

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Health Services Agency

BOARD AGENDA # *B-8

Urgent Routine

AGENDA DATE August 12, 2014

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Award a Contract with Labware, Inc. for the Purchase and Implementation of the Labware LIMS Version 6.0, Laboratory Information Management System (LIMS), for the Health Services Agency, Public Health Laboratory; Approval to Use Public Facility Fees (PFF) funds of \$327,544 as Partial Funding for the LIMS Project

STAFF RECOMMENDATIONS:

1. Award a contract to Labware, Inc. for the purchase of a Laboratory Information Management System (LIMS) for the Health Services Agency, Public Health Laboratory enabling the required use of Electronic Laboratory Reporting (ELR).
2. Authorize the Managing Director of the Health Services Agency or her designee to finalize and execute a contract with Labware, Inc. for purchase of software, installation, and five years of software support and maintenance related to the Laboratory Information Management System Project and any amendments thereafter.

(Continued on Page 2)

FISCAL IMPACT:

The Health Services Agency (HSA) Public Health Division's Adopted Proposed budget for Fiscal Year 2014-2015 is approximately \$26 million. As of June 30, 2014, the available HSA Public Health Fund balance, which is restricted for use for public health program activities, is approximately \$4.2 million due to cost savings from various programs.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2014-419

On motion of Supervisor Withrow, Seconded by Supervisor Chiesa
and approved by the following vote,
Ayes: Supervisors: O'Brien, Chiesa, Withrow, Monteith, and Chairman De Martini
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended
- 4) Other:

MOTION:

ATTEST: 
ELIZABETH A. KING, Assistant Clerk

Approval to Award a Contract with Labware, Inc. for the Purchase and Implementation of the Labware LIMS Version 6.0, Laboratory Information Management System (LIMS), for the Health Services Agency, Public Health Laboratory; Approval to Use Public Facility Fees (PFF) funds of \$327,544 as Partial Funding for the LIMS Project
Page 2

STAFF RECOMMENDATIONS (Continued):

3. Approve the use of up to \$327,544 of Public Facility Fees (PFF) for partial funding of the purchase and installation of the LIMS system.

FISCAL IMPACT (Continued):

The estimated Public Health Laboratory Information Management System (LIMS) project cost as included in the 2013-2014 Capital Improvement Plan was \$1,000,177. On November 19, 2009, the Public Facilities Fee (PFF) Committee approved the use of \$327,544 for the LIMS project. In addition to the PFF award, Emergency Preparedness (PHEP) grant of approximately \$104,000 and a Homeland Security grant of approximately \$13,000 have been allocated to this project. The estimated \$488,000 for internal labor and implementation costs as well as any remaining costs not included within the Fiscal Year 2013-2014 will be included in the Recommended Final Fiscal Year 2014-2015 budget, most of which are existing costs and resources that will be allocated to this project. The HSA Public Health Fund balance will be used to cover the remaining project costs estimated at \$555,000.

The initial purchase and implementation, including the first five years of software support and maintenance, for the Labware LIMS version 6.0 will cost approximately \$430,000. (Sufficient appropriations are available for the purchase of the LIMS system in the Public Health Legal Fiscal Year 2014-2015 budget.)

Aside from the initial purchase (which includes five years of software support and maintenance), the annual costs for support and maintenance of approximately \$23,000 will not begin until year six. However, these costs will be fully offset by a decrease in the annual costs of approximately \$33,000 due to no longer needing the Meditech Laboratory Module.

There is no additional impact to the General Fund associated with this item and the LIMS project remains within budget.

DISCUSSION:

History of the LIMS Project

On November 19, 2009, the Public Facilities Fees (PFF) Committee approved the use of PFF in the amount of \$327,544 for the LIMS project. At that time, the estimated Public Health Laboratory Information Management System (LIMS) project cost was included in the 2010-2011 Capital Improvement Plan was \$1,000,177 and subsequent Capital Improvement Plans.

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Page 3

As authorized by the Board of Supervisors on May, 14, 2013, a Request for Proposal was issued (RFP# 12-61) with a closing date of July 15, 2013. Three (3) proposals were received in response to this RFP, it was determined that none met the needed specifications. Hence, a second Request for Proposal was issued (RFP# 13-30-SS) on October 15, 2013, with a closing date of December 3, 2013. A total of six (6) proposers responded to the second RFP and all successfully qualified for inclusion in the RFP review process. The six proposers were BtB Software, Centennial Computer Corporation, Cerner Corporation, Labware, Inc., Orchard Software Corporation and STARLIMS.

A rigorous evaluation process was conducted by a seven member Evaluation Committee (EC) consisting of six HSA staff representing the Public Health Lab, Information Technology, and Senior Management. The seventh member was the Public Health Laboratory Manager from San Joaquin County who had recently implemented a LIMS solution.

The evaluation process consisted of five phases. Each of the phases required the evaluators to provide a score. Once all of the individual scores were collected, they were averaged, and those proposers earning the minimum required score for the phase being evaluated, would pass to the next phase.

The evaluation consisted of the following five phases:

PHASE I – FINANCIAL REPORT: This phase included reviewing the submissions to ensure the financial reports were included. This phase was PASS or FAIL and was conducted by county General Services Agency. All six proposers passed this phase.

PHASE II- EVALUATION OF QUALIFICATION PROPOSAL: This phase included the review and scoring of an extensive system requirements survey. A minimum of 75 points were required by the EC to proceed. Three of the initial six proposers were eliminated during this phase.

PHASE III - PRESENTATION & INTERVIEW: This phase included an onsite demonstration of the system as well as a vendor interview session. A minimum of 75 points were required by the EC to proceed. All three of the remaining proposer passed this phase.

PHASE IV - REFERENCE CHECKS & AUDIT RESULTS: This phase included a thorough check of vendor references. A minimum of 25 points were required by the EC to proceed. Two of the three remaining proposer passed this phase.

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Page 4

PHASE V - EVALUATION OF PRICING PROPOSAL: The final phase included a review of the Pricing Proposal worksheet completed by the two remaining proposers (Labware, Inc. and Orchard Software). The Pricing Proposal Worksheet provided the EC with a consistent and measurable tool to compare pricing for equivalent deliverables. With all other phases providing a level of confidence that either of the two remaining proposers would provide an exceptional product and service, the final phase allowed for the evaluation of the overall cost/fiscal value. In addition, both vendors were then asked to provide HSA with a "Best and Final Offer", which resulted in an overall price reduction from Labware, Inc. of over \$126,000 in one-time costs and a price reduction of over \$10,000 per year for ongoing support and maintenance beginning in year six.

As a result of the evaluation process, a Notification of Intent to Award was provided to Labware, Inc. on April 2, 2014.

Why Make This Investment Now

LIMS is a software system used in laboratories for the management of samples, laboratory users, instruments, standards and other laboratory functions such as specimen management and workflow automation. Use of a modern and robust LIMS enables the Public Health Laboratory to increase productivity and efficiency of laboratory processes in order to meet operational responsibilities and public health mandates resulting in cost savings and produce revenue for sustainment. The Public Health Laboratory assists in providing community surveillance of disease outbreaks such as Norovirus and H1N1. The ability to transmit information between the Public Health Laboratory and medical providers throughout Stanislaus County provides expedited testing to enable improved patient care.

LIMS software receives, processes, and stores information generated by laboratory processes while interfacing with laboratory instruments and other information systems such as electronic health records. A LIMS would allow ambulatory care physicians and clinical staff, including the HSA Clinic system, to request and review laboratory testing on-line.

LIMS will enable the Public Health Laboratory to streamline laboratory workflow, ensure compliance with the regulatory program (i.e. Clinical Laboratory Improvement Amendment - CLIA) and allow the secure exchange of clinical data with providers, patients, and information systems.

LIMS will also improve medical care as these information management systems allow details of the patient laboratory record to be available to a patient's health care provider when and where it is needed. Without the necessity to locate and deliver a paper-

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Page 5

based chart with test results, public and private health care providers accessing LIMS will immediately see increased efficiencies and reduced operating costs.

Implementation of a LIMS will assist the HSA to achieve compliance with the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2010 and Stage 2 Meaningful Use Requirements for Public Health Laboratory Reporting as identified in the American Recovery and Reinvestment Act (ARRA) of 2009. One way to demonstrate compliance for the Public Health Laboratory is to have an electronic data system that is capable of sending reports to the state notifiable disease reporting system (CalREDIE). In addition, as California Health Information Exchanges are implemented, the Public Health Laboratory will need to have the capability to receive electronic test requests and extract patient demographic information from patient records through this interchange.

POLICY ISSUES:

Approval of this item supports the Board priorities of A Safe Community, A Healthy Community and Efficient Delivery of Public Services by providing an electronic exchange of information to expedite the care and treatment of patients and assist the HSA to achieve new electronic compliance standards.

STAFFING IMPACT:

Existing staff will perform the duties associated with this project.

CONTACT PERSON:

Rebecca Nanyonjo, Associate Director, (209) 558-7116.

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement For Professional Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and LabWare Global Services, Inc., a Delaware corporation admitted and authorized to conduct business in the State of California ("Consultant"), effective as of the date of last signature.

Introduction

WHEREAS, the County has a need for a laboratory information management system software, including the configuration, implementation and training services; and

WHEREAS, the Consultant is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. Scope of Work

1.1 The Consultant shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, which is attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Consultant under this Agreement, including without limitation electronic data files, are the property of the Consultant; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Consultant may copyright the same, except that, as to any work which is copyrighted by the Consultant, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so. The County shall defend, indemnify and hold harmless the Consultant and its officers, employees, agents, representatives, subcontractors and consultants from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, arising out of or resulting from the County's reuse of the documents and drawings prepared by the Consultant under this Agreement.

1.3 Services and work provided by the Consultant under this Agreement will be performed in a timely manner in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Consultant; provided, however, that such schedule is subject to review by and concurrence of the County.

