and recording systems to observe, interact, or access others for sexual arousal or sexual contact.
- H. Masturbation activities and masturbatory fantasies which may refer to any involvement in masturbation activities when the examinee is prohibited from those activities or it may refer to problematic forms

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of masturbation such as masturbating in a public location or where one could view or be viewed by others. It may also include voluntary or involuntary/intrusive thoughts or fantasies of a minor or past victim while masturbating or masturbation due to stress, boredom, anger, or other negative mood.

- 8.4.3. Maintenance exam - time of reference. Maintenance Exams should address a time of reference subsequent to the date of conviction or the previous Maintenance Exam, generally not exceeding one year and only exceeding two years in rare circumstances. All investigation targets in a test series should have a common time of reference. The time of reference may be described generally as the six-month to a year period preceding the examination; although, there may be reasons for lengthening or shortening the time of reference for some exams.
- 8.4.4. Maintenance exam - testing approach. Examiners should conduct this examination as a multi-issue (mixed-issue) screening examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the Maintenance Exam in a series of more narrowly focused exams when that approach will lead to more accurate or satisfactory resolution of the investigation targets.
- 8.5. Sex offense monitoring exam. Examiners should conduct the Sex Offense Monitoring Exam (SOME) to explore the possibility the examinee may have been involved in unlawful sexual behaviors including a sexual re-offense during a specified period of time. Other relevant questions dealing with behaviors related to probation and treatment compliance should not be included.
- 8.5.1 Sex offense monitoring exam - scheduling. Sex Offense Monitoring Exams should be completed whenever there is a specific request from a supervision or treatment professional to investigate the possibility of a new offense while under supervision. Alternatively, this exam may be used when 1) the likelihood of sexual offense or other sexual crime is elevated because of information received by any member of the team including the examiner, or 2) following a previously unresolved maintenance examination that included a relevant question about sexual offense behavior. Whenever the results of a maintenance exam indicated the need for further testing to obtain a more diagnostic conclusion, a single-issue test format will be utilized. A single-issue Sex Offense Monitoring Exam can be

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expected to have improved diagnostic accuracy over a multi-issue (mixed issue) exam.

8.5.2. Sex offense monitoring exam - examination targets. Examiners should select investigation targets for the Sex Offense Monitoring Examination that pertain to new sex crimes while under supervision based on concerns expressed by the multidisciplinary supervision and treatment team.

8.5.3 Sex offense monitoring exam - time of reference. Sex Offense Monitoring Exams should refer to a time of reference generally following the date of conviction or a previous Monitoring Examination. The time of reference should be clearly stated in the test questions and may include all or any part of the time that the examinee is under supervision or in treatment, including a specific date or restricted period of time. The time of reference should emphasize the investigation of possible unlawful sexual acts or sexual re- offense during the most recent period of months prior to the Sex Offense Monitoring Exam.

8.5.4 Sex offense monitoring exam - testing approach. Examiners should conduct the Sex Offense Monitoring Exam as a multi-issue (mixed-issue) screening examination. However, nothing in this Model Policy should be construed as to prohibit the completion of the Sex Offense Monitoring Exam as a narrowly focused exam when that approach will lend to more accurate or satisfactory resolution of the investigation targets. Examiners should use a single-issue technique when the Sex Offense Monitoring Exam is used to follow-up on a previously unresolved Maintenance Exam.

9. Suitability for testing. Suitable examinees should, at a minimum, be expected to have a capacity for

- A. Abstract thinking;
- B. Insight into their own and others' motivation;
- C. Understand right from wrong;
- D. Telling the basic difference between truth and lies;
- E. Anticipating rewards and consequences for behavior; and
- F. Maintain consistent orientation to date, time, and location.

## Model Policy for Post-Conviction Sex Offender Testing

- 9.1. Medications. Examiners should obtain and note in the examination report a list of the examinee's prescription medication(s), any medical or psychiatric conditions, and any diagnosed acute or chronic medical health conditions.
- 9.2. Trauma and dissociation. Examiners should consult with other professional members about a client's history on trauma and dissociation and proceed with caution.
- 9.3. Unsuitable examinees. Examiners should not test examinees who present as clearly unsuitable for polygraph testing at the time of the examination.
  - 9.3.1 Psychosis. Persons who are acutely psychotic, suicidal, or have un-stabilized or severe mental health conditions, including dementia, should not be tested.
  - 9.3.2 Age. Persons whose chronological age is 12 years or greater should be considered suitable for polygraph testing unless they are substantially impaired. Polygraph testing should not be attempted with persons whose Mean Age Equivalency (MAE) or Standard Age Score (SAS) is below 12 years as determined by standardized psychometric testing (e.g., IQ testing, and adaptive functioning).
  - 9.3.3 Level of functioning. Persons whose level of functioning is deemed profoundly impaired and warranting continuous supervision or assistance may not be suitable for polygraph testing.
  - 9.3.4 Acute injury or illness. Persons suffering from an acute serious injury or illness involving acute pain or distress should not be tested.
  - 9.3.5 Controlled substances. Persons whose functioning is observably impaired due to the influence of non-prescribed or controlled substances should not be tested.
- 9.4. Team approach. Examiners should consult with other professional members of the multidisciplinary supervision and treatment team, prior to the examination, when there is doubt about an examinee's suitability for polygraph testing.
- 9.5. Incremental validity. When there are concerns about an examinee's marginal suitability for testing, examiners should proceed with testing only when the multidisciplinary supervision and treatment team determines that testing would add incremental validity to risk assessment, risk management, and treatment planning decisions through the disclosure,

## Model Policy for Post-Conviction Sex Offender Testing

detection, or deterrence of problem behaviors.

10. Testing procedures. Examiners who engage in PCSOT activities should adhere to all generally accepted polygraph testing protocols and validated principles.
  - 10.1 Case background information. The examiner should request and review all pertinent and available case facts within a time frame sufficient to prepare for the examination.
  - 10.2 Audio-visual or audio recording. Examiners should record all PCSOT polygraph examinations. The recording should include the entire examination from the beginning of the pretest interview to the completion of the posttest review. The recording should be maintained for a minimum of three years. The recording documents the quality of the conduct of the testing protocol; documents the content and authenticity of the content of the information provided by the examinee, thus precluding possible future denials; and facilitates a comprehensive quality assurance review when necessary.
  - 10.3 Pre-test phase. Examiners should conduct a thorough pre-test interview before proceeding to the test phase of any examination. A thorough pretest interview will consist of the following:
    - 10.3.1 Greeting and introduction. Examiners should introduce themselves by their names and orient examinee to the examination room.
    - 10.3.2 Brief explanation of procedure. Examiners should ensure examinees have some information about the ensuing procedure and scope of testing prior to obtaining the authorization and release to complete the exam.
    - 10.3.3 Informed consent. Examiners should obtain an examinee's informed consent to complete the polygraph test. This may be completed in writing and/or on the audio/video recording, to a waiver/release statement. The language of the statement should minimally include 1) the examinee's voluntary consent to take the test, 2) that the examination may be terminated at any time, 3) a statement regarding the examinee's assessment of his or her mental and physical health at the time of the examination, 4) a statement that information will be provided to the examinee about the polygraph test 5) a statement that all information and results will be released to professional members of the community supervision team, 6) an advisement that admission of involvement in unlawful activities will not be concealed from the referring

## Model Policy for Post-Conviction Sex Offender Testing

professionals and, 7) a statement regarding the requirement for audio/video recording of each examination.

