

**AGREEMENT BETWEEN VERTEX SYSTEMS, INC.
AND
THE COUNTY OF SHASTA**

This agreement is entered into between Vertex Systems, Inc. an Ohio Corporation ("Vertex Systems") and the County of Shasta, a political subdivision of the State of California, through its Health and Human Services Agency ("Customer"), (collectively, the "Parties" and individually a "Party"), for the purpose of providing Vertex VCloud Software.

1. DEFINITIONS.

For the purposes of this agreement, the following definitions shall apply:

- A. **Services** means the web services Vertex Rehab Management and Intuition by Vertex described in the Service Purchase Quote, **EXHIBIT A**, attached and incorporated herein, and any updates or upgrades to such services which may be generally released by Vertex to all customers from time to time.
- B. **Vertex Systems Technology** means the computer hardware, software, and other tangible equipment and intangible computer code necessary to deploy and serve the Services via the Site.
- C. **Site** means Vertex Systems' vertexsystems.com website including the Vertex Systems Technology.
- D. **Authorized Users** means the number of identifiable unique persons consisting of Customer's personnel and outside consultants who are authorized to access and use the Services, as specified in the **EXHIBIT A**. Authorized Users may include Customer's third party consultants, outsourcers, contractors, and other service providers.
- E. **Internet Data Centers** means any of the facilities owned or controlled by Vertex Systems and used by Vertex Systems to provide the Services. These facilities house the Vertex Systems Technology used for the provision of Services. All Internet Data Centers shall be located in the United States, unless with the prior written consent of Customer.
- F. **Customer Data** means Customer's information or other data processed, stored, or transmitted by, in or through the Services, including but not limited to personal information relating to the Customer's personnel, customers, and prospective customers such that the identity of such persons is apparent or can be determined from such personal information. Customer Data may include, but is not limited to "Protected Health Information" and/or "Electronic Protected Health Information" as such terms are defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act.
- G. **Proprietary Rights** means any and all rights, whether registered or unregistered, in and with respect to patents, copyrights, confidential information, know-how, trade secrets, moral rights, contract or licensing rights, confidential and proprietary information, protected under contract or otherwise under law, trade names, domain

names, trade dress, logos, animated characters, trademarks, service marks, and other similar rights or interests in intellectual or industrial property.

2. VERTEX SYSTEMS'S RESPONSIBILITIES.

Pursuant to the terms and conditions of this agreement, Vertex Systems shall:

A. Subscription License Grant:

Subject to the terms and conditions hereto, during the term hereof, Vertex Systems hereby grants to Customer only to the extent of Authorized Users and solely for Customer's internal business purposes a non-exclusive, non-transferable, worldwide right and license to access the Site and use the Services. All rights not expressly granted to Customer herein are expressly reserved by Vertex Systems.

B. Set up of Services:

Vertex Systems will complete all tasks required to make the Service accessible to Customer, including (i) implementing in the Vertex Systems Technology any interfaces required for Services, (ii) delivering to Customer any proprietary software and related documentation necessary to access Vertex Systems Technology to use the Services, (iii) assigning all security access, passwords, and user identification (IDs) necessary to access the Vertex Systems Technology and use the Services, and (iv) preparing data that may be specified on **EXHIBIT A**, for use with the Services, by a "go live" date no later than May 1, 2018.

C. Technical Support, Training, and Consulting Services:

During the term hereof, Vertex Systems shall provide technical support in the form of responses to questions by email or telephone at no additional charge.

D. Updates, Security, and Database Maintenance.

During the term hereof, Vertex Systems shall provide ongoing updates, security, and database maintenance as needed.

3. USE RESTRICTIONS.

Customer covenants and agrees that its use of the Services will be in a manner consistent with this Agreement and with all applicable laws and regulations, including trade secret, copyright, trademark, and export control laws. Without limiting the generality of the foregoing, Customer shall not, nor shall it permit or assist others, (i) to abuse or fraudulently use the Services, (ii) to process or permit to be processed the data of any third party that is not expressly authorized herein to access and use the Services; and (iii) to attempt to copy, reverse-engineer, decompile, disassemble, create a derivative work from, or otherwise attempt to derive the source codes of any part of the Vertex Systems Technology; or (iv) to access, alter, or destroy any information of any customer of Vertex Systems by any fraudulent means or devices, or attempt to do so.

4. **SECURITY.**

Customer shall be solely responsible for acquiring and maintaining technology and procedures for maintaining the security of its link to the internet. As part of the Service, Vertex Systems shall implement reasonable security procedures consistent with prevailing industry standards to protect Customer Data from unauthorized access (the "Security Standard"). Provided that Vertex Systems is in compliance with the Security Standard, the Parties agree that Vertex Systems shall not, under any circumstances, be held responsible or liable for situations (i) where data or transmissions are accessed by third Parties through illegal or illicit mean, or (ii) where the data or transmissions are accessed through the exploitation of security gaps, weaknesses, or flaws unknown to Vertex Systems at the time. Vertex Systems will promptly report to Customer any unauthorized access to Customer Data upon discovery by Vertex Systems, and Vertex Systems will use diligent efforts to promptly remedy any breach of security that permitted such unauthorized access. In the event notification to persons included in such Customer Data is required, Customer shall be solely responsible for any and all such notifications at its expense.

5. **ACCESS CODE FOR SERVICES.**

Vertex Systems will permit access to the Services only over the Internet using access codes assigned by Vertex Systems. Access codes will be deemed the Confidential Information of both Parties.

6. **TECHNICAL REQUIREMENTS FOR SERVICES.**

- A. **Capacities.** The Services shall be rendered in a manner that will support the Authorized User requirements and other requirements provided in **EXHIBIT A**.
- B. **Scalability.** The Services shall be scalable in a manner that allows the Services to meet any forecasted increase provided in **EXHIBIT A**. Any requested changes shall be completed as described in **Addendum A**, Section 7, attached to this agreement and incorporated herein.
- C. **Internet Data Centers.** The Services will be provided through Internet Data Centers that are configured consistent with prevailing industry standards for fireproofing, power and backup generation, structural integrity, seismic resistance, and resistance to other natural and man-made disruptions. In addition, the Internet Data Centers shall be secured against physical and electronic intrusion in a manner consistent with prevailing industry standards. Vertex Systems may outsource its Internet Data Center operations to subcontractors; provided however, that Vertex Systems shall be responsible for the performance of such subcontractors, and Vertex Systems shall be liable for any action or inaction by such subcontractors as if performed by Vertex Systems.