1.4 The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and county laws, ordinances, regulations and resolutions. The Consultant represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement. Except for that representation and any representations made or contained in any proposal submitted by the Consultant and any reports or opinions prepared or issued as part of the work performed by the Consultant under this Agreement, Consultant makes no other warranties, either express or implied, as part of this Agreement.

1.5 If the Consultant deems it appropriate to employ a consultant, expert or investigator in connection with the performance of the services under this Agreement, the Consultant will so advise the County and seek the County's prior approval of such employment. Any consultant, expert or investigator employed by the Consultant will be the agent of the Consultant not the County.

2. Consideration

2.1 The Consultant shall be compensated on either a time and materials basis or a lump sum basis, as provided in Exhibit A attached hereto.

2.2 Except as expressly provided in this Agreement, Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 The Consultant shall provide the County with a monthly or a quarterly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay in full within 30 days of the date each invoice is approved by the County. The statement will generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, and a reasonable itemization of costs. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.

2.4 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.

3. Term

3.1 The term of this Agreement shall be from the date of this Agreement until

completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 The County may terminate this agreement upon 30 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Consultant as provided in Paragraph 2 herein, subject to any applicable setoffs.

3.4 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, or (b) sale of Consultant's business.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the services and work described in Exhibit A must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Consultant at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in this Agreement, Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant--not the County--has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.

6. Insurance

6.1 Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Commercial general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Professional Liability Insurance. Professional errors and omissions (malpractice) liability insurance with limits of no less than One

Million Dollars (\$1,000,000) aggregate. Such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.

6.1.3 Automobile Liability Insurance. If the Consultant or the Consultant's officers, employees, agents or representatives utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

6.3 The Consultant shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Consultant; (c) premises owned, occupied or used by the Consultant; and (d) automobiles owned, leased, hired or borrowed by the Consultant. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

6.4 The Consultant's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of

the Consultant's insurance and shall not contribute with Consultant's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees.

6.6 The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

6.9 Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Consultant or Consultant's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury,

death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Consultant's obligation to indemnify the County and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the Consultant in contributing to such claim, damage, loss and expense.

7.2 Consultant's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

7.3 To the fullest extent permitted by law, the County shall indemnify, hold harmless and defend the Consultant and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of County and its officers or employees.

7.4 Subject to the limitations in 42 United States Code section 9607 (e), and unless otherwise provided in a Scope of Services approved by the parties:

(a) Consultant shall not be responsible for liability caused by the presence or release of hazardous substances or contaminants at the site, unless the release results from the negligence of Consultant or its subcontractors;

(b) No provision of this Agreement shall be interpreted to permit or obligate Consultant to assume the status of "generator," "owner," "operator," "arranger," or "transporter" under state or federal law; and

(c) At no time, shall title to hazardous substances, solid wastes, petroleum contaminated soils or other regulated substances pass to Consultant.

8. Status of Consultant

8.1 All acts of Consultant and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Consultant. It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be

responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

8.4 Consultant is permitted to provide services to others during the same period service is provided to County under this Agreement; provided, however, such services do not conflict directly or indirectly with the performance of the Consultant's obligations under this Agreement.

8.5 If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.

8.6 It is understood and agreed that as an independent contractor and not an employee of County, the Consultant and the Consultant's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and, except as expressly provided for in any Scope of Services made a part hereof, do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.7 It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's assigned personnel under the terms and conditions of this Agreement.

8.8 As an independent contractor, Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Consultant shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photo static photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience and training of Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus
Health Services Agency
Attention: Managing Director
P.O. Box 3271
Modesto, CA 95353

To Consultant: LabWare Global Services, Inc.
Three Mill Road, Suite 102
Wilmington, DE 19806

15. Conflicts

Consultant agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

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

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

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

**COUNTY OF STANISLAUS
HEALTH SERVICES AGENCY**

LABWARE GLOBAL SERVICES, INC.

By: 
Mary Ann Lee, Managing Director

By: 

Date: 8/19/14

Printed Name: J. Carlisle Peet, III

Title: VP

Date: 8-25-14

"County"

"Contractor"

Approved: BOS Resolution #2014-419
Dated: 8/12/14

APPROVED AS TO FORM:
John P. Doering, County Counsel

By: 
MARC HARTLEY
Deputy County Counsel

EXHIBIT A

A. SCOPE OF WORK

The Consultant shall provide configuration, installation and system training in the implementation of LabWare LIMS in the County's Public Health Laboratory. Consultant shall provide project management, mentoring and assistance to the County's Health Services Agency's (HSA) Information Technology (IT) department under this Agreement as follows:

Activities to be performed/provided:

- Project Management and Mentoring
- Data Conversion/Migration
- System Installation
- System Training

The objective of these services is to enable HSA staff to become proficient in configuring LabWare LIMS and to enable HSA to complete the LIMS implementation in a timely manner.

1. ON-SITE TRAINING

Consultant will conduct on-site training to HSA staff in the deployment of LabWare LIMS in multiple phases as follows:

Rollout 1 – Deployment of LIMS in VIROLOGY, SEROLOGY/MOLECULAR, and TOXICOLOGY.

Rollout 2 – Deployment of LIMS in BACTERIOLOGY, PARASITOLOGY, MYCOLOGY, and MYCOBACTERIOLOGY.

Rollout 3 – Deployment of LabWare LIMS configuration and interfacing with existing EMR and clinical databases as identified by HSA staff. The order and timing of the phase rollouts will be determined by Consultant and HSA staff as mutually agreed.

2. DELIVERABLES

Consultant will deliver professional services as follows:

Title (Name)	Estimated Work Days	Target Start Date	Target End Date
Technical Lead / Project Management	10	7/15/2014	7/28/2014
Configuration Consultant	110	8/1/2014	1/16/2015
On-site Training	12	1/6/2015	1/22/2015

The above quoted number of days are projected estimates by Consultant based on information provided by HSA. HSA agrees and understands that the timeliness of the project is contingent upon the availability and participation of its staff in the project. Consultant agrees and understands that invoices are to reflect only actual time spent in performance of professional services under this Agreement.

These professional services will be provided to assist HSA with completing the following items:

- Project Initiation – review current and future laboratory workflows; define implementation plan
- Pilot Development – set up development environment; create conceptual system; configure workflows; finalize functional requirements; finalize choice of implementation architecture
- Core System Development – complete configuration of workflows; load static data; develop reports; prepare and review documentation
- Rollout – set up formal test environment; resolve discrepancies found in testing; set up production environment

3. HARDWARE

Implementation will require the following additional hardware and associated costs:

Two (2) label printers, Eight (8) barcode scanners, and two (2) networkable printers.

Total Hardware Costs: \$4,000

4. PROJECT PLAN

Consultant will assist HSA in defining and maintaining a Project Plan for the overall LIMS implementation. Consultant will advise HSA on the work schedule, communication plan, and risk management plan.

5. HSA RESPONSIBILITIES

HSA agrees to provide the following in effort to implement LabWare LIMS:

- a. Primary LIMS Administrator
- b. Backup LIMS Administrator
- c. Project Manager
- d. Business Analyst
- e. Report Developer
- f. Training Developer
- g. Test Plan Developer
- h. Subject Matter Experts / Key Users (as needed)

In addition, HSA will be responsible for providing a LIMS work room that is adequately equipped and designed to encourage team work and allow for frequent joint reviews of work in progress.

6. CONSULTANT RESPONSIBILITIES

Consultant will be responsible for the following:

- a. Provide mentoring to HSA staff so that HSA staff become proficient in configuring LIMS in an efficient manner.
- b. Provide expert advice on how to best configure LIMS for the purposes required by the HSA.
- c. Participate hands-on in the more complex and difficult aspects of LIMS configuration.

7. ACCEPTANCE OF CONSULTANT STAFF

For the purpose of this clause Consultant Staff is defined as any individual employed, consulted or subcontracted to act on behalf of Consultant to perform professional services under this Agreement. Acceptance of consultants who provide professional services is defined as follows:

HSA has the right to reject and remove any Consultant staff from the project for any reason with no prior notice. If HSA requests removal of a Consultant staff person at any time during the staff person's first five (5) workdays, Consultant will not charge HSA for any services performed or expenses incurred by that staff person provided a mutually acceptable cause is identified. If HSA requests removal of a Consultant staff person after the staff person has completed five (5) workdays, Consultant will not charge HSA for the consultant's last five (5) workdays and for expenses incurred during these five (5) workdays provided a mutually acceptable cause is identified. In either case, Consultant will strive to identify a suitable replacement in a timely manner.

All requests for removal shall be made in writing. No written notice of acceptance is required. The absence of a written request for removal shall serve as acceptance.

B. COMPENSATION

The Consultant shall be compensated for services provided under this Agreement as follows:

1. Consultant shall be compensated for professional services performed at the rate of \$185/hour, prorated to the nearest quarter hour. Consultant shall submit monthly invoices to the HSA Public Health Laboratory Manager by the fifteenth (15th) day of each month for the work performed during the previous month. Invoices shall specify the dates of service and scope of the work performed with sufficient detail and documentation so as to support hours and expenses billed. Payment will be made by County to Consultant within

thirty (30) days of receipt of invoice.

2. Consultant shall submit invoice to:
Stanislaus County Health Services Agency
ATTN: Public Health Laboratory Manager
P.O. Box 3271
Modesto, CA 95353
3. Consultant understands and agrees that travel will be compensated according to the County's Travel Policy. Consultant agrees that he has received a copy of the Travel Policy approved by the Board of Supervisors on September 11, 2012 (attached hereto, as "Attachment 1")

The parties hereto acknowledge the maximum amount to be paid by the County for services provided shall not exceed \$230,700, including, without limitation the cost of any subcontractors, travel, meals, hotel expenses incurred by the Consultant to perform or to assist in the performance of its work under this Agreement.