- 10.3.4 Biographical data/determination of suitability for testing. Examiners should obtain information about the examinee's background including marital/family status, children, employment, and current living situation in addition to a brief review of the reason for conviction and length/type of sentence. Examiners should obtain, prior to and at the time of the examination, information pertaining to the examinee's suitability for polygraph testing.
- 10.3.5 Explanation of polygraph instrumentation and testing procedures. The testing process should be explained to the examinee, including an explanation of the instrumentation used and the physiological and psychological basis of response. Nothing in this Model Policy should be construed as favoring a particular explanation of polygraph science. In general, an integrated explanation involving emotional attributions, cognitive theory and behavioral learning theory may be the best approach.
- 10.3.6 Structured interview. The examiner should conduct a thorough structured or semi-structured pre-test interview, including a detailed review of the examinee's background and personal information, any applicable case facts and background, a detailed review of each issue of concern, and an opportunity for the examinee to provide his or her version of all issues under investigation. For event-specific diagnostic/investigative polygraphs of known allegations or known incidents, a free-narrative interview is used instead of a structured or semi-structured interview.
- 10.3.7 Review of test questions. Before proceeding to the test phase of an examination, the examiner should review and explain all test questions to the examinee. The examiner should not proceed until satisfied with the examinee's understanding of and response to each issue of concern.
- 10.4 In-test operations. Examiners should adhere to all generally accepted standards and protocols for test operations.

## Model Policy for Post-Conviction Sex Offender Testing

- 10.4.1 Environment. All examinations should be administered in an environment that is free from distractions that would interfere with the examinee's ability to adequately focus on the issues being addressed.
- 10.4.2 Instrumentation. Examiners should use an instrument that is properly functioning in accordance with the manufacturer's specifications.
  - 10.4.2.1 Recording sensors. The instrument should continuously record the following during the test: thoracic and abdominal movement, electrodermal activity, cardiovascular activity, and activity sensors. A channel that detects vasomotor responses or other validated data channels may also be recorded
- 10.4.3 Data acquisition. The conduct of testing should conform to all professional standards concerning the data quality and quantity.
  - 10.4.3.1 Number of presentations. Examiners employing a comparison question technique should conduct a minimum of three presentations of each relevant question. It is acceptable to conduct a fourth or fifth presentation in order to obtain a sufficient volume of interpretable test data.
  - 10.4.3.2 Question intervals. Question intervals should allow a reasonable time for recovery. For comparison question techniques, question intervals from stimulus onset to stimulus onset should not be less than 20 seconds. It is suggested that a time period between 25 and 30 seconds would be superior to the minimum time of 20 seconds.
  - 10.4.3.3 Acquaintance test. An acquaintance test should be administered during the first examination of each examinee by each examiner. Examiners are encouraged to use an acquaintance test during the conduct of other tests as appropriate.
- 10.5. Test data analysis. The examiner should render an empirically-based interpretation of the examinee's responses to the relevant questions based on all information gathered during the examination process.
  - 10.5.1. Scoring methods. Examiners should employ quantitative or numerical scoring for each examination using a scoring method

## Model Policy for Post-Conviction Sex Offender Testing

for which there is known validity and reliability, which has been published and replicated.

- 10.5.2. Results – diagnostic exams. Test results for event-specific diagnostic/investigative tests should be reported as Deception Indicated (DI), No Deception Indicated (NDI) or Inconclusive (INC) / No Opinion (NO).
- 10.5.3. Results – screening exams. Test results of exploratory tests should be reported as Significant Response (SR), No Significant Response (NSR) or No Opinion (NO).
- 10.5.4. Interpretation of the test results. Examiners should render a professional opinion using published and established decision rules to achieve a categorical interpretation of the probabilistic test result. Examiners should render an opinion that the examinee was deceptive when the test results are SR or DI for any of the investigation targets. Examiners should render an opinion that the examinee was truthful when the test results are NSR or NDI for all of the investigation targets. Examiners should not conclude an examinee is deceptive in responses to one or more investigation targets and non-deceptive in responses to other investigation targets within the same examination.
- 10.5.5. Non-cooperation. Examiners should note in the examination report whenever there is evidence that an examinee has attempted to falsify or manipulate the test results and whether the examinee was forthcoming in explaining his or her behavior during the test. An opinion that the examinee was Purposefully Non-Cooperative (PNC) is appropriate when there is evidence that an examinee was attempting to alter his or her physiological response data. Examiners reporting an examinee was PNC are not precluded from rendering an opinion that the examinee was deceptive (SR/DI) when the numerical scores support a conclusion that there were significant reactions to one or more relevant questions. Examiners should not render an opinion of truthfulness (NSR/NDI) when there is evidence that an examinee has attempted to falsify or manipulate the test results.
- 10.5.6. Data quality. Examiners should not render a conclusive opinion when there is insufficient data of adequate quality and clarity to allow a minimum of three interpretable presentations of each of the investigation targets.

## Model Policy for Post-Conviction Sex Offender Testing

- 10.5.7. Computer algorithms. Computer scoring algorithms should not be used to score examination data that is of insufficient quality for manual scoring.
- 10.6. Posttest review. The examiner should review the initial test results with the examinee, advise the examinee of any significant responses to any of the test questions, and provide the examinee an opportunity to explain or resolve any reactions or inconsistencies. The posttest interview may be done in collaboration with other treatment and supervision professionals.
- 11 Examination report. Examiners should issue a written report containing factual and objective accounts of all pertinent information developed during the examination, including case background information, test questions, answers, results, and statements made by the examinee during the pre-test and post-test interviews.
- 11.4 Dissemination of test results and information. The polygraph examination report should be provided to the professional members of the community supervision team who are involved in risk assessment, risk management, and treatment/intervention planning activities.
- 11.4.2 Dissemination to other authorities. Reports and related work products should be released to the court, parole board or other releasing agency, or other professionals at the discretion of the community supervision team or as required by law.
- 11.4.3 Communication after the exam. Following the completion of the posttest review, examiners should not communicate with the examinee or examinee's family members regarding the examination results except in the context of a formal case staffing.
- 11.2 Scope of expertise. Examiners should not attempt to render any opinion concerning the truthfulness of the examinee prior to the completing the test phase and test-data- analysis. Examiners should not attempt to render any opinion regarding the medical or psychological condition of the examinee beyond the requirement to determine suitability for testing at the time of the examination. Post-test recommendations should be limited to need for resolution of the behavioral targets of the examination within the scope of the examiner's professional capabilities.
- 12 Records retention. Examiners should retain all documentation, data, and the recording of each examination for a period of at least three years or as required by law.