7. BACKUPS.

At no additional charge to Customer, Vertex Systems shall make daily incremental backups (the "Incremental Backup") and weekly backups (the "Full Backups") of Customer Data archived with the Vertex Systems Technology. The prior day incremental backup and a copy of the weekly backup shall be stored off-site in a secure facility designed to store and maintain backups for emergency use. A maximum of two weekly backups shall be kept. As part of this agreement, no additional weekly backups will be retained for Customer.

8. MONITORING OF CUSTOMER'S USE.

Vertex Systems reserves the right to internally monitor Customer's usage of the Site and Services.

9. NO COMMINGLING OF CUSTOMER DATA.

The Services shall be operated in an environment where (i) all Customer Data shall be stored on files totally separate from those of other customers of Vertex Systems, or (ii) all files containing Customer Data are partitioned sufficient to protect the security and privacy of Customer Data.

10. FEES.

See **Addendum A**, Section 6.

11. TECHINICAL SUPPORT, TRAINING, AND CONSULTING SERVICES.

During the term hereof, Vertex Systems shall provide technical support in the form of responses to questions by email or telephone at no additional charge.

12. PROPRIETARY RIGHTS OWNERSHIP.

Ownership of the Proprietary Rights embodied in the Site, Services, and Vertex System Technology shall remain exclusively vested in and be the sole and exclusive property of Vertex Systems and its licensors. In addition, Customer hereby transfers and assigns to Vertex Systems any rights Customer may have to any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by Customer personnel relating to the Service. The vertexsystems.com domain name, product names, and logos associated with the Services are trademarks of Vertex Systems or third parties, and no right or license is granted to use them. All Customer data created and store by Customer on Vertex System's Site is the property of Customer. A copy of all Customer data will be provided to Customer in Comma-Separated Values ("CSV File") or a mutually agreed upon format within 30 days for the end of this Agreement, upon Customer's written request if this Agreement is terminated for any reason. If required,

Customer will be given a data dictionary with a copy of such Customer data, defining the current database structure.

13. CONFIDENTIALITY.

- A. **Mutual Exchange of Confidential Information.** The Parties anticipate that each may disclose confidential information to the other. Accordingly, the Parties desire to establish in this Section terms governing the use and protection of certain information one Party ("Owner") may disclose to the other Party ("Recipient").
- B. **Definition of Confidential Information.** "Confidential Information" means (i) the term and conditions hereof, (ii) non-public aspects of Vertex System's Site and the operation thereof, Vertex Systems Technology, and the Services and additional services provide by Vertex Systems and Vertex Systems' business and technical information and data, (iii) Customer Data, and non-public aspects of Customer's technology, computer programs and business and technical information, and data. In addition, Confidential Information includes information which, although not related to the Services of this Agreement, is nevertheless disclosed hereunder, and which, in any case, is disclosed by an Owner or its affiliates to Recipient in document or other tangible form bearing an appropriate legend indicating its confidential or proprietary nature, or which, if initially disclosed orally or visually is identified as confidential at the time of disclosure and a written summary hereof, also marked with such a legend, is provided to Recipient within 15 days of the initial disclosure.
- C. **Restrictions on Use and Disclosure.** Recipient may use Confidential Information of Owner only for the purposed of this Agreement and shall protect such Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case, using no less than a reasonable degree of care. Recipient may disclose Confidential Information received hereunder only as reasonable required to perform its obligations under this Agreement and only to its employees who have a need to know for such purpose and who are bound by signed, written agreements to protect the received Confidential Information from unauthorized use and disclosure.
- D. **Exclusions.** The restrictions of this Agreement on use and disclosure of Confidential Information shall not apply to information that: (i) is in the possession or control of Recipient at the time of its disclosure hereunder; (ii) is, or becomes publicly known, though no wrongful act of Recipient, (iii) is received by Recipient from a third party free to disclose it without obligation to owner, (iv) is independently developed by a Party as evidenced by its written and dated records and without any breach of this Agreement; or (v) is the subject of a written permission to disclose provided by Owner. The Recipient may disclose Confidential Information of Owner pursuant to the requirements of a governmental agency or by operation of law, provided that such Recipient gives Owner written notice thereof as soon as practical and reasonably cooperated with Owner to contest such disclosure.
- E. **HIPAA and HITECH Compliance.** Vertex Systems shall comply with (i) HIPAA as amended by HITECH and (ii) the terms and conditions of the Business Associate Agreement attached and incorporated herein as the HIPAA HITECH **EXHIBIT B.**

14. GENERAL SKILLS AND KNOWLEDGE. Notwithstanding anything to the contrary in this Agreement, Customer agrees that Vertex Systems is not prohibited from utilizing any skills or knowledge of a general nature acquired during the course of providing the Services, including information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Vertex Systems.

15. CUSTOMER REPRESENTATION AND WARRANTIES.

- A. Customer represents and warrants that (i) the performance of its obligation and use of the Services (by Customer and its Authorized Users) will not violate any applicable laws, or regulations, including but without limitation any and all laws and regulations regarding the transfer of personal information of residents of the European Union, or (ii) cause a breach of any agreements with any third parties or unreasonably interfere with the use by other Vertex Systems customers of Vertex Systems services.
- B. Customer acknowledges that (i) Vertex Systems does not monitor the content of the information passing through the Services for purposes of verifying accuracy or legal compliance, and (ii) Customer will use commercially reasonable efforts to ensure that the information it and its Authorized Users transmit thereby complies with all applicable laws and regulations, whether now in existence or hereafter enacted and in force.
- C. In the event of any breach by Customer of any of the foregoing representations or warranties, in addition to any other remedies available at law or in equity, Vertex Systems will have the right to suspend immediately any Services it deemed reasonably necessary by Vertex Systems to Customer and an opportunity to cure, if practicable, depending on the nature of the breach. Once cured, Vertex Systems will promptly restore the Services.

16. WARRANTY.

- A. **Vertex Systems Representations and Warranties.** Vertex Systems represents and warrants that (i) it has legal right to enter into this Agreement and perform its obligations hereunder, and (ii) the performance of its obligations and delivery of the Services to Customer will not violate any applicable laws or regulations of the United States or cause a breach of any agreements between Vertex Systems and any third parties. In the Event of a breach by Vertex Systems of the foregoing warranties, Customer's sole remedy is termination of this Agreement upon written notice to Vertex.
- B. **Limited Warranty.** Vertex Systems represents and warrants that the Services will: (i) conform to all material operational features as described in **EXHIBIT A**, and (ii) be free of errors and defects that materially affect the performance of such features ("Limited Warranty"), provided that Customer notifies Vertex Systems of any non-conformity, error or defect. Customer's sole and exclusive remedy for breach of this Limited Warranty shall be the prompt correction of nonconforming Services at Vertex Systems' expense.