C. PROJECT MANAGEMENT

The overall LIMS implementation is managed by HSA. HSA will designate a Project Manager who will serve as the acceptor for all deliverables. All written communications to HSA regarding the project scope of work shall be directed to the HSA Project Manager.

Consultant has designated Jamey Wise as the contact person for this project. All written communications to Consultant regarding this project scope of work shall be sent to wise@labware.com.

D. CONFIDENTIALITY

The following paragraph is added to Section 10 of this Agreement:

Consultant, as a Business Associate, shall comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), (including but not limited to Title 42, U.S.C. Section 1320d et seq.), the Health Information Technology for Economic and Clinical Health Act (the HITECH Act) and its implementing regulations (including but not limited to Title 45, Code of Federal Regulations (CFR), Parts 142, 160, 162 and 164), as more particularly set forth in Exhibit B attached to this Agreement.

E. TERM

Paragraph 3.1 of the body of this Agreement is hereby amended to read as follows:

The term of this contract will begin July 15, 2014 and terminate June 30, 2015. Either party may terminate this Agreement for convenience and without cause upon providing thirty (30) days prior written notice to the other party. Upon termination of this Agreement, the County will pay to Consultant all amounts owing to Consultant for services and work satisfactorily performed.

EXHIBIT B

Business Associate (BA) shall comply, to the extent required by law, with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), (including but not limited to Title 42, U.S.C. Section 1320d et seq.), the Health Information Technology for Economic and Clinical Health Act (the HITECH Act) and its implementing regulations (including but not limited to Title 45, Code of Federal Regulations (CFR), Parts 142, 160, 162 and 164), hereinafter collectively referred to as the "Privacy Rule and Security Standards."

If COUNTY becomes aware of a pattern of activity that violates the HIPAA Privacy Rule, and reasonable steps to cure the violation are unsuccessful, the COUNTY may terminate the Agreement, or if not feasible; report the problem to the Secretary of the US Department of Health and Human Services.

COUNTY and BA desire to facilitate the billing and/or transfer of protected health information (PHI), as defined in 45 CFR, Section 164.504, by electronically transmitting and receiving data in agreed formats and to assure that such transactions comply with relevant laws and regulations.

1. Definitions

Terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those terms used in the Privacy Rule and Security Rule (defined below).

1.1 "Breach" shall have the meaning given to such term under the HITECH Act (42 U.S.C. Section 17921).

1.2 "Business Associate"(BA) shall mean CONTRACTOR as identified in this Agreement.

1.3 "Covered Entity"(CE) shall mean Stanislaus County, Health Services Agency (COUNTY).

1.4 "Data Aggregation" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

1.5 "Electronic Health Record" shall have the meaning given to such term in the HITECH Act, including but not limited to 42 U.S.C. Section 17921.

1.6 "Health Care Operations" shall have the meaning given to such term under the Privacy Rule, including, but not limited to 45 C.F.R. Section 164.501.

1.7 "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

1.8 "Privacy Rule" shall mean the Standards for Privacy of individually identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

1.9 "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in 45 CFR, Section 164.501, limited to the information provided to by Covered Entity to Business Associate or created or received by Business Associate from or on behalf of Covered Entity.

1.10 "Protected Information" shall mean PHI provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf.

1.11 "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, Subpart C.

1.12 "Physical Safeguards" are physical measures, policies, and procedures to protect a covered entity's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

1.13 "Security or Security measures" encompass all of the administrative, physical, and technical safeguards in an information system.

1.14 "Security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

1.15 **“Unsecured PHI”** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

2. Operations

2.1 **Document Standards.** Each party may transmit to, or receive from, the other party, either electronically or using other media, PHI and/or individually identifiable health information, as defined in 42 U.S.C., Section 1320d, as it pertains to the provision of services under this Agreement. All documents shall be transmitted in accordance with the standards set forth in the Health Services Agency's Privacy Policy.

2.2 **System Operations.** Each party, at its own expense, shall provide and maintain the equipment, software, services, and testing necessary to effectively, reliably, and confidentially transmit and receive documents.

3. Electronic Transmissions

Documents shall not be deemed to have been properly received, and no document shall give rise to any obligation, until decrypted and accessible to the receiving party at such party's receipt counter as designated by regulation or policy.

4. Security Standards

4.1 BA shall ensure the implementation of safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits.

4.2 BA shall ensure that any agent, including a subcontractor, to whom it provides this information agrees to implement reasonable and appropriate safeguards;

4.3 BA is required to report to the covered entity any security incident of which it becomes aware.

4.4 BA shall make its policies and procedures, and documentation required by the Security Rule relating to such safeguards, available to the Secretary for purposes of determining the covered entity's compliance with the regulations.

4.5 CE may terminate the contract if the covered entity determines that the BA has violated a material term of the contract.

5. Use and Disclosure of Protected Health Information

5.1 Except as otherwise provided in this Business Associate Exhibit, BA may use or disclose PHI to perform functions, activities or services for or on behalf of CE, as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule or the HITECH Act if done by CE or the minimum necessary policies and procedures of the CE.

5.2 If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Business Associate Exhibit, or by law, or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches in confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]

5.3 BA shall not use or disclose Protected Health Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates 42 U.S.C. Section 17935(a). BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to this Agreement.

5.4 BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than permitted by the Agreement or Business Associate Exhibit, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with

the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931]

5.5 Except as otherwise limited in this Business Associate Exhibit, BA may use and disclose PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA, provided that disclosures are required by law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.

5.6 Except as otherwise limited in this Business Associate Exhibit, BA may use PHI to provide data aggregation services related to the health care operation of CE.

5.7 BA shall not use or further disclose PHI other than as permitted or required by this Business Associate Exhibit, or by law.

5.8 BA will promptly report, in writing, to CE any use or disclosure of a PHI not provided for by this Exhibit within seven (7) days of the time BA becomes aware of such use or disclosure, pursuant to 45 CFR, Section 164.528.

5.9 BA shall document such disclosure of PHI and information related to such disclosures as would be required for the CE to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, CFR, Section 164.528.

5.10 BA shall provide to CE or an individual, within seven (7) days, information collected in accordance with Title 45, CFR, Section 164.528, to permit CE to respond to a request by the individual for an accounting of disclosures of PHI in accordance with Title 45, CFR, Section 164.528.

6. Agents and Subcontractors of BA

BA shall ensure that any agent, including subcontractor, to which the BA provides PHI received from CE, or created or received by BA on behalf of the CE, agree in writing to comply with the same restrictions and conditions that apply through this Business Associate Exhibit to the BA with respect to such information and implement the safeguards required by paragraph 5.3 above with respect to Electronic PHI.

7. Access to PHI

7.1 BA shall provide access, within seven (7) days of such a request, to the CE or, as directed by the CE, to PHI in a designated record set to an individual in order to meet the requirements of Title 45, CFR, Section 164.524.

7.2 BA shall, within seven (7) days of such a request, provide individual patient or their legal representative with access to PHI contained in BA's records, pursuant to 45 CFR, Section 164.504 (e)(2)(F).

8. Accounting Rights

Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, promptly upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request is for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Addendum [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this Agreement.

9. Amendment to PHI

BA shall make any amendment(s) to PHI in a designated record set that the CE directs or at the request of the CE or an individual within seven (7) days of such request in accordance with Title 45, CFR, Section 164.526.

10. Records Available

BA shall make its internal practices, books, and records related to the use, disclosure, and privacy protection of PHI received from the CE, or created or received by the BA on behalf of the CE, available to the CE or to the Secretary of HHS for purposes of the Secretary determining compliance with the Privacy Rule, in a time and manner designed by the CE or the Secretary of HHS.

11. Minimum Necessary

BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.541(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidelines issued by the Secretary with respect to what constitutes "minimum necessary."

12. Data Ownership

BA acknowledges that BA has no ownership rights with respect to the Protected Information.

13. Notification of Breach

During the term of this Agreement, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

14. Breach Pattern or Practice by Covered Entity

Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under this Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Agreement or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under this Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

15. Retention, Transfer and Destruction of Information

15.1 Upon termination of this Agreement for any reason, BA shall retain all PHI received from the CE, or created or received by the BA on behalf of the CE in a manner that complies with the Privacy Rule. This provision shall apply to PHI in possession of subcontractors or agents of the BA.

15.2 Prior to termination of this Agreement, the BA may be required by the CE to provide copies of PHI to the COUNTY. This provision shall apply to PHI in possession of subcontractors or agents of the BA.

15.3 When the retention requirements on termination of the Agreement have been met, BA shall destroy all PHI received from the CE, or created or received by the BA on behalf of the CE. This provision shall apply to PHI in possession of subcontractors or agents of the BA. BA, its agents or subcontractors shall retain no copies of the PHI.

15.4 In the event that BA determines that returning or destroying the PHI is not feasible, BA shall provide the CE notification of the conditions that make destruction infeasible. Upon mutual agreement of the parties that the destruction of the PHI is not feasible, BA shall extend the protections of this Business Associate Exhibit to such PHI and limit further use and disclosures of such PHI for so long as BA, or any of its agents or subcontractors, maintains such PHI.

16. Force Majeure

No party shall be liable for any failure to perform its obligations in connection with any transaction or any document where such failure results from any act of nature or other cause beyond such party's reasonable control

(including, without limitation, any mechanical, electronic, or communications failure) that prevent such party from transmitting or receiving any documents.

17. Limitation of Damages

Other than specified in elsewhere, neither party shall be liable to the other for any special, incidental, exemplary, or consequential damages arising from or as a result of any delay, omission, or error in the electronic transmission or receipt of any documents pursuant to this Agreement, even if either party has been advised of the possibility of such damages.

18. Attorney-Client Privilege

Notwithstanding the foregoing, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by BA or CE by virtue of this Subparagraph.