## Model Policy for Post-Conviction Sex Offender Testing

- 13 Quality assurance. To ensure examiner compliance with these recommendations and other field practice requirements and to sustain the quality of the testing process, an independent quality control peer-review of a portion of each examiner's work product should take place annually.
- 14 Examiner qualifications. Examiners whose work is to be considered consistent with the requirements of this Model Policy shall have completed a basic course of polygraph training at a polygraph school accredited by the APA or meet other training, experience and competency requirements for professional membership in the APA.
  - 14.01 Specialized training. Examiners shall have successfully completed a minimum of forty (40) hours of specialized Post-Conviction Sex Offender training that adheres to the standards established by the APA.
  - 14.2 Continuing education. Examiners shall successfully complete a minimum of thirty (30) continuing education hours that are recognized by the APA every two (2) years.

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## CONFIDENTIALITY OF CORI INFORMATION

Criminal Offender Record Information (CORI) is that information which is recorded as the result of an arrest, detention or other initiation of criminal proceedings including any consequent proceedings related thereto. As an employee of \_\_\_\_\_, during the legitimate course of your duties, you may have access to CORI. The Probation Department has a policy of protecting the confidentiality of Criminal Offender Record Information.

You are required to protect the information contained in documents against disclosure to all individuals who do not have a right-to-know or a need-to-know this information.

The use of any information obtained from case files or other related sources of CORI to make contacts with probationers or their relatives, or to make CORI available to anyone who has no real and proper reason to have access to this information as determined solely by the Probation Department is considered a breach of confidentiality, inappropriate and unauthorized.

Any \_\_\_\_\_ employee engaging in such activities is in violation of the Probation Department's confidentiality policy and will be subject to appropriate disciplinary action and/or criminal action pursuant to Section 11142 of the Penal Code.

I have read and understand the Probation Department's policy concerning the confidentiality of CORI records.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Classification

\_\_\_\_\_  
Date

Copy to be forwarded to County Program Manager within five (5) business days of start of employment.

**PERFORMANCE REQUIREMENT SUMMARY (PRS) CHART**

<b>REQUIRED SERVICES</b>	<b>STANDARD</b>	<b>MAXIMUM ALLOWED DEVIATION (AQLS)</b>	<b>METHOD OF SURVEILLANCE</b>	<b>LIQUIDATED DAMAGES FOR EXCEEDING THE AQLS</b>
Overall compliance with Section 1.0 (Scope of Work) of Appendix A (Statement of Work)	100% adherence to County requirements	5%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence
Overall compliance with Section 2.0 (Specific Tasks) of Appendix A (Statement of Work)	100% adherence to County requirements	5%	- Random Inspections - Random Samplings - Information from Contractor Reports	\$100 per day until rectified
The Contractor shall establish and maintain a Quality Control Plan to assure that the requirements of the Contract are met pursuant to Section 3.0 (Quality Control) of Appendix A (Statement of Work)	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence
Personnel assigned to provide service under this Contract shall be fingerprinted prior to providing services pursuant to Paragraph 34.1 of the Master Agreement (Exhibit A – Additional Terms and Conditions)	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence
No Contractor personnel shall have a criminal conviction unless such record has been fully disclosed previously pursuant to Paragraph 34.2 of the Master Agreement (Exhibit A - Additional Terms and Conditions)	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence
The Contractor shall reimburse County for record check pursuant to Paragraph 34.6 of the Master Agreement (Exhibit A – Additional Terms and Conditions)	100% adherence to County requirements	0%	- User and/or Staff Complaints - Random Inspections - Random and/or Judgmental Samplings	Up to \$100 per occurrence
The Contractor in compliance with the Master Agreement and Exhibit A, Additional Terms and Conditions	100% adherence to County requirements	5%	- Random Inspections - Random Samplings - Information from Contractor Reports	\$100 per day until rectified

## INFORMATION SECURITY AND PRIVACY REQUIREMENTS

This Exhibit X (Information Security and Privacy Requirements (together with all addenda attached hereto, the “Exhibit”) is attached to and forms a part of that certain Agreement for Random Moment Time Keeping System (RMS) Title IV-E Claims for the Los Angeles Probation Department (County) including staff training, assisting in financial compilation and case planning for federal funding, dated as of the Effective Date (together with all Exhibits, Attachments, and Schedules thereto, all as amended from time to time, the “Agreement”), between the County of Los Angeles (“County”) on behalf of its Probation Department (“Department”), and JBI (“Contractor”). Capitalized terms used herein without definition have the meanings given to such terms in the Agreement.

The County of Los Angeles (“County”) is committed to safeguarding the Integrity of the County systems, Data, Information and protecting the privacy rights of the individuals that it serves. This Information Security and Privacy Requirements Exhibit (“Exhibit”) sets forth the County and the Contractor’s commitment and agreement to fulfill each of their obligations under applicable state or federal laws, rules, or regulations, as well as applicable industry standards concerning privacy, Data protections, Information Security, Confidentiality, Availability, and Integrity of such Information. The Information Security and privacy requirements and procedures in this Exhibit are to be established by the Contractor before the Effective Date of the Contract and maintained throughout the term of the Contract.

These requirements and procedures are a minimum standard and are in addition to the requirements of the underlying base agreement between the County and Contractor (the “Contract”) and any other agreements between the parties. However, it is the Contractor’s sole obligation to: (i) implement appropriate and reasonable measures to secure and protect its systems and all County Information against internal and external Threats and Risks; and (ii) continuously review and revise those measures to address ongoing Threats and Risks. Failure to comply with the minimum requirements and procedures set forth in this Exhibit will constitute a material, non-curable breach of Contract by the Contractor, entitling the County, in addition to the cumulative of all other remedies available to it at law, in equity, or under the Contract, to immediately terminate the Contract. To the extent there are conflicts between this Exhibit and the Contract, this Exhibit shall prevail unless stated otherwise.

## 1. DEFINITIONS

Unless otherwise defined in the Contract, the definitions herein contained are specific to the uses within this exhibit.

- a. **Availability:** the condition of Information being accessible and usable upon demand by an authorized entity (Workforce Member or process).

## INFORMATION SECURITY AND PRIVACY REQUIREMENTS

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- b. **Confidentiality:** the condition that Information is not disclosed to system entities (users, processes, devices) unless they have been authorized to access the Information.
- c. **County Information:** all Data and Information belonging to the County.
- d. **Data:** a subset of Information comprised of qualitative or quantitative values.
- e. **Incident:** a suspected, attempted, successful, or imminent Threat of unauthorized electronic and/or physical access, use, disclosure, breach, modification, or destruction of information; interference with Information Technology operations; or significant violation of County policy.
- f. **Information:** any communication or representation of knowledge or understanding such as facts, Data, or opinions in any medium or form, including electronic, textual, numerical, graphic, cartographic, narrative, or audiovisual.
- g. **Information Security Policy:** high level statements of intention and direction of an organization used to create an organization's Information Security Program as formally expressed by its top management.
- h. **Information Security Program:** formalized and implemented Information Security Policies, standards and procedures that are documented describing the program management safeguards and common controls in place or those planned for meeting the County's information security requirements.
- i. **Information Technology:** any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of Data or Information.
- j. **Integrity:** the condition whereby Data or Information has not been improperly modified or destroyed and authenticity of the Data or Information can be ensured.
- k. **Mobile Device Management (MDM):** software that allows Information Technology administrators to control, secure, and enforce policies on smartphones, tablets, and other endpoints.
- l. **Privacy Policy:** high level statements of intention and direction of an organization used to create an organization's Privacy Program as formally expressed by its top management.
- m. **Privacy Program:** A formal document that provides an overview of an organization's privacy program, including a description of the structure of the privacy program, the resources dedicated to the privacy program, the role of the organization's privacy official and other staff, the strategic

## INFORMATION SECURITY AND PRIVACY REQUIREMENTS

goals and objectives of the Privacy Program, and the program management controls and common controls in place or planned for meeting applicable privacy requirements and managing privacy risks.