- C. **Service Level Warranty.** The service level warranty set forth in **EXHIBIT C, Service Level Agreement**, attached and incorporated herein, states Customer's sole and exclusive remedy for any performance failure of the Services in terms of levels of service. **Exhibit C** also defines the measurement upon which the quality of Services is provided by Vertex Systems and measured by Customer.
- D. **Warranty Disclaimers.** Except for the Limited Warranty and the Service Level warranty provided above, neither Vertex Systems nor any of its suppliers or resellers makes any warranty of any kind, expressed or implied, and Vertex Systems and its suppliers specifically disclaim the implied warranties of title, non-infringement, merchantability, fitness for a particular purpose, system integration, and data accuracy. Some states do not allow disclaimers of implied warranties, so the above limitation may not apply. Customer acknowledges that no representations other than those contained in this Agreement have been made respecting the Service, and that Customer has not relied on any representation not expressly set out in this Agreement. Vertex Systems does not warrant that the Service or site will meet Customer's requirements, that the Service or Site will operate in the combinations which Customer may select or use, or that the operation of the Service or site will be uninterrupted, or error-free. Further, Customer acknowledges that Vertex Systems has no control over the internet, and that Vertex Systems is not liable for the discontinuance of operation of any portion of the internet or possible regulation of the internet which might restrict or prohibit the operation of these services.

17. DISCLAIMER OF ACTIONS OF THIRD PARTIES. Vertex Systems does not and cannot control the flow of data to or from Vertex Systems' Technology and other portions of the Internet. Such flow of data depends on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt customer's connections to the Internet (or portions thereof). Although Vertex Systems will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, Vertex Systems cannot guarantee that such events not occur. Vertex Systems disclaims any and all liability resulting from or related to the performance or non-performance of internet services provided or controlled by third parties which are not Vertex Systems subcontractors.

18. INTELLECTUAL PROPERTY INDEMNITY. Except for third party software including without limitation open source software, Vertex Systems will indemnify, defend and hold harmless Customer and its Affiliates from and against any lawsuit, liabilities, loss, costs or expenses arising out of third-party claim made against Customer that the Vertex Systems Technology or Services infringe on any U.S. intellectual property right of a third party; provided, however, that Vertex Systems is notified in writing of such claim promptly after such claim is made upon Customer. In no event, shall Customer settle any such claim without Vertex Systems' prior written approval. Vertex Systems shall have no liability or obligation if the claim arises from (i) any alteration or modification to the Vertex Systems Technology or Services other than by Vertex Systems, (ii) any combination of the Vertex Systems Technology or Services by Customer with other programs or data not furnished by Vertex Systems, or (iii) any use by Customer of the Vertex Systems Technology or Services that is prohibited by this Agreement or otherwise outside the scope of use for which the Vertex Systems Technology or Services are intended.

- 19. OPTIONS FOR INFRINGEMENT CLAIMS.** If any Party is enjoined from using the Vertex Systems Technology, or if Vertex Systems believe that the Vertex System Technology may become the subject of a claim of intellectual property infringement, Vertex Systems, at its option and expense, may: (i) procure the right for Customer to Continue to sue the Services; (ii) replace or modify the Vertex Systems Technology so as to make it non-infringing; provided, however, that the Services continue to conform to the descriptions and/or specifications provided in **EXHIBIT A** and Customer agrees to such modification or replacement; or (iii) terminate this Agreement in which case Vertex Systems shall refund to Customer any and all subscription fees paid in advance by Customer for those Services not provided by Vertex Systems and provide, at Customer's request and free of charge, the Customer Data in a database document format. This Section and the preceding Section sets forth the entire liability of Vertex Systems to Customer for any infringement by the Vertex Systems Technology or Services of any intellectual property right of any third party. Notwithstanding the foregoing, this Section does not apply to third party software including without limitation open source software.
- 20. DISCLAIMER OF INCIDENTAL AND CONSEQUENTIAL DAMAGES.** Except for indemnity obligations expressly provided herein, or in any Addendum, Exhibit, or Attachment, hereto, and any violation of confidentiality obligations, in no event shall either Party be liability to the other under any theory including contract and tort (including negligence and strict products liability) for any indirect, special or incidental or consequential damages even if the Party causing such damages has been advised of the possibility of such damages. Some states do not allow the exclusion or limitation of incidental or consequential damage, so the above limitation or exclusion may not apply.
- 21. LIABILITY CAP.** Except for Vertex Systems' indemnity expressly provided herein, or in any Addendum, Exhibit, or Attachment, hereto, and Vertex Systems' confidentiality obligations, in no event shall Vertex Systems' aggregate liability, if any, including liability arising out of contract, negligence, strict liability in tort or warranty, otherwise, shall not exceed the total of subscription fees payable by Customer for the six billing periods immediately preceding the claim for such liability.
- 22. INSURANCE REQUIREMENTS AND INDEMNIFICATION PROVISIONS.**
See Addendum A, Section 2.
- 23. TERM OF AGREEMENT.** This Agreement shall commence as of the last date it has been signed by all Parties and shall end on December 31, 2020.
- 24. TERMINATION OF AGREEMENT.**
See Addendum A, Section 3.
- 25. RETURN OF MATERIALS.**
See Addendum A, Section 3.

26. TRANSITION SERVICES. If Customer is current in all payments due to Vertex Systems at the time of expiration or termination hereof, Vertex Systems shall provide to Customer its Customer Data in a standard database document format pre-approved by County and readily available to Vertex Systems at no additional charge.

27. ARBITRATION. Except for actions to protect Proprietary Rights and to enforce an arbitrator's decision hereunder, all disputes, controversies, or claims arising out of or relating to this Agreement or a breach thereof shall be submitted to and finally resolved by arbitration under the rules of the American Arbitration Association ("AAA") then in effect. There shall be one arbitration, and such arbitrator shall be chosen by mutual agreement of the Parties in accordance with AAA rules. The arbitration shall take place in Columbus, Ohio. The arbitrator shall apply the laws of the State of Ohio to all issues in dispute. The findings of the arbitrator shall be final and binding on the Parties, and may be entered in any court of competent jurisdiction for enforcement. Legal fees shall be awarded to the prevailing Party in the arbitration.

28. NOTICES:

See Addendum A, Section 15.