19. Interpretation

Any ambiguity in this Business Associate Exhibit shall be resolved to permit the CE to comply with the Privacy Rule and Security Standards.

20. Amendment to Comply with Law

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and amendment of the Agreement or this Exhibit may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information.

LabWare LIMS

Master Software License Agreement

This Master Software License Agreement (hereinafter referred to as "**Agreement**") is entered into by and between LabWare, (hereinafter referred to as "**LabWare**" and more fully described on Addendum 1, attached hereto and made a part hereof), and the County of Stanislaus by and through its Health Services Agency (HSA) _____, having its offices at 830 Scenic Drive, Modesto, CA 95350 _____ (hereinafter referred to as "**Licensee**"). Both LabWare and Licensee agree that the terms and conditions contained in this Agreement shall govern the sale, licensing and discounting of all Software offered to Licensee by LabWare.

1.0 DEFINITIONS

- a. **Employee** – Shall mean any employee of LabWare.
- b. **LabWare Software** - Shall mean any available LabWare licensed program that may be obtained, by license, from LabWare under this Agreement.
- c. **Effective Date** – Shall be the date listed on Addendum 1.
- d. **Capacity** – Shall mean the number of concurrent users authorized for simultaneous access to an instance of the LabWare Software.
- e. **Third Party Software** – Shall mean a third party's proprietary software that LabWare either sublicenses or which is acquired by license and embedded in the LabWare Software.

2.0 SCOPE OF AGREEMENT

During the Term of this Agreement, Licensee is hereby granted the right to purchase nonexclusive LabWare Software licenses and equipment at the prices and in accordance with the terms and conditions that are listed in Addendum 2, which is attached hereto and made a part hereof.

2.1 Licensee Purchase Orders

Licensee shall acquire a license for LabWare Software by issuance of individual purchase orders that reference and are subject to the terms and conditions of this Agreement. In the event of any inconsistencies between the language of this Agreement and any purchase orders issued, the language of this Agreement shall control. All purchases made under this Agreement shall be considered to have been made in the Country and City identified on Addendum 1, and this Agreement shall be considered to have been executed in the Country and City identified on Addendum 1.

2.2 Other LabWare Products

LabWare products, software, and equipment that are not listed in Addendum 2 are not covered by this Agreement but may be incorporated into this Agreement by issuing supplemental Addendums as may be agreed to in writing by both parties.

2.3 Agreement Documents

a. Whole Agreement

This Agreement and all Addendums referred to herein or attached hereto, all of which are incorporated by reference, together constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and/or contemporaneous discussions, documents, agreements and prior course of dealing and will not be effective until signed by both parties.

b. Validity of Parts

LabWare LIMS

Master Software License Agreement

If any word, phrase, clause, article, or other provision contained in this Agreement is adjudicated or otherwise found to be against public policy, void or unenforceable, then said word, phrase, clause, article or provision shall be modified or amended to; (1) make the Agreement valid and enforceable; and (2) continue to reflect the original intent of the parties to this Agreement.

c. **Captions and Headings**

The captions of each Article of this Agreement are solely for reference and have no legal effect whatsoever and shall not in any way affect the interpretation or construction of this Agreement.

d. **Effect of Waiver**

A waiver by either party hereto of any right hereunder, or of any failure to perform, or of any breach by any party will not be a waiver of any other right hereunder or of any subsequent breach or failure by the other party, whether of similar nature or otherwise.

2.4 **Right to Transfer**

Neither this Agreement, nor any portion of this Agreement, nor any rights, licenses or obligations hereunder, may be assigned, encumbered or in anyway transferred by Licensee without the prior written approval of LabWare, which approval may be withheld for any reasonable reason whatsoever.

2.5 **Changes and Modifications**

Any and all modification to the terms and conditions of this Agreement shall be made by mutual agreement between the two parties and must be evidenced by issuance of a written addendum signed by an authorized representative of both LabWare and Licensee.

2.6 **Applicable Laws**

a. **Notices and Compliance with Laws**

LabWare and Licensee agree that they shall give all notices and comply with all laws, ordinances, rules, regulations, codes, and orders of any public authority having jurisdiction over their respective activities, as it applies to the scope of work covered by this Agreement, and shall comply with all terms and conditions of any insurance policies covering any part of the work.

b. **Jurisdiction**

This Agreement shall be construed in accordance with the laws of the jurisdiction identified on Addendum 1, without giving effect to the principles of conflict of laws of such jurisdiction. Licensee and LabWare hereby agree on behalf of themselves that the sole and exclusive jurisdiction and venue for any litigation arising from or relating to this Agreement or the subject matter hereof shall be in the venue identified on Addendum 1.

3.0 **TERM OF AGREEMENT**

Licenses granted under this Agreement shall remain in full force and effect in perpetuity unless terminated earlier as provided in Section 7 of this Agreement.

4.0 **PRICE**

LabWare LIMS

Master Software License Agreement

The pricing schedule specified in Addendum 2 to this Agreement shall remain firm during the term of this Agreement.

5.0 GRANT OF LICENSE

5.1 Grant of License

Under the provisions of this Agreement, LabWare shall grant to Licensee a nonexclusive license to use LabWare Software on equipment and systems owned, leased, rented, operated or otherwise controlled by Licensee. Each installation of the LabWare Software shall require a programmatic key called a "license SLL", which shall be provided by LabWare in the form of an electronic file and installed as part of the LabWare Software. Use of the License shall be subject to a capacity limitation, expressed as the number of concurrent users authorized for simultaneous access to the Production Instance (as defined in Section 5.2 below). The Capacity limitation for each license shall be set by and encoded in the license SLL. Notwithstanding such capacity limitations, Licensee may designate any number or persons as authorized users. Licensee may add capacity at any time by purchasing additional licenses at a fee to be agreed to by the parties.

5.2 Implementation

LabWare will issue one or more license SLL file(s) and shall provide such file(s) to Licensee with the delivery of Licensee's LabWare Software. For each license SLL Licensee may implement a single Production Instance of the LabWare Software (an Instance shall mean a single database occurrence including a single LabWare Software database schema, where the schema is defined as the database tables delivered with and thereafter configured for use with the LabWare Software) of the LabWare Software. Licensee may use any number of licenses for non-production use for training, development, testing, maintenance, enhancements, and/or troubleshooting conducted in connection with Licensee's production environment at the production site. The creation and use of such non-production Instances shall be subject to the following condition: Each such non-production Instance shall be used for development, testing, training, maintenance, enhancement and/or troubleshooting of the same single Production Instance (Production Instance shall mean that database Instance used to store and retrieve Licensee's live data, such live data being that data derived from Licensee's actual business operations in connection with Licensee's use of the LabWare Software) for which the purchased license is intended to be used.

5.3 Copyright Protection

The LabWare Software covered by this Agreement, including without limitation, all copies thereof and passwords therefore and all rights to patents, copyrights, trademarks, trade secrets and other intellectual property rights inherent therein and/or appurtenant thereto, shall remain the property of LabWare and shall only be licensed to Licensee for authorized use as described in this Agreement. Licensee shall not, by virtue of this Agreement or otherwise, acquire any proprietary rights whatsoever in the LabWare Software, each being confidential information of LabWare and the sole and exclusive property of LabWare. Any right not expressly granted to Licensee by this Agreement is hereby expressly reserved by LabWare. All LabWare Software is protected by United States copyright laws and international treaty provisions.

Licensee agrees to secure and protect the LabWare Software in a manner consistent with the maintenance of LabWare's right therein, and in accordance with the terms of this Agreement, and to take appropriate action by instruction or agreement with its employees who are permitted access to the LabWare Software to satisfy its obligations hereunder. Licensee shall cooperate with and assist LabWare in identifying and preventing any unauthorized use, copying or disclosure of the LabWare Software. Without limitation of the foregoing, Licensee shall advise LabWare

LabWare LIMS

Master Software License Agreement

immediately in the event Licensee learns or has reason to believe that any person has violated or intends to violate the confidentiality of the LabWare Software or the proprietary rights of LabWare, and Licensee will, at Licensee's expense, cooperate with LabWare in seeking injunctive or other equitable relief against any such person. Licensee acknowledges that the disclosure of any aspect of the LabWare Software or any other confidential information referred to herein, or any information which at law or equity ought to remain confidential, will immediately give rise to continuing irreparable injury to LabWare inadequately compensable in damages at law, and LabWare shall be entitled to obtain immediate injunctive relief against the breach or threatened breach of any of the foregoing confidentiality undertakings, in addition to any other legal remedies which may be available and Licensee hereby consents to the obtaining of such injunctive relief.

5.4 Backup Copy

Licensee may make a reasonable number of copies of each LabWare Software program obtained under the terms of this Agreement solely for backup or archival purposes.

5.5 Printed Material

Licensee may not copy or reproduce any of the written materials accompanying the LabWare Software without first obtaining the written permission of LabWare, such permission not to be unreasonably withheld.

5.6 Restrictions

Licensee shall not rent, lease, grant sublicenses or resell LabWare Software to others, nor shall Licensee reverse engineer, decompile or disassemble any LabWare Software obtained under the terms of this Agreement. Any attempt to do any of the above shall be void without effect and will be grounds for immediate termination of this Agreement and revocation of the licenses granted to Licensee hereunder.

5.7 Non LabWare Software

LabWare's Software is designed to operate in conjunction with certain third party operating systems (including Windows 2000, windows NT and Windows XP), databases (including Oracle, SQL Server and DB2 running on most platforms including Microsoft, Unix or AS400) and software provided by others, including Third Party Software (including Citrix and SAP). LabWare will assist Licensee in identifying the requirements for these products but assumes no responsibility or liability for the purchase, use or maintenance thereof. Further, certain Third Party Software may be provided with the LabWare Software. Licensee agrees to comply with the terms of any license under which the Third Party Software is provided.