- n. **Risk:** a measure of the extent to which the County is threatened by a potential circumstance or event, Risk is typically a function of: (i) the adverse impacts that would arise if the circumstance or event occurs; and (ii) the likelihood of occurrence.
- o. **Threat:** any circumstance or event with the potential to adversely impact County operations (including mission, functions, image, or reputation), organizational assets, individuals, or other organizations through an Information System via unauthorized access, destruction, disclosure, modification of Information, and/or denial of service.
- p. **Vulnerability:** a weakness in a system, application, network or process that is subject to exploitation or misuse.
- q. **Workforce Member:** employees, volunteers, and other persons whose conduct, in the performance of work for Los Angeles County, is under the direct control of Los Angeles County, whether or not they are paid by Los Angeles County. This includes, but may not be limited to, full and part time elected or appointed officials, employees, affiliates, associates, students, volunteers, and staff from third party entities who provide service to the County.

## 2. INFORMATION SECURITY AND PRIVACY PROGRAMS

- a. **Information Security Program.** The Contractor shall maintain a company-wide Information Security Program designed to evaluate Risks to the Confidentiality, Availability, and Integrity of the County Information covered under this Contract.

Contractor's Information Security Program shall include the creation and maintenance of Information Security Policies, standards, and procedures. Information Security Policies, standards, and procedures will be communicated to all Contractor employees in a relevant, accessible, and understandable form and will be regularly reviewed and evaluated to ensure operational effectiveness, compliance with all applicable laws and regulations, and addresses new and emerging Threats and Risks.

The Contractor shall exercise the same degree of care in safeguarding and protecting County Information that the Contractor exercises with respect to its own Information and Data, but in no event less than a reasonable degree of care. The Contractor will implement, maintain, and use appropriate administrative, technical, and physical security measures to

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

preserve the Confidentiality, Integrity, and Availability of County Information.

The Contractor's Information Security Program shall:

- a) Protect the Confidentiality, Integrity, and Availability of County Information in the Contractor's possession or control;
  - b) Protect against any anticipated Threats or hazards to the Confidentiality, Integrity, and Availability of County Information;
  - c) Protect against unauthorized or unlawful access, use, disclosure, alteration, or destruction of County Information;
  - d) Protect against accidental loss or destruction of, or damage to, County Information; and
  - e) Safeguard County Information in compliance with any applicable laws and regulations which apply to the Contractor.
- b. **Privacy Program.** The Contractor shall establish and maintain a company-wide Privacy Program designed to incorporate Privacy Policies and practices in its business operations to provide safeguards for Information, including County Information. The Contractor's Privacy Program shall include the development of, and ongoing reviews and updates to Privacy Policies, guidelines, procedures and appropriate workforce privacy training within its organization. These Privacy Policies, guidelines, procedures, and appropriate training will be provided to all Contractor employees, agents, and volunteers. The Contractor's Privacy Policies, guidelines, and procedures shall be continuously reviewed and updated for effectiveness and compliance with applicable laws and regulations, and to appropriately respond to new and emerging Threats and Risks. The Contractor's Privacy Program shall perform ongoing monitoring and audits of operations to identify and mitigate privacy Threats.

The Contractor shall exercise the same degree of care in safeguarding the privacy of County Information that the Contractor exercises with respect to its own Information, but in no event less than a reasonable degree of care. The Contractor will implement, maintain, and use appropriate privacy practices and protocols to preserve the Confidentiality of County Information.

The Contractor's Privacy Program shall include:

- a) A Privacy Program framework that identifies and ensures that the Contractor complies with all applicable laws and regulations;

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

- b) External Privacy Policies, and internal privacy policies, procedures and controls to support the privacy program;
- c) Protections against unauthorized or unlawful access, use, disclosure, alteration, or destruction of County Information;
- d) A training program that covers Privacy Policies, protocols and awareness;
- e) A response plan to address privacy Incidents and privacy breaches; and
- f) Ongoing privacy assessments and audits.

**3. PROPERTY RIGHTS TO COUNTY INFORMATION**

All County Information is deemed property of the County, and the County shall retain exclusive rights and ownership thereto. County Information shall not be used by the Contractor for any purpose other than as required under this Contract, nor shall such or any part of such be disclosed, sold, assigned, leased, or otherwise disposed of, to third parties by the Contractor, or commercially exploited or otherwise used by, or on behalf of, the Contractor, its officers, directors, employees, or agents. The Contractor may assert no lien on or right to withhold from the County, any County Information it receives from, receives addressed to, or stores on behalf of, the County. Notwithstanding the foregoing, the Contractor may aggregate, compile, and use County Information in order to improve, develop or enhance the System Software and/or other services offered, or to be offered, by the Contractor, provided that (i) no County Information in such aggregated or compiled pool is identifiable as originating from, or can be traced back to the County, and (ii) such Data or Information cannot be associated or matched with the identity of an individual alone, or linkable to a specific individual. The Contractor specifically consents to the County's access to such County Information held, stored, or maintained on any and all devices Contractor owns, leases or possesses.

**4. CONTRACTOR'S USE OF COUNTY INFORMATION**

The Contractor may use County Information only as necessary to carry out its obligations under this Contract. The Contractor shall collect, maintain, or use County Information only for the purposes specified in the Contract and, in all cases, in compliance with all applicable local, state, and federal laws and regulations governing the collection, maintenance, transmission, dissemination, storage, use, and destruction of County Information, including, but not limited to, (i) any state and federal law governing the protection of personal Information, (ii) any state and federal security breach notification laws, and (iii) the rules, regulations and directives of the Federal Trade Commission, as amended from time to time.

## INFORMATION SECURITY AND PRIVACY REQUIREMENTS

## 5. SHARING COUNTY INFORMATION AND DATA

The Contractor shall not share, release, disclose, disseminate, make available, transfer, or otherwise communicate orally, in writing, or by electronic or other means, County Information to a third party for monetary or other valuable consideration.