29. ASSIGNMENT. This Agreement shall insure to the benefit of, and be binding upon any successor to all or substantially all of the business and assets of each Party, whether by merger, sale of assets, or other agreements or operation of law. Except as provided above, Customer shall not assign this Agreement or any right or interest under this Agreement, without Vertex Systems' prior written consent. Any attempted assignment or delegation in contravention of this Section shall be void and ineffective.

30. CONTINUING OBLIGATIONS. The following obligations shall survive the expiration or termination hereof and the distribution grace period provided above: (i) any and all warranty disclaimers, limitation of liability and indemnities granted by either Party herein, (ii) any covenant granted herein for the purpose of determining ownership of, or protecting the Proprietary Rights, including without limitation, the Confidential Information of either Party, or any remedy for breach thereof, and (iii) payment of any money due to Vertex Systems.

31. FORCE MAJEURE.

Neither Party shall be liable for damages for any delay or failure of delivery arising out of causes beyond their reasonable control and without their fault or negligence, including, but not limited to, Acts of God, Acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures. Notwithstanding anything to the contrary herein, if either Party is unable to perform hereunder for a period of 30 consecutive days, then the other Party may terminate this Agreement immediately without liability by ten days written notice to the other.

32. U.S. GOVERNMENT END-USERS. Vertex Systems Technology and the Vertex Systems software incorporated therein, this Site, and the Services all consist of "commercial items," as that term is defined in 48 Code of Federal Regulations (C.F.R.) 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such term are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227-7202-1 through 227.7202-4 (June 1995), all U.S. Government end users of this site acquire only those rights set forth herein.

33. MISCELLANEOUS. This Agreement shall be construed under the laws of the State of Ohio, without regard to its principles of conflicts of law. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter of this Agreement and merges all prior communications, understandings, and agreements. The failure of either Party to enforce at any time any of the provisions hereof shall not be a waiver of such provision, or any other provision, or of the right of such Party thereafter to enforce any provision hereof. If any provision of this Agreement is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision has not been included, or had been modified as above provided, as the case may be.

[Signature Page Follows]

IN WITNESS WHEREOF, County and Vertex Systems have executed this agreement on the dates set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this agreement and to bind the Party on whose behalf his/her execution is made.

COUNTY OF SHASTA

Date: _____

LES BAUGH, CHAIRMAN
Board of Supervisors
County of Shasta
State of California

ATTEST:
LAWRENCE G. LEES
Clerk of the Board of Supervisors

By: _____
Deputy

Approved as to form:
RUBIN E. CRUSE, JR.
County Counsel

By: ABC 1/23/18
Alan B. Cox
Deputy County Counsel

RISK MANAGEMENT APPROVAL

By: John 01/23/18
James Johnson
Risk Management Analyst

**INFORMATION TECHNOLOGY
APPROVAL**

By: Tom 1-24-2018
Tom Schreiber
Chief Information Officer

Date: 1-25-18

Date: 1-25-18

VERTEX SYSTEMS

Sanford Chandler
Sanford Chandler, President/CEO
Vertex Systems, Inc.

Joy Chandler
Joy Chandler, CFO
Vertex Systems, Inc.

Tax I.D.#: On File



Service Purchase Quote

Upgrade CRM and Add Service Billing

Vertex Systems, Inc.

2550 Corporate Exchange Drive, Ste 104

Columbus, Oh 43231

Phone: 614-318-7100

Fax: 614-318-7145

www.vertexsystems.com

Date: June 12, 2017

Quote #: C42898 - gs

Expires On: July 12, 2017

Contact: Sanford Chandler

Telephone: (614) 318-7102

E-Mail: schandler@vertexsystems.com

Quote Prepared For:

Shasta County Opportunity Center

Attn: Dell Lockwood

1265 Redwood Blvd.

Redding, CA 96003 E-

mail:

Phone:

Qty	Products	Monthly Subscription
	Vertex Rehab Management, One Concurrent User License - Up to 200 Clients	
2	Additional Concurrent User Licenses	
	Client Payroll Manager	
	CPM Export to Standard Format	
	Intuition by Vertex up to 200 Clients	
30	Intuition Named Users	
	Intuition - Vocational Time	
	Intuition Case Management (Upgrade from C RM)	
	Intuition - Service Billing - No EDI	

Monthly fee for first 12-months of 36-month contract

\$1,920.00

One-Time Implementation Costs*

\$10,890.00

Amount Due within 45 days of signing

\$9,285.00

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Terms of Payment

See Addendum A Section 6.A through 6.D. COMPENSATION AND PAYMENTS.

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ADDENDUM TO CONTRACT/AGREEMENT
(HIPAA Business Associate Agreement)
(Revised 5/9/13)

This Addendum is attached to, and incorporated into the Agreement, entitled Vertex VCloud Services Agreement, between the County of Shasta and Vertex Systems, Inc., dated _____.

Definitions.

All terms and phrases used, but not otherwise defined in this Addendum, shall have the same meaning as those terms are defined in 45 Code of Federal Regulations, subtitle A, subchapter C, parts 160 and 164. All section references in this Addendum are to Title 45 of the Code of Federal Regulations unless otherwise specified.

- a) Business Associate. "Business Associate" shall mean the party with whom County of Shasta is contracting, as referenced above.
- b) Underlying Agreement. "Underlying Agreement" shall mean the agreement or contract between the County of Shasta and the Business Associate, to which this Addendum is attached and incorporated.
- c) Covered Entity. "Covered Entity" shall mean the covered components of the County of Shasta hybrid entity which are subject to the standards for privacy and security of Title 45, Code of Federal Regulations, subchapter C, Parts 160 and 164.

Obligations and Activities of Business Associate.