6.0 TERMS OF PAYMENT

Licensee shall pay LabWare the net value of each submitted invoice, within 30 calendar days from the date the invoice is actually received by Licensee. Time is of the essence with respect to all payments by Licensee. Should Licensee failed to make payment for services in a timely as described herein LabWare may suspend performance of its obligations under this Agreement until such time as Licensee makes payment to bring its account current.

The fees payable under this Agreement are exclusive of and Licensee shall pay and hold LabWare harmless from all taxes, levies, imposts, duties, VAT charges, or other charges of whatsoever nature however imposed by any country or any subdivision or authority thereof in any way connected with this Agreement or an instrument or agreement required hereunder, and all interest, penalties, or similar liabilities with respect thereto, except such taxes as are imposed on or measured by LabWare's net income or property. All sums stated in this Agreement as being payable by Licensee to LabWare are exclusive of VAT or similar other taxes, use and sales taxes,

LabWare LIMS

Master Software License Agreement

which amounts shall be borne exclusively by Licensee. Licensee shall provide evidence that all applicable taxes have been paid to the appropriate taxing authority by delivering to LabWare receipts thereof within thirty (30) days after the due date for such tax payments.

7.0 TERMINATION OF AGREEMENT

The licenses purchased by Licensee shall remain in full force and effect in perpetuity unless after such termination Licensee violates Sections 5 or 10, which Sections, as well as Sections 2.1, 5, 7, 10, 12, 13, 14, 15 and 16, shall survive termination of this Agreement for so long as Licensee is in possession of or is using the LabWare Software. In the event Licensee violates Sections 5 or 10 at any time, Licensee shall within thirty (30) days of written notice from LabWare return all LabWare Software to LabWare.

Without prejudice to any other rights, LabWare may terminate this Agreement upon written notice at any time, if:

- (i) Licensee fails to perform any of its obligations under this Agreement; or
- (ii) Licensee transfers, by operation of law or otherwise, or attempts to transfer, without LabWare's written consent, any interest in, or right, privilege or obligation under this Agreement; or
- (iii) There is a material change, however accomplished, in the direct or indirect ownership or operating management of Licensee without LabWare's prior written consent which, in the reasonable opinion of LabWare, impairs Licensee's ability to perform its obligations under this Agreement in a fashion consistent with the understandings of the parameters of this Agreement; or
- (iv) Licensee becomes insolvent or is unable to pay its debts as they mature, or if a petition in bankruptcy or receivership (or any similar legal or administrative proceeding) is filed by or against Licensee, or if a court appoints a temporary or permanent receiver, trustee, or custodian for the assets of Licensee, or if Licensee makes an assignment for the benefit of creditors, or if Licensee fails for any reason to function in the ordinary course of business; or
- (v) Licensee defaults under the terms of any other agreement it had entered into with LabWare.

Licensee will have a period of thirty (30) days after receipt of written notice to cure the breach (provided the breach is capable of cure). If Licensee fails to do so, LabWare may immediately terminate this Agreement. Also, if during any twelve (12) month period, LabWare gives more than two (2) termination notices to Licensee pursuant to this Section, then, regardless of whether Licensee cures the underlying breaches or defaults, LabWare may immediately terminate this Agreement. If LabWare terminates the Agreement for any of the above reasons or any other reason of default, the license for LabWare Software sold hereunder shall be immediately revoked and Licensee agrees to return all property of LabWare to LabWare, or certify that it has been destroyed within thirty (30) days of receipt of written notice that it is in default of this Agreement. Further, LabWare has the right to pursue any legal action and equitable remedies that may be available.

Licensee may terminate this Agreement in whole if LabWare becomes insolvent or is unable to pay its debts as they mature, or if a petition in bankruptcy or receivership (or any similar legal or administrative proceeding) is filed by or against LabWare, or if a court appoints a temporary or permanent receiver, trustee or custodian for the assets of LabWare, or if LabWare makes an assignment for the benefit of creditors, or if LabWare fails for any reason to function in the

LabWare LIMS

Master Software License Agreement

ordinary course of business, or LabWare fails to perform a material obligation set forth in this Agreement, or fails in any way to comply with any of the conditions or provisions of this Agreement. Licensee shall provide LabWare with a thirty (30) day grace period to remedy any default hereunder. The grace period shall commence upon receipt of a written notice of default by LabWare. In the event LabWare fails to remedy said default, Licensee may, without limiting any other remedy available to it in law or equity, either withhold performance that may otherwise be due under this Agreement or terminate the Agreement. In such case the licenses purchased hereunder shall remain in full force and effect unless or until Licensee violates Sections 5 or 10 of this Agreement. If termination hereunder is due to a default on the part of LabWare, then Licensee shall be entitled to return the LabWare Software to LabWare and receive a refund of eighty percent (80%) of the License fee it has paid for the LabWare Software. No refund will be allowed once the LabWare Software has been operational for six (6) months. In the event Licensee desires to retain the LabWare Software there will be no refund of any amount.

8.0 INDEPENDENT CONTRACTOR

The parties hereto expressly understand and agree that each party is an independent contractor in the performance of each and every part of this Agreement, is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection therewith. Neither party nor its agents or employees are the representatives of the other party for any purpose, and neither party has the power or authority as agent, employee or in any other capacity to represent, act for, bind or otherwise create or assume any obligations on behalf of the other party for any purpose whatsoever.

8.1 LabWare Employees

LabWare shall be responsible for supervising, directing, hiring, firing and training its employees and shall only assign individuals to Licensee's account that meet industry standards and qualifications. LabWare further affirms that it shall maintain complete control over, and responsibility for, its own employees and operations and those of its subcontractors.

8.2 Subcontractors

No provision of this Agreement, or any subcontract awarded by LabWare, shall be construed to create a contractual relationship between the subcontractor and Licensee or to create an obligation to pay or be responsible for the payment of any monies that may be due to any subcontractor from LabWare.

8.3 Unforeseen Delays

LabWare shall not be liable for delays in the performance of its obligations hereunder due to causes beyond its control including, but not limited to, acts of God, acts of Government authorities, strikes or inability to obtain labor or materials on time.

8.4 Employment Practices

During the Term of this Agreement, both LabWare and Licensee agree not to purchase the services of each other's current employees, either directly as a consultant or indirectly as an independent contractor working through another business entity representing that employee. However, this provision shall not apply to employees of either party responding to advertisements made at job fairs, through either parties internal communications or in media circulated to the general public at large, or former employees, agents, or subcontractors of either party.

LabWare LIMS

Master Software License Agreement

9.0 WARRANTY

- 9.1 LabWare warrants and guarantees that the Software provided to Licensee under the terms of this Agreement shall be of the proper kind and quality, suitable for their intended use and that all workmanship shall be in accordance with industry standards that are in effect at the time of completing the work.
- 9.2 Any repair or replacements that are required to be performed by LabWare under the provisions of this Warranty shall comply with all of the requirements and specifications of this Agreement.
- 9.3 The warranty provided hereunder extends for one (1) year from the Purchase Date..

LABWARE MAKES NO OTHER WARRANTIES, WHETHER WRITTEN ORAL, OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF FITNESS FOR PURPOSE OR MERCHANTABILITY. LABWARE MAKES NO WARRANTIES AS TO THE PERFORMANCE OR FITNESS OF ANY THIRD PARTY SOFTWARE.

10.0 CONFIDENTIALITY

The information to be exchanged or discussed in implementing this Agreement is considered by LabWare or Licensee, as the case may be, to be confidential, proprietary, or trade secret in nature whether such information is marked as such or not and regardless of the form of media ("Proprietary Information").

With respect to all such Proprietary Information, LabWare and Licensee each agree to:

- (i) Use commercially reasonable efforts to maintain the same in confidence,
- (ii) Not disclose the same to any third party,
- (iii) Use the same only for the purposes of implementing the undertakings of the respective parties under this Agreement, and
- (iv) Limit access to the Proprietary Information to the employees of LabWare or Licensee, as the case may be, who have a need to know, who have agreed to honor the terms hereunder, and who will safeguard such disclosed Proprietary Information against disclosure with at least the same degree of care as with their Company's own Proprietary Information.

This duty of confidentiality shall expire five (5) years after the date of the last disclosure of such Proprietary Information hereunder, or five (5) years after Licensee last uses the LabWare Software, whichever is later. The foregoing obligations shall not apply, however, to any such Proprietary Information which:

- (i) Can be demonstrated to have been in the possession of LabWare prior to its disclosure by Licensee or Licensee prior to its disclosure by Lab Ware.
- (ii) Is now or hereafter becomes generally available to the public other than by violation of this Agreement,

LabWare LIMS

Master Software License Agreement

- (iii) Is disclosed to LabWare by a third party having no obligation to Licensee or disclosed to Licensee by a third party having no obligation to LabWare, or
- (iv) Is developed by LabWare or Licensee, as the case may be, without reference in any manner to the disclosed Proprietary Information.
- (v) Is disclosed pursuant to a requirement of a governmental agency or of law without similar restrictions or other protection against public disclosure, or as to which disclosure is required by operation of law; provided, however, that LabWare or Licensee, as the case may be, will first have given written notice of such required disclosure to the other party, and taken reasonable steps to allow the other party to seek to protect the confidentiality of the information required to be disclosed.

Simply because a particular aspect of the Proprietary Information is included, but not specifically disclosed in the more general information otherwise available to the public or Licensee or LabWare, as the case may be, does not operate to relieve LabWare or Licensee of their respective confidentiality obligations herein.

Notwithstanding expiration or termination of this Agreement, the duties of confidentiality undertaken as to Proprietary Information disclosed prior to such expiration or termination shall survive thereafter provided above.