## 6. CONFIDENTIALITY

- a. **Confidentiality of County Information.** The Contractor agrees that all County Information is Confidential and proprietary to the County regardless of whether such Information was disclosed intentionally or unintentionally, or marked as "confidential".
- b. **Disclosure of County Information.** The Contractor may disclose County Information only as necessary to carry out its obligations under this Contract, or as required by law, and is prohibited from using County Information for any other purpose without the prior express written approval of the County's contract administrator in consultation with the County's Chief Information Security Officer and/or Chief Privacy Officer. If required by a court of competent jurisdiction or an administrative body to disclose County Information, the Contractor shall notify the County's contract administrator immediately and prior to any such disclosure, to provide the County an opportunity to oppose or otherwise respond to such disclosure, unless prohibited by law from doing so.
- c. **Disclosure Restrictions of Non-Public Information.** While performing work under the Contract, the Contractor may encounter County Non-public Information ("NPI") in the course of performing this Contract, including, but not limited to, licensed technology, drawings, schematics, manuals, sealed court records, and other materials described and/or identified as "Internal Use", "Confidential" or "Restricted" as defined in Board of Supervisors Policy 6.104 – Information Classification Policy as NPI. The Contractor shall not disclose or publish any County NPI and material received or used in performance of this Contract. This obligation is perpetual.
- d. **Individual Requests.** The Contractor shall acknowledge any request or instructions from the County regarding the exercise of any individual's privacy rights provided under applicable federal or state laws. The Contractor shall have in place appropriate policies and procedures to promptly respond to such requests and comply with any request or instructions from the County within seven (7) calendar days. If an individual makes a request directly to the Contractor involving County Information, the Contractor shall notify the County within five (5) calendar days and the County will coordinate an appropriate response, which may include

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

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instructing the Contractor to assist in fulfilling the request. Similarly, if the Contractor receives a privacy or security complaint from an individual regarding County Information, the Contractor shall notify the County as described in Section 14 SECURITY AND PRIVACY INCIDENTS, and the County will coordinate an appropriate response.

- e. **Retention of County Information.** The Contractor shall not retain any County Information for any period longer than necessary for the Contractor to fulfill its obligations under the Contract and applicable law, whichever is longest.

**7. CONTRACTOR EMPLOYEES**

The Contractor shall perform background and security investigation procedures in the manner prescribed in this section unless the Contract prescribes procedures for conducting background and security investigations and those procedures are no less stringent than the procedures described in this section. To the extent permitted by applicable law, the Contractor shall screen and conduct background investigations on all Contractor employees and Subcontractors as appropriate to their role, with access to County Information for potential security Risks. Such background investigations must be obtained through fingerprints submitted to the California Department of Justice to include State, local, and federal-level review and conducted in accordance with the law, may include criminal and financial history to the extent permitted under the law, and will be repeated on a regular basis. The fees associated with the background investigation shall be at the expense of the Contractor, regardless of whether the member of the Contractor's staff passes or fails the background investigation. The Contractor, in compliance with its legal obligations, shall conduct an individualized assessment of their employees, agents, and volunteers regarding the nature and gravity of a criminal offense or conduct; the time that has passed since a criminal offense or conduct and completion of the sentence; and the nature of the access to County Information to ensure that no individual accesses County Information whose past criminal conduct poses a risk or threat to County Information.

The Contractor shall require all employees, agents, and volunteers to abide by the requirements in this Exhibit, as set forth in the Contract, and sign an appropriate written Confidentiality/non-disclosure agreement with the Contractor.

The Contractor shall supply each of its employees with appropriate, annual training regarding Information Security procedures, Risks, and Threats. The Contractor agrees that training will cover, but may not be limited to the following topics:

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

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- a) **Secure Authentication:** The importance of utilizing secure authentication, including proper management of authentication credentials (login name and password) and multi-factor authentication.
- b) **Social Engineering Attacks:** Identifying different forms of social engineering including, but not limited to, phishing, phone scams, and impersonation calls.
- c) **Handling of County Information:** The proper identification, storage, transfer, archiving, and destruction of County Information.
- d) **Causes of Unintentional Information Exposure:** Provide awareness of causes of unintentional exposure of Information such as lost mobile devices, emailing Information to inappropriate recipients, etc.
- e) **Identifying and Reporting Incidents:** Awareness of the most common indicators of an Incident and how such indicators should be reported within the organization.
- f) **Privacy:** The Contractor's Privacy Policies and procedures as described in Section 2b. Privacy Program. The Contractor shall have an established set of procedures to ensure the Contractor's employees promptly report actual and/or suspected breaches of security.

**8. SUBCONTRACTORS AND THIRD PARTIES**

The County acknowledges that in the course of performing its services, the Contractor may desire or require the use of goods, services, and/or assistance of Subcontractors or other third parties or suppliers. The terms of this Exhibit shall also apply to all Subcontractors and third parties. The Contractor or third party shall be subject to the following terms and conditions: (i) each Subcontractor and third party must agree in writing to comply with and be bound by the applicable terms and conditions of this Exhibit, both for itself and to enable the Contractor to be and remain in compliance with its obligations hereunder, including those provisions relating to Confidentiality, Integrity, Availability, disclosures, security, and such other terms and conditions as may be reasonably necessary to effectuate the Contract including this Exhibit; and (ii) the Contractor shall be and remain fully liable for the acts and omissions of each Subcontractor and third party, and fully responsible for the due and proper performance of all Contractor obligations under this Contract.

The Contractor shall obtain advanced approval from the County's Chief Information Security Officer and/or Chief Privacy Officer prior to subcontracting services subject to this Exhibit.

## INFORMATION SECURITY AND PRIVACY REQUIREMENTS

**9. STORAGE AND TRANSMISSION OF COUNTY INFORMATION**

All County Information shall be rendered unusable, unreadable, or indecipherable to unauthorized individuals. Without limiting the generality of the foregoing, the Contractor will encrypt all workstations, portable devices (such as mobile, wearables, tablets,) and removable media (such as portable or removable hard disks, floppy disks, USB memory drives, CDs, DVDs, magnetic tape, and all other removable storage media) that store County Information in accordance with Federal Information Processing Standard (FIPS) 140-2 or otherwise approved by the County's Chief Information Security Officer.

The Contractor will encrypt County Information transmitted on networks outside of the Contractor's control with Transport Layer Security (TLS) or Internet Protocol Security (IPSec), at a minimum cipher strength of 128 bit or an equivalent secure transmission protocol or method approved by County's Chief Information Security Officer.

The Contractor shall store any County data in a secure government cloud environment in the USA as applicable. All mobile devices storing County Information shall be managed by a Mobile Device Management system. Such system must provide provisions to enforce a password/passcode on enrolled mobile devices. All workstations/Personal Computers (including laptops, 2-in-1s, and tablets) will maintain the latest operating system security patches, and the latest virus definitions. Virus scans must be performed at least monthly. Request for less frequent scanning must be approved in writing by the County's Chief Information Security Officer.

**10. RETURN OR DESTRUCTION OF COUNTY INFORMATION**

The Contractor shall return or destroy County Information in the manner prescribed in this section unless the Contract prescribes procedures for returning or destroying County Information and those procedures are no less stringent than the procedures described in this section.