Business Associate shall:

- a) Not use or disclose Protected Health Information (PHI), or Electronic Protected Health Information (EPHI), other than as permitted or required by this Addendum or as required by law.
- b) Use appropriate safeguards and comply with Subpart C of Title 45, Code of Federal Regulations, Part 164 with respect to EPHI, to prevent use or disclosure of PHI or EPHI other than as provided for by this Addendum and the Underlying Agreement.
- c) If a pattern of activity or practice of an agent, including a subcontractor, constitutes a material breach or violation of the requirements of this Addendum and/or the Underlying Agreement, cure the breach or end the violation, as applicable, and if such steps are unsuccessful, terminate the subcontract or other agreement

EXHIBIT B

- d) Report, as soon as reasonably practicable, to Covered Entity's Privacy and or Security Officer any use or disclosure of PHI or EPHI not provided for by this Addendum and/or the Underlying Agreement of which it becomes aware, including breaches of unsecured PHI as required in Section 164.410. This report will include at least the following information: (a) the nature of the non-permitted or violating use or disclosure or Security Incident; and (b) the PHI and EPHI used or disclosed. This does not relieve Business Associate of his/her/their continuing obligations under the agreement or any State or Federal reporting requirements.
- e) Ensure that any agent, including a subcontractor, to whom it provides PHI or EPHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Addendum and the Underlying Agreement to Business Associate with respect to such information.
- f) Provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to PHI and EPHI information in a designated record set, to Covered Entity or, as directed by Covered Entity, to an individual in order to meet the requirements under Section 164.524.
- g) Make any amendment(s) to PHI and EPHI in a designated record set that the Covered Entity directs or agrees to make pursuant to Section 164.526 at the request of Covered Entity or an individual, and in the time and manner designated by Covered Entity.
- h) Make internal practices, books, and records, including policies and procedures and PHI and EPHI, relating to the use and disclosure of PHI and EPHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary (i.e., the Secretary of Health and Human Services [HHS], or to any officer or employee of HHS to the authority involved has been delegated), in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the law.
- i) Document disclosures of PHI and EPHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures in accordance with Section 164.528.
- j) Provide to Covered Entity or an individual, in the time and manner designated by Covered Entity, information collected of disclosures of PHI and EPHI, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures in accordance with Section 164.528.
- k) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and EPHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity, as required by law. In addition, Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI or EPHI agrees to implement reasonable and appropriate safeguards to protect it.

- l) Ensure that all employees of Business Associate that handle or access PHI or EPHI undergo annual training regarding the safeguarding of PHI and EPHI.
- m) To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of Title 45, Code of Federal Regulations, Part 164, comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.

Permitted Uses and Disclosures by Business Associate.

Except as otherwise limited in this Addendum and the Underlying Agreement, Business Associate may use or disclose PHI and EPHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the law if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

Obligations of Covered Entity.

- a) Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with Section 164.520, to the extent that such limitation(s) may affect Business Associate's use or disclosure of PHI and EPHI.
- b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI and EPHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI and EPHI.
- c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI and EPHI that Covered Entity has agreed to in accordance with Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI and EPHI.

Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to use or disclose PHI and EPHI in any manner that would not be permissible under the law if done by Covered Entity.

Term and Termination.

The provisions of this Addendum shall supersede the provisions of the Underlying Agreement insofar as they relate to the term and termination of the Underlying Agreement.

- a) Term. The provisions of this Addendum shall be effective as of the Effective Date of the Underlying Agreement and shall terminate when all of the PHI and EPHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or, if it is infeasible to

return or destroy, protections are extended to such information, in accordance with the termination provisions in this Addendum.

b) Termination for Cause. Upon County of Shasta's knowledge of a material breach by Business Associate of the provisions of this Addendum, County of Shasta may terminate this Addendum and the Underlying Agreement immediately upon oral notice.

c) Effect of Termination.

1. Except as provided in paragraph (2) of this provision, upon termination of this Addendum and the Underlying Agreement, for any reason, Business Associate shall return or destroy, in a confidential manner, all PHI and EPHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI and EPHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of said PHI and EPHI.
2. In the event that Business Associate determines that returning or destroying the PHI and EPHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon the agreement of Covered Entity that return or destruction is infeasible, Business Associate shall extend the protections of this Addendum to such PHI and EPHI and limit further uses and disclosures to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI and EPHI.

Miscellaneous

- a) Amendment. The Parties agree to take such action as is necessary to amend this Addendum and the Underlying Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the regulations enacted pursuant thereto. Any such amendment may be signed on behalf of the County of Shasta by the County Executive Officer, or his or her designee(s).
- b) Survival. The respective rights and obligations of Business Associate under the provision of this Addendum entitled "Effect of Termination" shall survive the termination of the Underlying Agreement.
- c) Interpretation. Any ambiguity in this Addendum and the Underlying Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

SERVICE LEVEL AGREEMENT

During the term of this agreement, Vertex Systems shall:

1. DEFINITIONS.

- A. **Service Level:** The measurement upon which the quality of Services is measured.
- B. **Basic Service Level:** Any Services Level set forth in this Agreement or as set forth in **EXHIBIT A.**, that is not a Critical Service Level.
- C. **Critical Service Level:** Any Service Level that is described as "critical" in this Agreement of applicable Exhibits.
- D. **Downtime:** Any period where the Services are not available to the end users, regardless of reason.
- E. **Exempt Downtime:** Downtime where the Parties have previously agreed upon the time and duration of such Downtime. Only Downtime occurring during such previously-agreed period shall be deemed Exempt Downtime. Exempt Downtime may also consist of regularly scheduled events if such events are described in **EXHIBIT A.**
- F. **Performance Credit:** A single Performance Credit shall be one day of subscription fees calculated on a monthly basis assuming 30-day calendar month.
- G. **Unscheduled Downtime:** All Downtime that is not Exempt Downtime.

2. PROCEDURES.

The establishment of Service Levels shall be accomplished as follows:

- A. **Commencement:** Service Levels are established as provided herein and will be measured starting on the "go live" date for the Services. Service Level reporting will be put into effect starting on the "go live" date for the Services.
- B. **Service Level Changes:** The Parties may agree to add, delete or modify Service Levels. All such changes shall be mutually agreed to in writing, via an amendment. Should new technology or improved measurement capabilities be deployed by Vertex Systems that impact the Services Level reports, Vertex Systems and Customer will negotiate an agreeable new measurement process and amend this Exhibit as appropriate. Should Vertex Systems and Customer agree to implement a new reporting mechanism, Vertex Systems and Customer will establish new Service Levels to be aligned with the new reporting mechanism.
- C. **Downtime Incident Reporting:** Upon receipt of a written request from Customer for a prior calendar month requesting information regarding a specific instance of Downtime, Vertex Systems will provide Customer with a related incident report from which Customer may determine any Downtime. In order to receive a Performance Credit in connection with a particular instance of Downtime, Customer must notify Vertex Systems within 30 days from the time Customer receives the incident report.