11.0 INDEMNIFICATION

In connection with the performance of this Agreement, each party hereto shall indemnify and hold harmless the other party (which term as used in this Article shall be deemed to include directors, officers, employees, agents, and servants) from and against any and all liabilities, claims, losses, damages, or expenses, including reasonable counsel fees, whether arising before or after completion of the work hereunder, which may be incurred or sustained by the other party or any of its employees, by reason of any act, omission, misconduct, negligence, or default on the part of the indemnifying party, or any employee, agent or subcontractor of the indemnifying party.

12.0 WAIVER OF CONSEQUENTIAL DAMAGES

NEITHER PARTY HERETO SHALL HAVE LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION OR CLAIMS IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION TO BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, AND OTHER TORTS.

13.0 PATENTS

- 13.1 LabWare shall, at LabWare's own expense, defend all suits or proceedings instituted against Licensee and shall pay any award of damages and costs that may be assessed against Licensee, for any claim that the LabWare Software furnished by LabWare under this Agreement, or any part

LabWare LIMS

Master Software License Agreement

thereof, constitutes an infringement of any valid patent, trademark, copyright, or other property rights.

- 13.2 Licensee shall give LabWare prompt notice of the institution of any such suit or proceeding and shall furnish LabWare (at LabWare's expense) all needed information, authority, and assistance to enable LabWare to defend the same.
- 13.3 If any LabWare Software is held to constitute an infringement and its use is enjoined, LabWare shall, within a reasonable time, secure for Licensee at LabWare's own expense, the right to continue using said LabWare Product, by suspension of the injunction, by procuring for Licensee a license, or otherwise, or shall, at LabWare's own expense, as Licensee may elect, replace such Product with suitable non-infringing software, equipment, or apparatus, or modify same so that it becomes non-infringing, all without damage or injury to any other property of Licensee.
- 13.4 The foregoing shall not be construed to impose upon LabWare any liability whatsoever in respect to United States patents for methods and processes to be carried out with the aid of said software, equipment or apparatus, except those which are inherent in the LabWare Software as furnished.

14.0 LIMITATION OF LIABILITY

Licensee agrees that LabWare's liability hereunder for damages, except with respect to liability for patent and copyright infringement, is limited to the fees paid by Licensee hereunder.

15.0 EXPORT CONTROL

Licensee acknowledges that the LabWare Software and Products may be subject to United State or other governments' export laws and regulations, and any use or transfer of the LabWare Software or Products must be permitted or authorized under those regulations. Except as expressly permitted in this Agreement, Licensee shall not export or import the LabWare Software or Products. To the extent any export or import is permitted under this Agreement, Licensee shall be responsible for ensuring that it complies with all laws and regulations of the United State and other applicable governments relating to the LabWare Software or Products. Licensee at its own expense shall indemnify, defend and hold LabWare free and harmless from any and all claims, damages, losses, costs, actions and expenses, including attorney's and experts' fees, arising from any breach of the foregoing obligation.

16.0 AUDIT

For so long as Licensee is in possession of LabWare Software, LabWare shall have the right, upon forty-eight (48) hour notice, to access Licensee's facilities in order to determine whether the LabWare Software is being used in accordance with this Agreement. Each audit will be conducted at Licensee's place of business during Licensee's normal business hours. LabWare will pay for the cost of such audit. Audit information will only be used for purposes of this Agreement, including, without limitation, judicial enforcement of the obligations of Licensee.

17.0 COMMUNICATIONS AND COMMITMENT AUTHORITY

Written notice shall be deemed to have been duly made when it is given directly to an authorized representative of either LabWare or Licensee, or to the person or persons so designated by either party, or is sent by the US Postal Service or commercial document express carrier to the last known address of either LabWare or Licensee.

17.1 LabWare

- a. **Authority to Commit**

LabWare LIMS

Master Software License Agreement

ADDENDUM 1

1. LabWare 3 Mill Road, Suite 102, Wilmington DE, 19806
(Address)
2. Effective Date: **9/1/2014**
3. Location of purchase pursuant to Section 2.1: Modesto, CA, Stanislaus County
4. Jurisdiction pursuant to Section 2.6 (b): Modesto, CA, Stanislaus County
5. Litigation Venue pursuant to Section 2.6 (b): Modesto, CA, Stanislaus County
6. LabWare individuals authorized to represent LabWare, Inc.
 - (a) Carlisle Peet
 - (b) David Nixon
 - (c) David Trottier
7. Individuals authorized to represent Licensee:
 - a) Commercial Terms and Conditions. Contractual correspondence, including, but not restricted to, terms, conditions, price adjustment, or any change to the non-technical scope of the Agreement should be addressed to:
 - 1) Ev Plascencia, HSA IT Manager, 1030 Scenic Drive, Modesto, CA 95350
 - 2) James Ferrera, Public Health Lab Manager, 820 Scenic Drive, Modesto, CA 95350
 - 3)
 - b) Technical Issues and Scope of Work. All technical correspondence and communications related to the scope of work should be addressed to:
 - 1) Ev Plascencia, HSA IT Manager, 1030 Scenic Drive, Modesto, CA 95350
 - 2) Lisa Boddy, Applications Specialist, 1030 Scenic Drive, Modesto, CA 95350
 - 3)

LabWare LIMS

Master Software License Agreement

ADDENDUM 2

Item	Units	Unit Price	Total
Software Cost (list applications/modules):			
Not Applicable	1	\$0	\$0
User licenses (indicate whether based on physical workstation, named user, concurrent user, or some other basis):			
LabWare LIMS Version 6.0 Software License The Software consists of the core LabWare LIMS application, along with access to LabWare's library of LIMS software modules.	10	\$6,660	\$66,600
Server license (list applicable OS, database, or other required server software):			
Not included: LIMS application - Microsoft Windows Database is accessed via an ODBC driver. databases are Oracle and SQL Server. The Web Interface is Java EE-based (e.g. Tomcat, BEA WebLogic or WebSphere)	1	\$0	\$0
List and specify any third party software required for system:			
Crystal Reports (Complete Product) One copy is provided free of charge for each LabWare LIMS implementation regardless of the number of LIMS licenses purchased.	1	\$0	\$0
LabWare LIMS - External User License The Software License enables an external third party user to remotely access the Production Instance of LabWare LIMS and to utilize a restricted set of application features and functions.	10	\$1,490	\$14,900
LabWare LIMS SQC Charting and Trending Option Powered By Northwest Analytics Quality Analyst SQC and charting technology. Includes fully integrated NWA Quality Analyst ActiveX Controls (QAx) offering numerous SQC charts and trend plots from within LIMS. Site-License for all licensed LIMS users at one site connected to a single production LIMS database.	1	\$12,450	\$12,450
Total Software Cost			\$93,950

LabWare LIMS Master Maintenance Agreement

This Master Maintenance Agreement (hereinafter referred to as "**Agreement**") is entered into by and between LabWare (hereinafter referred to as "**LabWare**" and more fully described on Addendum 1, attached hereto and made a part hereof), and the County of Stanislaus by and through its Health Services Agency (HSA), having its offices at 830 Scenic Drive, Modesto, CA 95350 (hereinafter referred to as "**Licensee**"). Both LabWare and Licensee agree that the terms and conditions contained in this Agreement shall govern the maintenance services offered to Licensee by LabWare.

1.0 DEFINITIONS

- a. **Employee** – Shall mean any employee of LabWare.
- b. **LabWare Software** - Shall mean the standard software programs provided by LabWare to the Licensee under the LabWare Master Software License Agreement.
- c. **Software Maintenance** – Shall mean the on going development and support of the LabWare Software, including,, new releases, maintenance releases, interim fixes, enhancements and improvements to the operation and functionality of the LabWare Software.
- d. **Effective Date** – Shall be the date indicated on Addendum 1.
- f. **Configuration Support**– Shall mean any services beyond Software Maintenance intended to support the Licensee's LabWare implementation, including but not limited to implementation, ITIL L2/L3 services, post go live support or application support.

- h. **Capacity** – Shall mean the number of concurrent users authorized for simultaneous access to an instance of the LabWare Software.

2.0 SCOPE OF AGREEMENT

During the Term of this Agreement, Licensee, who has purchased a license for the LabWare Software pursuant to a separate Master Software License Agreement, may purchase Software Maintenance pursuant to this Agreement for said LabWare Software.

2.1 Agreement Documents

- a. **Whole Agreement**

This Agreement and any Schedules or Addendums which may be attached hereto, all of which are incorporated by reference, together constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and/or contemporaneous discussions, documents, agreements and prior course of dealing and will not be effective until signed by both parties.
- b. **Validity of Parts**

If any word, phrase, clause, article, or other provision contained in this Agreement is adjudicated or otherwise found to be against public policy, void or unenforceable, then said word, phrase, clause, article or provision shall be modified or amended to; (1) make the Agreement valid and enforceable; and (2) continue to reflect the original intent of the parties to this Agreement.
- c. **Captions and Headings**

The captions of each Article of this Agreement are solely for reference and have no legal effect whatsoever and shall not in any way affect the interpretation or construction of this Agreement.
- d. **Effect of Waiver**

A waiver by either party hereto of any right hereunder, or of any failure to perform, or of any breach by any party will not be a waiver of any other right

LabWare LIMS
Master Maintenance Agreement

hereunder or of any subsequent breach or failure by the other party, whether of similar nature or otherwise.

2.2 Right to Transfer

This Agreement may be assigned by either party without the prior written approval of the other.

2.3 Changes and Modifications

Any and all modification to the terms and conditions of this Agreement shall be made by mutual agreement between the two parties and must be evidenced by issuance of a written addendum signed by an authorized representative of both LabWare and Licensee.