- a) **Return or Destruction.** Upon County's written request, or upon expiration or termination of this Contract for any reason, Contractor shall (i) promptly return or destroy, at the County's option, all originals and copies of all documents and materials it has received containing County Information; or (ii) if return or destruction is not permissible under applicable law, continue to protect such Information in accordance with the terms of this Contract; and (iii) deliver or destroy, at the County's option, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by the Contractor, prepared under its

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

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direction, or at its request, from the documents and materials referred to in Subsection (i) of this Section. For all documents or materials referred to in Subsections (i) and (ii) of this Section that the County requests be returned to the County, the Contractor shall provide a written attestation on company letterhead certifying that all documents and materials have been delivered to the County. For documents or materials referred to in Subsections (i) and (ii) of this Section that the County requests be destroyed, the Contractor shall provide an attestation on company letterhead and certified documentation from a media destruction firm consistent with subdivision b of this Section. Upon termination or expiration of the Contract or at any time upon the County's request, the Contractor shall return all hardware, if any, provided by the County to the Contractor. The hardware should be physically sealed and returned via a bonded courier, or as otherwise directed by the County.

- b) **Method of Destruction.** The Contractor shall destroy all originals and copies by (i) cross-cut shredding paper, film, or other hard copy media so that the Information cannot be read or otherwise reconstructed; and (ii) purging, or destroying electronic media containing County Information consistent with NIST Special Publication 800-88, "Guidelines for Media Sanitization" such that the County Information cannot be retrieved. The Contractor will provide an attestation on company letterhead and certified documentation from a media destruction firm, detailing the destruction method used and the County Information involved, the date of destruction, and the company or individual who performed the destruction. Such statement will be sent to the designated County contract manager within ten (10) days of termination or expiration of the Contract or at any time upon the County's request. On termination or expiration of this Contract, the County will return or destroy all Contractor's Information marked as confidential (excluding items licensed to the County hereunder, or that provided to the County by the Contractor hereunder), at the County's option.

**11. PHYSICAL AND ENVIRONMENTAL SECURITY**

All Contractor facilities that process County Information will be located in secure areas and protected by perimeter security such as barrier access controls (e.g., the use of guards and entry badges) that provide a physically secure environment from unauthorized access, damage, and interference. All Contractor facilities that process County Information will be maintained with physical and environmental controls (temperature and humidity) that meet or exceed hardware manufacturer's specifications.

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS****12. OPERATIONAL MANAGEMENT, BUSINESS CONTINUITY, AND DISASTER RECOVERY**

The Contractor shall: (i) monitor and manage all of its Information processing facilities, including, without limitation, implementing operational procedures, change management, and Incident response procedures consistent with Section 14 SECURITY AND PRIVACY INCIDENTS; and (ii) deploy adequate anti-malware software and adequate back-up systems to ensure essential business Information can be promptly recovered in the event of a disaster or media failure; and (iii) ensure its operating procedures are adequately documented and designed to protect Information and computer media from theft and unauthorized access.

The Contractor must have business continuity and disaster recovery plans. These plans must include a geographically separate back-up data center and a formal framework by which an unplanned event will be managed to minimize the loss of County Information and services. The formal framework includes a defined back-up policy and associated procedures, including documented policies and procedures designed to: (i) perform back-up of data to a remote back-up data center in a scheduled and timely manner; (ii) provide effective controls to safeguard backed-up data; (iii) securely transfer County Information to and from back-up location; (iv) fully restore applications and operating systems; and (v) demonstrate periodic testing of restoration from back-up location. If the Contractor makes backups to removable media (as described in Section 9 STORAGE AND TRANSMISSION OF COUNTY INFORMATION), all such backups shall be encrypted in compliance with the encryption requirements noted above in Section 9 STORAGE AND TRANSMISSION OF COUNTY INFORMATION.

**13. ACCESS CONTROL**

Subject to and without limiting the requirements under Section 9 STORAGE AND TRANSMISSION OF COUNTY INFORMATION, County Information (i) may only be made available and accessible to those parties explicitly authorized under the Contract or otherwise expressly approved by the County Project Director or Project Manager in writing; and (ii) if transferred using removable media (as described in Section 9 STORAGE AND TRANSMISSION OF COUNTY INFORMATION) must be sent via a bonded courier and protected using encryption technology designated by the Contractor and approved by the County's Chief

Information Security Officer in writing. The foregoing requirements shall apply to back-up media stored by the Contractor at off-site facilities.

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

The Contractor shall implement formal procedures to control access to County systems, services, and/or Information, including, but not limited to, user account management procedures and the following controls:

- a) Network access to both internal and external networked services shall be controlled, including, but not limited to, the use of industry standard and properly configured firewalls;
- b) Operating systems will be used to enforce access controls to computer resources including, but not limited to, multi-factor authentication, use of virtual private networks (VPN), authorization, and event logging;
- c) The Contractor will conduct regular, no less often than semi-annually, user access reviews to ensure that unnecessary and/or unused access to County Information is removed in a timely manner;
- d) Applications will include access control to limit user access to County Information and application system functions;
- e) All systems will be monitored to detect deviation from access control policies and identify suspicious activity. The Contractor shall record, review and act upon all events in accordance with Incident response policies set forth in Section 14 SECURITY AND PRIVACY INCIDENTS; and
- f) In the event any hardware, storage media, or removable media (as described in Section 9 STORAGE AND TRANSMISSION OF COUNTY INFORMATION) must be disposed of or sent off-site for servicing, the Contractor shall ensure all County Information, has been eradicated from such hardware and/or media using industry best practices as discussed in Section 9 STORAGE AND TRANSMISSION OF COUNTY INFORMATION.

**14. SECURITY AND PRIVACY INCIDENTS**

In the event of a Security or Privacy Incident, the Contractor shall:

- a) Promptly notify the County’s Chief Information Security Officer, the Departmental Information Security Officer, and the County’s Chief Privacy Officer of any Incidents involving County Information, within twenty-four (24) hours of detection of the Incident. All notifications shall be submitted via encrypted email and telephone.

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

**County Chief Information Security Officer and Chief Privacy Officer email**  
[CISO-CPO\\_Notify@lacounty.gov](mailto:CISO-CPO_Notify@lacounty.gov)

**Chief Information Security Officer:**

Ralph Johnson, Chief Information Security Officer  
320 W. Temple, 7<sup>th</sup> Floor  
Los Angeles, CA 90012  
(213) 253-5600

**Chief Privacy Officer:**

Lillian Russell, Chief Privacy Officer  
320 W Temple, 7<sup>th</sup> Floor  
Los Angeles, CA 90012  
(213) 351-5363

**Departmental Information Security Officer:**

Name: Zaven Buickians, Departmental Information Security Officer  
Address: 9150 E. Imperial HWY  
City, State Zip: Downey, CA 90242  
Telephone Email address: [Zaven.Buickians@probation.lacounty.gov](mailto:Zaven.Buickians@probation.lacounty.gov)

- b) Include the following Information in all notices:
  - i. The date and time of discovery of the Incident,
  - ii. The approximate date and time of the Incident,
  - iii. A description of the type of County Information involved in the reported Incident, and
  - iv. A summary of the relevant facts, including a description of measures being taken to respond to and remediate the Incident, and any planned corrective actions as they are identified.
  - v. The name and contact information for the organizations official representative(s), with relevant business and technical information relating to the incident.
- c) Cooperate with the County to investigate the Incident and seek to identify the specific County Information involved in the Incident upon the County's written request, without charge, unless the Incident was caused by the acts or omissions of the County. As Information about the Incident is collected or otherwise becomes available to the Contractor, and unless prohibited by law, the Contractor shall provide Information regarding the nature and consequences of the Incident that are reasonably requested by the County to allow the County to notify affected individuals, government agencies, and/or credit bureaus.