- Failure to comply with this requirement will forfeit Customer's right to receive a Performance Credit for the applicable instance of Downtime.
- D. **Excused Failures:** Failure to meet Services Levels will not be deemed to be a failure by Vertex Systems if one of the following conditions exists: (i) the failure is mutually agreed not to be the fault of Vertex Systems; (ii) the failure of Customer to carry out relevant obligations causing the failure; (iii) failure of equipment not provided or maintained by Vertex Systems; or (iv) Force Majeure Events.
 - E. **Performance Credits:** Performance Credits shall accrue to due to Basic Service Level Failures and Critical Service Level Failures. All Performance Credits are cumulative and issuance of Performance Credits shall not be deemed to waive any other right of Customer under this Agreement.
 - F. **Basic Service Level Failure:** If, in any given month, Vertex Systems fails to meet a Basic Service Level for the services described herein (each, a "Basic Service Level Failure"), Vertex Systems shall issue one Performance Credits to Customer, which may, in Vertex Systems' sole discretion, either be paid to Customer in a cash payment to be received within 30 days of any such request or be applied to the next billing period's charges.
 - G. **Critical Service Level Failure:** If, in any given month, Vertex Systems fails to meet a Basic Service Level for the services described herein (each, a "Critical Service Level Failure"), Vertex Systems shall issue three Performance Credits to Customer, which may, in Vertex Systems' sole discretion, either be paid to Customer in a cash payment to be received within 30 days of any such request or be applied to the next billing period's charges.

3. SERVICE LEVEL MATRICS.

In addition to any Service Levels described in detail in **EXHIBIT A**, and unless these Service Levels are expressly modified in the **EXHIBIT A**, the following Service Levels are deemed to be default metrics and will apply to the Agreement.

- A. **Availability** shall be measured based upon a 30-day month times 24 hours per day. The Services shall be online and available 98.5% of the time, excluding Exempt Downtime, as calculated for each calendar month. If the Services are available between 98.0% and 98.49% of the time, a Basic Service Level Failure shall be deemed to have occurred. If the services are available between 97.5% and 97.99% of the time, two Basic Service Level Failures shall be deemed to have occurred. If the Services are available between 97.0% and 97.49% of the time a Critical Service Level Failure shall be deemed to have occurred. If the Services are available less than 97.0% of the time, two Critical Service Level Failures shall be deemed to have occurred, and a 25% credit of fees shall be due from Vertex Systems to Customer for the month that such failures have occurred.
- B. **Backups:** Failure by Vertex Systems to produce an Incremental Backup shall result in one Basic Service Level Failure. Failure by Vertex Systems to produce a Weekly Backup shall result in one Critical Service Level Failure.

4. MAXIMUM PERFORMANCE CREDITS:

Notwithstanding the foregoing, the aggregate maximum number of Performance Credits to be issued by Vertex Systems to Customer for events that occur in a single calendar month shall not exceed five Performance Credits.

5. TERMINATION OPTION FOR CHRONIC PROBLEMS:

Either Party may terminate this Agreement and without liability or penalty by notifying the other Party within 10 days following the occurrence of either of the following: (i) Customer experiences more than five Unscheduled Downtime periods in any three consecutive calendar month periods; or (ii) Customer experiences more than eight consecutive business hours of Unscheduled Downtime due to any single event. Such termination will be effective 30 days after receipt of such notice by the terminating Party.

6. SUSPENSION.

If Vertex Systems is materially hampered in fully performing hereunder for any reason outside of Vertex Systems' reasonable control including without limitation any Force Majeure Event (all of which events are herein called "Disability") Customer may suspend use of the Services and its obligations to make subscription fee payments to Vertex Systems during the period of such Disability.

Addendum A

This is an **Addendum A** to the Vertex Systems Agreement ("Agreement") between Vertex Systems, Inc. ("Vertex Systems") and the County of Shasta, through its Health and Human Services Agency ("Customer"). In the event of a conflict between this Addendum A and the terms of the Agreement, Purchase Order, Service Purchase Quote, and any of its other Addendums or Exhibits, the terms of **Addendum A** shall prevail.

Section 1. INDEMNIFICATION.

Each Party shall defend, indemnify, and hold the other Party, its officials, officers, employees, agents, and volunteers, harmless from and against any and all liability, loss, expenses (including reasonable attorney's fees), or claims for injury or damage arising out of the performance of this agreement, but only in proportion to and to the extent such liability, loss, expenses (including reasonable attorney's fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of the indemnifying Party, its officials, officers, employees, agents, subcontractors, or volunteers.

Section 2. INSURANCE COVERAGE.

- A. Without limited Vertex System's duties of defense and indemnification, Vertex Systems and any subcontractor shall obtain, from an insurance carrier authorized to transact business in the State of California, and maintain continuously during the term of this agreement Commercial General Liability Insurance, including coverage for owned and non-owned automobiles, and other insurance necessary to protect the Customer and the public with limits of liability of not less than \$1 million combined single limit bodily injury and property damage; such insurance shall be primary to any other insurance maintained by customer.
- B. Vertex Systems and any subcontractor shall obtain and maintain continuously required Workers' Compensation and Employer's Liability insurance to cover Vertex Systems, subcontractor, Vertex Systems partner(s), subcontractor's partner(s), Vertex Systems' employees, and subcontractor(s) employees with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by Vertex Systems or subcontractor. Each such policy shall be endorsed to state that the Workers' Compensation carrier waives its right of subrogation against Customer, its elected officials, officers, employees, agents, and volunteers which might arise in connection with this agreement. Vertex Systems hereby certifies that Vertex Systems is aware of the provisions of section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and Vertex Systems shall comply with such provisions before commencing the performance of the work or the provision of services pursuant to this agreement.

- C. Vertex Systems shall obtain and maintain continuously a policy of Errors and Omissions coverage with limits of liability of not less than \$1 million.
- D. Without limiting any of the obligations or liabilities of Vertex Systems, Vertex Systems shall carry and maintain Cyber Liability insurance with limits of not less than \$1,000,000 for each occurrence and an annual aggregate of \$2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. Such coverage is required only if any products and/or services related to information technology (including hardware and/or software) are provided to County and for claims involving any professional services for which Vertex Systems is engaged with or providing to County for as long as respective, applicable statute(s) of limitation or response are in effect relating to the specific purposes of this agreement to cover any and all claims.
- E. Vertex Systems shall require subcontractors to furnish proof to Customer that liability and Workers' compensation and other required types of insurance have been obtained and are maintained similar to that required of Vertex Systems pursuant to this Agreement.
- F. With regard to all insurance coverage required by this Agreement:
 - (1) Any deductible or self-insured retention exceeding \$25,000 for Vertex Systems or subcontractor shall be disclosed to and be subject to approval by the County Risk Manager prior to the effective date of this Agreement.
 - (2) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Vertex Systems or subcontractors shall maintain such insurance coverage with an effective date earlier or equal to the effective date of this Agreement and continue coverage for a period of three year after the expiration of this Agreement and any extensions thereof. In lieu of maintaining post-agreement expiration coverage as specified above, Vertex Systems or subcontractor may satisfy this provision by purchasing tail coverage for the claims made policy. Such tail coverage shall, at a minimum, provide the insurance coverage required hereunder for claims received and reported within three years after the expiration of this Agreement.
 - (3) All insurance (except workers' compensation and professional liability) shall include an endorsement or an amendment to the policy of insurance which names *Shasta County, its elected officials, officers, employees, agents, and volunteers as additional insureds* and Vertex Systems shall notify Customer within 10 days of any reduction or cancellation of coverage. Any available insurance proceeds in excess of the specified minimum limits and coverage pursuant to the terms of this Agreement shall be applicable to the Additional Insured. The additional insureds coverage shall be equal to Insurance Services Office endorsement CG 20 26 for on-going operations, and CG 20 26for completed operations.