2.4 Applicable Laws

a. **Compliance with Laws**

LabWare and Licensee agree that they shall comply with all laws, ordinances, rules, regulations, codes, and orders of any public authority having jurisdiction over their respective activities, as it applies to the scope of work covered by this Agreement, and shall comply with all terms and conditions of any insurance policies covering any part of the work.

b. **Jurisdiction**

This Agreement shall be construed in accordance with the laws of the Country, State or other local jurisdiction identified on Addendum 1, without giving effect to the principles of conflict of laws of such jurisdiction. Licensee and LabWare hereby agree on behalf of themselves that the sole and exclusive jurisdiction and venue for any litigation arising from or relating to this Agreement or the subject matter hereof shall be an appropriate federal, state or other local court in the jurisdiction identified on Addendum 1.

3.0 TERM OF AGREEMENT

3.1 Initial Term

The Initial Term of this Agreement shall be for a period of one year commencing on the Effective Date. This Agreement shall not be construed as self-extending except as specifically provided herein.

3.2 Extensions

Subject to agreement by both parties hereto, and continued payment of the fees set forth herein, this Agreement may be extended for additional one-year terms of twelve (12) months each, as set forth in Section 4.1 below.

4.0 LABWARE SOFTWARE MAINTENANCE

LabWare shall provide Licensee with Software Maintenance which provides enhancements and improvements to the operation and functionality of all LabWare Software products that the Licensee has purchased under the terms of the Master Software License Agreement. Such improvements are provided by new releases of software, maintenance releases for a particular version of software or interim fixes for a particular version of software. Access to such improvements is restricted to Named Contacts, who download such improvements from LabWare's on-line support site (DevTrack, LabTrack).

Software Maintenance does not provide Configuration Support. The Licensee's system administrators are expected to perform these services or they can be purchased from LabWare

4.1 Costs and Charges

The following costs and charges will be assessed for Software Maintenance for each LabWare Software Product held by Licensee:

LabWare LIMS
Master Maintenance Agreement

a. **Initial Purchase**

Software Maintenance will be provided to Licensee for a period of twelve (12) months from the purchase date of the software license from LabWare at no cost. The capacity of the license (i.e. the number of concurrent users) may be increased in accordance with the Master Software License Agreement

b. **Additional License or Capacity Purchases**

For the purposes of this Agreement, the purchase of additional licenses or license capacity of the Software shall not extend or modify the Effective Date for calculating the time period for providing free Software Maintenance. A Software Maintenance charge shall be paid immediately on all licenses or license capacity purchased after the first anniversary of the Effective Date. Payment shall be prorated on a daily basis, from the date the additional licenses are made available to Licensee through a secure electronic download to the next anniversary of the Effective Date

c. **Supplemental Software Maintenance**

On or before thirty (30) days prior to the anniversary of the Effective Date of the Software Maintenance, Licensee shall have the option to purchase additional one (1) year periods of supplemental Software Maintenance coverage for each LabWare Software programs licensed to Licensee, by giving to LabWare written notice of its intent to so purchase.

d. **Fees for Supplemental Software Maintenance**

The cost to purchase additional one (1) year periods of supplemental Software Maintenance coverage shall be charged as set forth on Addendum 2.

4.2 **Implementation of New Releases, Maintenance Releases and Interim Fixes**

During the term of this Agreement, Licensee shall have an option to accept or reject the implementation of any new release, interim fixes, or maintenance releases provided by LabWare. LabWare agrees that it will fully maintain the current version and the previous version of the then current version of the LabWare Software licensed to Licensee, provided that the Licensee has extended this Agreement and the Maintenance coverage as provided herein for such LabWare Software. Should the Licensee elect not to implement a new release, interim fix or maintenance release provided by LabWare to address a reported software error, then LabWare shall no longer be obligated to provide any further resolution for that error under the terms of this Agreement.

4.3 **Reinstatement of Software Maintenance**

Should Licensee discontinue Software Maintenance for any period of time and at a later date desire to reinstate the Software Maintenance, Licensee must first make a payment to LabWare in an amount equal to One Hundred and Twenty percent (120%) of the payments that would have been made if Licensee had not had an interruption in Software Maintenance.

4.4 **Error Classification and Fault Resolution**

The support provided under the terms of this Agreement is limited to addressing problems in the LabWare Software. The Named Contact will be asked to provide verification information so that LabWare can reproduce the fault on LabWare's support system. The LabWare product support team may provide general help on a per case basis, but reserves the right to charge for consultancy services for general assistance and help with all other forms of fault resolution, and support including but not limited to; (i) Errors resulting from operator error; (ii) errors resulting from configuration changes or ineffective testing; (iii) errors resulting from modifications made by the Licensee; and (iv) errors resulting from environmental problems with the Licensee's IT infrastructure, e.g. database, network, ODBC drivers, SMS. Such additional services can be purchased as part of a post go live (L2/L3) Services agreement.

LabWare LIMS
Master Maintenance Agreement

Once an error has been reported to the LabWare product support team and verified by LabWare as a LabWare product defects (function not working as defined in the documentation), the priority for resolution (and a required resolution time if required) shall be agreed to between LabWare and the support representatives of Licensee (who must be Named Contacts). Maintenance releases will be issued on a regular basis. For issues requiring resolution prior to availability of maintenance releases, LabWare will endeavor to provide workarounds, individual product defects fixes, interim fixes or agree to a resolution plan.

LabWare does not warrant to fix all product defects. Obscure or minor product defects may be simply documented in the LabWare knowledge bases for the benefit of all users. Product defects with efficient workarounds may be closed with an explanation of the suggested workaround.

5.0 NAMED CONTACTS

In order to access the services provided under this Agreement, Licensee must designate one or more Named Contacts. Designation of Named Contacts by the Licensee shall be made via the LabWare support web site. Only Named Contacts shall be permitted to contact LabWare for non-configured application defects. LabWare's normal operating hours and locations are described in Addendum 1. Named Contacts must have attended and passed the LabWare System Admin Certification, and must be familiar with the Licensee's particular LabWare implementation. Deputy Named Contacts may also be appointed, but must meet the same requirements as Named Contacts to qualify to act as deputies.. Deputies may contact LabWare only when a Named Contact is not available because of non-work related causes.

5.1 Terms of Named Contact

The following costs and charges will apply:

- a. Licensee shall have the option to purchase Named Contacts for one (1) year beginning on the Effective Date for all of LabWare Software programs, at a price to be determined each year by LabWare. The fee for the first year shall be set forth on Addendum 2. For each year that a Named Contact fee is paid the Named Contact shall have the admission fee waived for attendance to one of LabWare's regional Customer Education Conferences.
- b. Renewal. On or before thirty (30) days prior to the anniversary of the Effective Date of the LabWare Software program, Licensee shall have the option to purchase additional one (1) year periods of Named Contact coverage by giving to LabWare written notice of its intent to so purchase.

5.2 Online System Access

Each Named Contact identified by Licensee shall have access to LabWare's full online support resources. Licensee's authorized employees will be provided access accounts at LabWare's discretion.

6.0 CONFIGURATION SUPPORT

Configuration Support may be contracted for by the Licensee to support the LabWare Software application beyond what is provided for in this Agreement.

7.0 TERMS OF PAYMENT

Licensee shall pay LabWare the net value of each submitted invoice, within 30 calendar days from the date the invoice is actually received by Licensee. Time is of the essence with respect to all payments by Licensee. Should Licensee failed to make payment for services in a timely as described herein LabWare may suspend performance of its obligations under this Agreement until such time as Licensee makes payment to bring its account current.

The fees payable under this Section 6 are exclusive of and Licensee shall pay and hold LabWare harmless from all taxes, levies, imposts, duties, VAT charges, or other charges of whatsoever nature however imposed by any country or any subdivision or authority thereof in any way connected with this Agreement or an instrument or agreement required hereunder, and all interest,

LabWare LIMS
Master Maintenance Agreement

penalties, or similar liabilities with respect thereto, except such taxes as are imposed on or measured by LabWare's net income or property. All sums stated in this Agreement as being payable by Licensee to LabWare are exclusive of VAT or similar other taxes, use and sales taxes, which amounts shall be borne exclusively by Licensee. Licensee shall provide evidence that all applicable taxes have been paid to the appropriate taxing authority by delivering to LabWare receipts thereof within thirty (30) days after the due date for such tax payments.

8.0 TERMINATION OF AGREEMENT

This Agreement shall automatically terminate if not renewed on an annual basis as set forth in Section 3.

Without prejudice to any other rights, LabWare may terminate this Agreement upon written notice at any time, if:

- (i) Licensee fails to perform any of its obligations under this Agreement; or
- (ii) Licensee becomes insolvent or is unable to pay its debts as they mature, or a petition in bankruptcy or receivership (or any similar legal or administrative proceeding) is filed by or against Licensee, or a court appoints a temporary or permanent receiver, trustee, or custodian for the assets of Licensee, or Licensee makes an assignment for the benefit of creditors, or Licensee fails for any reason to function in the ordinary course of business; or
- (iii) Licensee defaults under the terms of any other agreement it had entered into with LabWare.

Licensee will have a period of thirty (30) days after receipt of written notice to cure the breach (provided the breach is capable of cure). If Licensee fails to do so, LabWare may immediately terminate this Agreement. Also, if during any twelve (12) month period, LabWare gives more than two (2) termination notices to Licensee pursuant to this Section, then, regardless of whether Licensee cures the underlying breaches or defaults, LabWare may immediately terminate this Agreement. Further, LabWare has the right to pursue any legal action and equitable remedies that may be available.