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

- d) Immediately initiate the appropriate portions of their Business Continuity and/or Disaster Recovery plans in the event of an Incident causing an interference with Information Technology operations.
- e) Assist and cooperate with forensic investigators, the County, law firms, and and/or law enforcement agencies at the direction of the County to help determine the nature, extent, and source of any Incident, and reasonably assist and cooperate with the County on any additional disclosures that the County is required to make as a result of the Incident.
- f) Allow the County or its third-party designee at the County's election to perform audits and tests of the Contractor's environment that may include, but are not limited to, interviews of relevant employees, review of documentation, or technical inspection of systems, as they relate to the receipt, maintenance, use, retention, and authorized destruction of County Information.

Notwithstanding any other provisions in this Contract and Exhibit, The Contractor shall be (i) liable for all damages and fines, (ii) responsible for all corrective action, and (iii) responsible for all notifications arising from an Incident involving County Information caused by the Contractor's weaknesses, negligence, errors, or lack of Information Security or privacy controls or provisions.

**15. NON-EXCLUSIVE EQUITABLE REMEDY**

The Contractor acknowledges and agrees that due to the unique nature of County Information there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may result in irreparable harm to the County, and therefore, that upon any such breach, the County will be entitled to appropriate equitable remedies, and may seek injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies are available within law or equity. Any breach of Section 6 CONFIDENTIALITY shall constitute a material breach of this Contract and be grounds for immediate termination of this Contract in the exclusive discretion of the County.

**16. AUDIT AND INSPECTION**

- a) **Self-Audits.** The Contractor shall periodically conduct audits, assessments, testing of the system of controls, and testing of Information Security and privacy procedures, including penetration testing, intrusion detection, and firewall configuration reviews. These periodic audits will be conducted by staff certified to perform the specific audit in question at Contractor's sole cost and expense through either (i) an internal independent audit function, (ii) a nationally recognized, external,

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

independent auditor, or (iii) another independent auditor approved by the County.

The Contractor shall have a process for correcting control deficiencies that have been identified in the periodic audit, including follow up documentation providing evidence of such corrections. The Contractor shall provide the audit results and any corrective action documentation to the County promptly upon its completion at the County's request. With respect to any other report, certification, or audit or test results prepared or received by the Contractor that contains any County Information, the Contractor shall promptly provide the County with copies of the same upon the County's reasonable request, including identification of any failure or exception in the Contractor's Information systems, products, and services, and the corresponding steps taken by the Contractor to mitigate such failure or exception. Any reports and related materials provided to the County pursuant to this Section shall be provided at no additional charge to the County.

- b) **County Requested Audits.** At its own expense, the County, or an independent third-party auditor commissioned by the County, shall have the right to audit the Contractor's infrastructure, security and privacy practices, Data center, services and/or systems storing or processing County Information via an onsite inspection at least once a year. Upon the County's request the Contractor shall complete a questionnaire regarding Contractor's Information Security and/or program. The County shall pay for the County requested audit unless the auditor finds that the Contractor has materially breached this Exhibit, in which case the Contractor shall bear all costs of the audit; and if the audit reveals material non-compliance with this Exhibit, the County may exercise its termination rights underneath the Contract.

Such audit shall be conducted during the Contractor's normal business hours with reasonable advance notice, in a manner that does not materially disrupt or otherwise unreasonably and adversely affect the Contractor's normal business operations. The County's request for the audit will specify the scope and areas (e.g., Administrative, Physical, and Technical) that are subject to the audit and may include, but are not limited to physical controls inspection, process reviews, policy reviews, evidence of external and internal Vulnerability scans, penetration test results, evidence of code reviews, and evidence of system configuration and audit log reviews. It is understood that the results may be filtered to remove the specific Information of other Contractor customers such as IP address, server names, etc. The Contractor shall cooperate with the County in the development of the scope and methodology for the audit, and the timing

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

and implementation of the audit. This right of access shall extend to any regulators with oversight of the County. The Contractor agrees to comply with all reasonable recommendations that result from such inspections, tests, and audits within reasonable timeframes.

When not prohibited by regulation, the Contractor will provide to the County a summary of: (i) the results of any security audits, security reviews, or other relevant audits, conducted by the Contractor or a third party; and (ii) corrective actions or modifications, if any, the Contractor will implement in response to such audits.

**17. INTENTIONALLY OMITTED**

**18. PRIVACY AND SECURITY INDEMNIFICATION**

In addition to the indemnification provisions in the Contract, the Contractor agrees to indemnify, defend, and hold harmless the County, its Special Districts, elected and appointed officers, agents, employees, and volunteers from and against any and all claims, demands liabilities, damages, judgments, awards, losses, costs, expenses or fees including reasonable attorneys' fees, accounting and other expert, consulting or professional fees, and amounts paid in any settlement arising from, connected with, or relating to:

- The Contractor's violation of any federal and state laws in connection with its accessing, collecting, processing, storing, disclosing, or otherwise using County Information;
- The Contractor's failure to perform or comply with any terms and conditions of this Contract or related agreements with the County; and/or,
- Any Information loss, breach of Confidentiality, or Incident involving any County Information that occurs on the Contractor's systems or networks (including all costs and expenses incurred by the County to remedy the effects of such loss, breach of Confidentiality, or Incident, which may include (i) providing appropriate notice to individuals and governmental authorities, (ii) responding to individuals' and governmental authorities' inquiries, (iii) providing credit monitoring to individuals, and (iv) conducting litigation and settlements with individuals and governmental authorities).

Notwithstanding the preceding sentences, the County shall have the right to participate in any such defense at its sole cost and expense, except that in the event contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and to reimbursement from contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

**ADDENDUM A: SOFTWARE AS A SERVICE (SaaS)**

- a. **License:** Subject to the terms and conditions set forth in this Contract, including payment of the license fees by to the Contractor, the Contractor hereby grants to County a non-exclusive, non-transferable worldwide County license to use the SaaS, as well as any documentation and training materials, during the term of this Contract to enable the County to use the full benefits of the SaaS and achieve the purposes stated herein.
- b. **Business Continuity:** In the event that the Contractor's infrastructure containing or processing County Information becomes lost, altered, damaged, interrupted, destroyed, or otherwise limited in functionality in a way that affects the County's use of the SaaS, The Contractor shall immediately and within twenty- four (24) hours implement the Contractor's Business Continuity Plan, consistent with Section 12 OPERATIONAL MANAGEMENT, BUSINESS CONTINUITY, AND DISASTER RECOVERY, such that the Contractor can continue to provide full functionality of the SaaS as described in the Contract.