- (4) Each insurance policy (except for workers' compensation and professional liability policies), or an endorsement thereto, shall contain a "separation of insureds" clause which shall read:

"Separation of Insureds.

Except with respect to the Limits of Insurance, any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
b. Separately to each suit insured against whom a claim is made or suit is brought."

- (5) Vertex Systems shall provide the Customer with an endorsement or amendment to Vertex Systems' policy of insurance as evidence of insurance protections before the effective date of this Agreement.
- (6) The insurance coverage required herein shall be in effect at all times during the term of this Agreement. In the event any insurance coverage expires at any time during the term of this Agreement, Vertex Systems shall provide, at least 20 days prior to said expiration date, a new endorsement or policy amendment evidencing insurance coverage as provided for herein for not less than one year. In the event Vertex Systems fails to keep in effect at all times insurance coverage as herein provided and a renewal endorsement or policy amendment is not provided within 10 days of the expiration of the endorsement or policy amendment in effect at inception of this agreement, County may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.
- (7) If the endorsement or amendment does not reflect the limits of liability provided by the policy of insurance, Vertex Systems shall provide County a certificate of insurance reflecting those limits.
- (8) Any of Vertex System's Excess Insurance shall contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the County.

Section 3. TERMINATION OF AGREEMENT.

- A. If Vertex Systems materially fails to perform Vertex System's responsibilities under this Agreement to the satisfaction of Customer, or if Vertex Systems fails to fulfill in a timely and professional manner Vertex Systems' responsibilities under this Agreement, or if Vertex Systems violates any of the terms or provisions of this Agreement, then Customer shall have the right to terminate this agreement for cause immediately upon Customer giving written notice thereof to Vertex Systems. If termination for cause is given by Customer to Vertex Systems and it is later determined that Vertex Systems was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph B of this section.

- B. County may terminate this agreement without cause on 30 days written notice to Consultant.
- C. Customer may terminate this Agreement immediately upon oral notice should funding cease or be materially decreased during the term of this Agreement.
- D. Customer's right to terminate this agreement may be exercised by Customer's County Executive Officer, Health and Human Services Agency ("HHSA") Director or any HHSA Branch Director designated by the HHSA Director.
- E. Should this Agreement be terminated, Vertex Systems shall provide, within 30 days to Customer and any and all finished and unfinished reports, data, studies, photographs, charts, and other documents prepared by Vertex Systems pursuant to this Agreement.
- F. Termination by Vertex Systems for End of Life. Vertex Systems intends to continue to provide and support the Services for so long as Customer renews in accordance with the applicable Purchase Order; provided, however, if, Vertex Systems determines in its sole discretion that it is no longer feasible to support the Services, Vertex System may terminate this Agreement for end of life at any time by providing 180 days written notice to Customer.
- G. Within 30 days of the expiration or termination of any license under any part of this Agreement, Customer shall return to Vertex Systems any materials provided by Vertex Systems.
- H. If this Agreement is terminated, Vertex Systems shall only be paid for services satisfactorily completed and provided prior to the effective date of termination.

Section 4. COMPLIANCE WITH LAWS; NON-DISCRIMINATION.

- A. Vertex Systems shall observe and comply with all applicable present and future federal laws, state laws, local laws, codes, rules, regulations, and/or orders that relate to the work or services to be provided pursuant to this Agreement.
- B. Vertex Systems shall not discriminate in employment practices or in delivery of services on the basis of race, color, creed, national origin, sex, age, marital status, sexual orientation, medical condition (including cancer, HIV, and AIDS) physical or mental disability, use of family care leave under either the Family & Medical Leave Act or the California Family Rights Act, or on the basis of any other status or conduct protected by law.
- C. Vertex Systems represents that Vertex Systems is in compliance with and agrees that Vertex Systems shall continue to comply with the Americans with Disability Act of 1990 (42 U.S.C sections 12101, *et seq.*), the Fair Employment and Housing Act

(Government Code sections 12900, *et seq.*), and regulations and guidelines issued pursuant thereto.

- D. No funds or compensation received by Vertex Systems under this Agreement shall be used by Vertex Systems for sectarian worship, instruction, or proselytization. No funds or compensation received by Vertex Systems under this Agreement shall be used to provide direct, immediate, or substantial support to any religious activity.
- E. In addition to any other provisions of this Agreement, Vertex Systems shall be solely responsible for any and all damages caused and/or penalties levied, as the result of Vertex Systems noncompliance with the provisions of this section.

Section 5. CONFIDENTIALITY OF CONSUMER INFORMATION.

- A. During the term of this Agreement, Vertex Systems may have access to Consumer (As defined in Welfare and Institutions Code section 4512 (d)) information and records that are confidential pursuant to Welfare and Institutions Code section 4514. Vertex Systems agrees to provide adequate precautions to protect the confidentiality of such Consumer information in accordance with Welfare and Institutions Code section 4515, and all other applicable state and federal statutes and regulations regarding confidentiality of persons with developmental disabilities. This provision shall survive the termination, expiration, or cancellation of this agreement.

Section 6. COMPENSATION AND PAYMENTS.

- A. One-Time Implementation Fees: Vertex Systems will provide software installation and training services described in Sections 2.B. and 2.C. of the main Agreement. These professional implementation and training services are subject to a one-time fee of \$10,890 to be paid as follows:
 - 1) \$9,285 due within 15 days of signed agreement, and prior to the start of software installation.
 - 2) \$1,605 due within 45 days of signed agreement.
- B. Monthly Subscription Fees: Vertex Systems will provide subscription license grants, and update security, and database maintenance as described in Sections 2.A. and 2.D. of the main Agreement to be paid as follows:
 - 3) Year One: \$1,920 per month, not to exceed \$23,040 annually.
 - 4) Year Two: \$1,968 per month, not to exceed \$23,616 annually.
 - 5) Year Three: \$2,017.20 per month, not to exceed \$24,206.40 annually.
- C. First Month Subscription Fee is due within 45 days of the signed Agreement. Remainder of Monthly Subscription Fees will begin once the system has been deployed and is fully functional for use. These fees will be paid via Electronic Funds Transfer ("EFT") on the 1st of each month.