Licensee may terminate this Agreement in whole if LabWare becomes insolvent or is unable to pay its debts as they mature, or if a petition in bankruptcy or receivership (or any similar legal or administrative proceeding) is filed by or against LabWare, or if a court appoints a temporary or permanent receiver, trustee or custodian for the assets of LabWare, or if LabWare makes an assignment for the benefit of creditors, or if LabWare fails for any reason to function in the ordinary course of business, or LabWare fails to perform a material obligation set forth in this Agreement, or fails in any way to comply with any of the conditions or provisions of this Agreement. Licensee shall provide LabWare with a sixty (60) day grace period to remedy any default hereunder. The grace period shall commence upon receipt of a written notice of default by LabWare. In the event LabWare fails to remedy said default, Licensee may, without limiting any other remedy available to it in law or equity, either withhold performance that may otherwise be due under this Agreement or terminate the Agreement

9.0 INDEPENDENT CONTRACTOR

The parties hereto expressly understand and agree that each party is an independent contractor in the performance of each and every part of this Agreement, is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection therewith. Neither party nor its agents or employees are the representatives of the other party for any purpose, and neither party has the power or authority as agent, employee or in any other capacity to represent, act for, bind or otherwise create or assume any obligations on behalf of the other party for any purpose whatsoever.

9.1 LabWare Employees

LabWare LIMS
Master Maintenance Agreement

LabWare shall be responsible for supervising, directing, hiring, firing and training its employees and shall only assign individuals to Licensee's account that meets industry standards and qualifications. LabWare further affirms that it shall maintain complete control over, and responsibility for, its own employees and operations and those of its subcontractors.

9.2 Subcontractors and LabWare Implementation Partners

No provision of this Agreement, or any subcontract awarded by LabWare, shall be construed to create a contractual relationship between the subcontractor and Licensee or to create an obligation to pay or be responsible for the payment of any monies that may be due to any subcontractor from LabWare.

9.3 Unforeseen Delays

LabWare shall not be liable for delays in the performance of its obligations hereunder due to causes beyond its control including, but not limited to, acts of God, acts of Government authorities, strikes or inability to obtain labor or materials on time.

9.4 Employment Practices

During the Term of this Agreement, both LabWare and Licensee agree not to purchase the services of each other's current employees, either directly as a consultant or indirectly as an independent contractor working through another business entity representing that employee.

10.0 WARRANTY

Any repair or replacements that are required to be performed by LabWare under the provisions of this Warranty shall comply with all of the requirements and specifications of this Agreement and shall be in accordance with industry standards that are in effect at the time of completing the work.

LABWARE MAKES NO OTHER WARRANTIES, WHETHER WRITTEN ORAL, OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF FITNESS FOR PURPOSE OR MERCHANTABILITY. FURTHER, LABWARE MAKES NO WARRANTIES AS TO THE PERFORMANCE OF ANY THIRD PARTY SOFTWARE.

11.0 CONFIDENTIALITY

The information to be exchanged or discussed in implementing this Agreement is considered by LabWare or Licensee, as the case may be, to be confidential, proprietary, or trade secret in nature whether such information is marked as such or not and regardless of the form of media ("Proprietary Information").

With respect to all such Proprietary Information, LabWare and Licensee each agree to:

- (i) Use commercially reasonable efforts to maintain the same in confidence,
- (ii) Not disclose the same to any third party,
- (iii) Use the same only for the purposes of implementing the undertakings of the respective parties under this Agreement, and
- (iv) Limit access to the Proprietary Information to the employees of LabWare or Licensee, as the case may be, who have a need to know, who have agreed to honor the terms hereunder, and who will safeguard such disclosed Proprietary Information against disclosure with at least the same degree of care as with their Company's own Proprietary Information.

This duty of confidentiality shall expire five (5) years after the date of the last disclosure of such Proprietary Information hereunder, or five (5) years after Licensee last uses the LabWare Software. The foregoing obligations shall not apply, however, to any such Proprietary Information which:

LabWare LIMS
Master Maintenance Agreement

- (i) Can be demonstrated to have been in the possession of LabWare prior to its disclosure by Licensee or Licensee prior to its disclosure by LabWare; or
- (ii) Is now or hereafter becomes generally available to the public other than by violation of this Agreement; or
- (iii) Is disclosed to LabWare by a third party having no obligation to Licensee or disclosed to Licensee by a third party having no obligation to LabWare; or
- (iv) Is developed by LabWare or Licensee, as the case may be, without reference in any manner to the disclosed Proprietary Information; or
- (v) Is disclosed pursuant to a requirement of a governmental agency or of law without similar restrictions or other protection against public disclosure, or as to which disclosure is required by operation of law; provided, however, that LabWare or Licensee, as the case may be, will first have given written notice of such required disclosure to the other party, and taken reasonable steps to allow the other party to seek to protect the confidentiality of the information required to be disclosed.

Simply because a particular aspect of the Proprietary Information is included, but not specifically disclosed in the more general information otherwise available to the public or Licensee or LabWare, as the case may be, does not operate to relieve LabWare or Licensee of their respective confidentiality obligations herein.

Notwithstanding expiration or termination of this Agreement, the duties of confidentiality undertaken as to Proprietary Information disclosed prior to such expiration or termination shall survive thereafter provided above.

12.0 INDEMNIFICATION

In connection with the performance of this Agreement, each party hereto shall indemnify and hold harmless the other party (which term as used in this Article shall be deemed to include directors, officers, employees, agents, and servants) from and against any and all liabilities, claims, losses, damages, or expenses, including reasonable counsel fees, whether arising before or after completion of the work hereunder, which may be incurred or sustained by the other party or any of its employees, by reason of any act, omission, misconduct, negligence, or default on the part of the indemnifying party, or any employee, agent or subcontractor of the indemnifying party.

13.0 WAIVER OF CONSEQUENTIAL DAMAGES

NEITHER PARTY HERETO SHALL HAVE LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION OR CLAIMS IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION TO BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, AND OTHER TORTS.

14.0 LIMITATION OF LIABILITY

Licensee agrees that LabWare's liability hereunder for damages of any nature whatsoever, except with respect to liability for patent and copyright infringement, is limited to the fees paid by Licensee hereunder.

**LabWare LIMS
Master Maintenance Agreement**

15.0 COMMUNICATIONS AND COMMITMENT AUTHORITY

Written notice shall be deemed to have been duly made when it is given directly to an authorized representative of either LabWare or Licensee, or to the person or persons so designated by either party, or is sent by the US Postal Service or commercial document express carrier to the last known address of either LabWare or Licensee.

15.1 LabWare

a. Authority to Commit

The individuals named in Addendum 1 shall have the authority to commit and represent LabWare in all commercial and technical dealings with Licensee during the Term of this Agreement.

b. Mailing Address

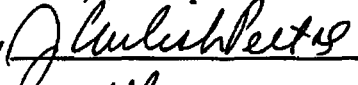
In the case of written notice to LabWare, the notice shall be given directly to the individuals referred to above, or mailed to LabWare at the address indicated on Addendum 1.

15.2 Licensee

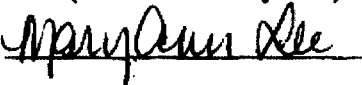
The individuals listed in Addendum 1 shall have the authority to commit and represent Licensee in all commercial and technical dealing with LabWare during the Term of this Agreement:

IN WITNESS WHEREOF, the parties have each caused this Agreement to be executed by its duly authorized representatives as of the date stated below.

LabWare, Inc.

By: 
Title: VP
Date: 8-25-14

Licensee (Stanislaus County HSA)

By: 
Title: MANAGING DIRECTOR
Date: 8/19/14

**APPROVED AS TO FORM:
John P. Doering, County Counsel**

By: 
Marc Hartley
Deputy County Counsel

**LabWare LIMS
Master Maintenance Agreement**

ADDENDUM 1

1. LabWare 3 Mill Road, Suite 102, Wilmington DE, 19806 _____
(Address)
2. Effective Date: **9/1/2014**
3. Location of purchase pursuant to Section 2.1: **Modesto, CA, Stanislaus County**
4. Jurisdiction pursuant to Section 2.4 (b): **Modesto, CA, Stanislaus County**
5. Litigation Venue pursuant to Section 2.4 (b): **Modesto, CA, Stanislaus County**
6. Index pursuant to Section 4.1(d): **Consumer Price Index**
7. Telephone Support Service hours pursuant to Section 5: **8:30 AM – 5:00PM PST**
8. LabWare individuals authorized to represent LabWare, Inc.
 - (a) **Carlisle Peet**
 - (b) **David Nixon**
 - (c) **David Trottier**
9. Individuals authorized to represent Licensee, with address:
 - (i) Commercial Terms and Conditions. Contractual correspondence, including, but not restricted to, terms, conditions, price adjustment, or any change to the non-technical scope of the Agreement should be addressed to:
 - 1) **Ev Plascencia, HSA IT Manager, 830 Scenic Drive, Modesto, CA 95350**
 - 2) **James Ferrera, Public Health Lab Manager, 820 Scenic Drive, Modesto, CA 95350**
 - 3)
 - (ii) Technical Issues and Scope of Work. All technical correspondence and communications related to the scope of work should be addressed to:
 - 1) **Ev Plascencia, HSA IT Manager, 830 Scenic Drive, Modesto, CA 95350**
 - 2) **Lisa Boddy, Applications Specialist, 830 Scenic Drive, Modesto, CA 95350**
 - 3)
10. Named Contact Fee: **Ev Plascencia**

**LabWare LIMS
Master Maintenance Agreement**

ADDENDUM 2

SUPPORT AND MAINTENANCE COST - ANNUAL

(to be billed annually – when first annual maintenance period begins):

Item	Units	Unit Price	Total
Annual Software Maintenance Plan – First Year Includes software maintenance patches and product enhancements for 1 year for LabWare-licensed software. Included at no additional charge for the first 12-months from the date of contract signing.	1	\$0	\$0
Support Only Total Annual Maintenance Cost – Year 1	1	\$3,420	\$3,420
Support & Maintenance Total Annual Maintenance Cost – Year 2	1	\$22,508	\$22,508
Support & Maintenance Total Annual Maintenance Cost – Year 3	1	\$22,508	\$22,508
Support & Maintenance Total Annual Maintenance Cost – Year 4	1	\$22,508	\$22,508
Support & Maintenance Total Annual Maintenance Cost – Year 5	1	\$22,508	\$22,508