The Contractor will indemnify the County for any claims, losses, or damages arising out of the County's inability to use the SaaS consistent with the Contract and Section 18 PRIVACY AND SECURITY INDEMNIFICATION. The Contractor shall include in its Business Continuity Plan service offering, a means for segmenting and distributing IT infrastructure, disaster recovery and mirrored critical system, among any other measures reasonably necessary to ensure business continuity and provision of the SaaS. In the event that the SaaS is interrupted, the County Information may be accessed and retrieved within two (2) hours at any point in time. To the extent the Contractor hosts County Information related to the SaaS, the Contractor shall create daily backups of all County Information related to the County's use of the SaaS in a segmented or off-site "hardened" environment in a manner that ensures backups are secure consistent with cybersecurity requirements described in this Contract and available when needed.

- c. **Enhancements:** Upgrades, replacements and new versions: The Contractor agrees to provide to County, at no cost, prior to, and during installation and implementation of the SaaS any software/firmware enhancements, upgrades, and replacements which the Contractor initiates or generates that are within the scope of the SaaS and that are made available at no charge to the Contractor's other customers.

During the term of this Contract, the Contractor shall promptly notify the County of any available updates, enhancements or newer versions of the SaaS and within thirty (30) Days update or provide the new version to the County. The

## INFORMATION SECURITY AND PRIVACY REQUIREMENTS

Contractor shall provide any accompanying documentation in the form of new or revised documentation necessary to enable the County to understand and use the enhanced, updated, or replaced SaaS.

During the Contract term, the Contractor shall not delete or disable a feature or functionality of the SaaS unless the Contractor provides sixty (60) Days advance notice and the County provides written consent to delete or disable the feature or functionality. Should there be a replacement feature or functionality, the County shall have the sole discretion whether to accept such replacement. The replacement shall be at no additional cost to the County. If the Contractor fails to abide by the obligations in this section, the County reserves the right to terminate the Contract for material breach and receive a pro-rated refund.

- d. **Location of County Information:** The Contractor warrants and represents that it shall store and process County Information only in the continental United States and that at no time will County Data traverse the borders of the continental United States in an unencrypted manner.
- e. **Data Center Audit and Certification:** The Contractor agrees to conduct a SOC 2, Type 2 audit of its internal controls for security, Availability, processing Integrity, Confidentiality, and privacy annually. The Contractor shall have a process for correcting control deficiencies that have been identified in the SOC 3 audit, including follow up documentation providing evidence of such corrections. The results of the SOC 3 audit and the Contractor's plan for addressing or resolving the audit findings shall be shared with County's Chief Information Security Officer within ten (30) Days of the Contractor's receipt of the audit results. The Contractor agrees to provide County with the current SOC 3 audit certification upon request.
- f. **Services Provided by a Subcontractor:** Prior to the use of any Subcontractor for the SaaS under this Contract, the Contractor shall notify County of the proposed subcontractor(s) and the purposes for which they may be engaged at least thirty (30) Days prior to engaging the Subcontractor and obtain written consent of the County's Contract Administrator.
- g. **Information Import Requirements at Termination:** Within one (1) Day of notification of termination of this Contract, the Contractor shall provide County with a complete, portable, and secure copy of all County Information, including all schema and transformation definitions and/or delimited text files with documented, detailed schema definitions along with attachments in a format to be determined by County upon termination.
- h. **Termination Assistance Services:** During the ninety (90) Day period prior to, and/or following the expiration or termination of this Contract, in whole or in part, the Contractor agrees to provide reasonable termination assistance services at no additional cost to County, which may include:

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- i. Developing a plan for the orderly transition of the terminated or expired SaaS from the Contractor to a successor;
- ii. Providing reasonable training to County staff or a successor in the performance of the SaaS being performed by the Contractor;
- iii. Using its best efforts to assist and make available to the County any third-party services then being used by the Contractor in connection with the SaaS; and
- iv. Such other activities upon which the Parties may reasonably agree.

### ADDENDUM B: CONTRACTOR HARDWARE CONNECTING TO COUNTY SYSTEMS

Notwithstanding any other provisions in this Contract, the Contractor shall ensure the following provisions and security controls are established for any and all Systems or Hardware provided under this contract.

- a. **Inventory:** The Contractor must actively manage, including through inventory, tracking, loss prevention, replacement, updating, and correcting, all hardware devices covered under this Contract. The Contractor must be able to provide such management records to the County at inception of the contract and upon request.
- b. **Access Control:** The Contractor agrees to manage access to all Systems or Hardware covered under this contract. This includes industry-standard management of administrative privileges including, but not limited to, maintaining an inventory of administrative privileges, changing default passwords, use of unique passwords for each individual accessing Systems or Hardware under this Contract, and minimizing the number of individuals with administrative privileges to those strictly necessary. Prior to effective date of this Contract, the Contractor must document their access control plan for Systems or Hardware covered under this Contract and provide such plan to the Department Information Security Officer (DISO) who will consult with the County's Chief Information Security Officer (CISO) for review and approval. The Contractor must modify and/or implement such plan as directed by the DISO and CISO.
- c. **Operating System and Equipment Hygiene:** The Contractor agrees to ensure that Systems or Hardware will be kept up to date, using only the most recent and supported operating systems, applications, and programs, including any patching or other solutions for vulnerabilities, within ninety (90) Days of the release of such updates, upgrades, or patches. The Contractor agrees to ensure that the operating system is configured to eliminate any unnecessary applications, services and programs. If for some reason the Contractor cannot do so within ninety (90) Days, the Contractor must provide

**INFORMATION SECURITY AND PRIVACY REQUIREMENTS**

- a Risk assessment to the County's Chief Information Security Officer (CISO).
- d. **Vulnerability Management:** The Contractor agrees to continuously acquire, assess, and take action to identify and remediate vulnerabilities within the Systems and Hardware covered under this Contract. If such vulnerabilities cannot be addressed, The Contractor must provide a Risk assessment to the Department Information Security Officer (DISO) who will consult with the County's Chief Information Security Officer (CISO). The County's CISO must approve the Risk acceptance and the Contractor accepts liability for Risks that result to the County for exploitation of any un-remediated vulnerabilities.
  - e. **Media Encryption:** Throughout the duration of this Contract, the Contractor will encrypt all workstations, portable devices (e.g., mobile, wearables, tablets,) and removable media (e.g., portable or removable hard disks, floppy disks, USB memory drives, CDs, DVDs, magnetic tape, and all other removable storage media) associated with Systems and Hardware provided under this Contract in accordance with Federal Information Processing Standard (FIPS) 140-2 or otherwise required or approved by the County's Chief Information Security Officer (CISO).
  - f. **Malware Protection:** The Contractor will provide and maintain industry-standard endpoint antivirus and antimalware protection on all Systems and Hardware as approved or required by the Department Information Security Officer (DISO) who will consult with the County's Chief Information Security Officer (CISO) to ensure provided hardware is free, and remains free of malware. The Contractor agrees to provide the County documentation proving malware protection status upon request.