- D. In no event shall the maximum amount payable under this Agreement exceed \$81,752.40.

Section 7. ENTIRE AGREEMENT; AMENDMENTS; HEADINGS; EXHIBITS/APPENDICES.

- A. This Agreement supersedes all previous agreements relating to the subject of this Agreement and constitutes the entire understanding of the Parties hereto. Vertex Systems shall be entitled to no other benefits than those specified herein. Vertex Systems specifically acknowledges that in entering into and executing this Agreement Vertex Systems relies solely upon the provisions contained in this Agreement and no others.
- B. No changes, amendments, or alterations to this Agreement shall be effective unless in writing and signed by both Parties. However, minor amendments, including retroactive, that do not result in a substantial or functional change to the original intent of this Agreement and do not cause an increase to the maximum amount payable under this Agreement may be agreed to in writing between Vertex System and HHSA's Director or any HHSA Branch Director, provided that the amendment is in substantially the same format as the County's standard format amendment contained in the Shasta County Contracts Manual (Administrative Policy 6-101). In addition, the Chief Executive Officer and Vertex may sign non-monetary amendments for Service Level Changes.
- C. The headings that appear in this Agreement are for reference purposes only and shall not affect the meaning or construction of this Agreement.
- D. If any ambiguity, inconsistency, or conflict arises between the provisions of this Addendum and the provisions of any of this Agreement's exhibits or appendices, the provisions of this Addendum shall govern.

Section 8. NONASSIGNMENT OF AGREEMENT; NON-WAIVER.

Inasmuch as this Agreement is intended to secure the specialized services of Vertex Systems, Vertex Systems may not assign, transfer, delegate, or sublet any interest herein without prior written consent of Customer. The waiver by Customer of any breach of this Agreement shall not be deemed to be a waiver of any other breach.

Section 9. EMPLOYMENT STATUS OF VERTEX SYSTEMS.

Vertex Systems shall, during the entire term of this Agreement, be construed to be an independent contractor, and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or

to allow Customer to exercise discretion or control over the professional manner in which Vertex Systems performs the work or services that are the subject matter of this Agreement; provided, however, that the work or services provided by Vertex Systems shall be provided in a manner consistent with the professional standards applicable to such work or services. The sole interest of Customer is to insure that the work or services shall be rendered and performed in a competent, efficient, and satisfactory manner. Vertex Systems shall be fully responsible for payment of all taxes due to the State of California or the federal government that would be withheld from compensation if Vertex Systems were an employee of Customer. Customer shall not be responsible for making deductions for any amount for any purpose from Vertex System's compensation. Vertex Systems shall not be eligible for coverage under Customer's workers' compensation insurance plan nor shall Vertex Systems be eligible for any other Customer benefit.

Section 10. NOTICE OF CLAIM; APPLICABLE LAW.

If any claim for damages is filed with Vertex Systems or if any lawsuit is instituted concerning Vertex Systems' performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect Customer, Vertex Systems shall give prompt and timely notice thereof to Customer. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit. This provision shall survive the termination, expiration, or cancellation of this agreement.

Section 11. COMPLIANCE WITH CHILD, FAMILY AND SPOUSAL SUPPORT.

Vertex System's failure to comply with state and federal child, family, and spousal support reporting requirements regarding Vertex System's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this Agreement. Vertex Systems' failure to cure such default within 90 days of notice by Customer shall be grounds for termination of this Agreement.

Section 12. LICENSES AND PERMITS.

Vertex Systems and Vertex Systems' officers, employees, and agents performing the work or services required by this Agreement, shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, the County of Shasta, and all other appropriate governmental agencies, including any certification and credential required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by Customer.

Section 13. PERFORMANCE STANDARDS.

Vertex Systems shall perform the work or services required by this Agreement in

accordance with the industry and/or professional standards applicable to Vertex Systems' work or services.

Section 14. CONFLICTS OF INTEREST.

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

Section 15. NOTICES.

A. Any notices required or permitted pursuant to the terms and provisions of this Agreement shall be given to the appropriate Party at the address specified below or at such other address as the Party shall specify if writing. Such notice shall be deemed given: (1) upon personal delivery; or (2) if sent by reputable overnight courier, the business day after the date of shipment.

If to Customer: Branch Director
HHSA Regional Services
1506 Market Street
Redding, CA 96001-1023
Phone: (530) 229-8319
Fax: (530) 225-5245

If to Vertex Systems: Chief Executive Officer
Vertex Systems., Inc.
2550 Corporate Exchange Drive, Suite 104
Columbus, OH 43231-8618
Phone: (614) 318-7100
Fax: (614) 318-7145

B. Any oral notice authorized by this agreement shall be given to the persons specified in Section 3.B. of this Exhibit C., and shall be deemed to be effective immediately.

C. Unless otherwise stated in this agreement, any written or oral notices on behalf of the County as provided for in this agreement may be executed and/or exercised by the County Executive Officer.

Section 16. AGREEMENT PREPARATION.

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

Section 17. COMPLIANCE WITH POLITICAL REFORM ACT.

Vertex Systems shall comply with the California Political Reform Act (Government Code, sections 81000, *et seq.*), with all regulations adopted by the Fair Political Practices Commission pursuant thereto, and with the County's Conflict of Interest Code, with regard to any obligation on the part of Vertex Systems to disclose financial interests and to recuse from influencing any County decision which may affect Vertex Systems's financial interests. If required by the County's Conflict of Interest Code, Vertex Systems shall comply with the ethics training requirements of Government Code sections 53234, *et seq.*

Section 18. PROPERTY TAXES.

Vertex Systems represents and warrants that Vertex Systems, on the date of execution of Agreement, (1) has paid all property taxes for which Vertex Systems is obligated to pay, or (2) is current in payments due under any approved property taxes at all times during the term of this Agreement.

Section 19. USE OF CUSTOMER PROPERTY.

Vertex System shall not use Customer premises, property (including equipment, instruments, and supplies), or personnel for any purpose other than in the performance of Vertex Systems' obligations under this Agreement.