

Template
Service Agreement for Third Party
Entity's Data Reporting System

Between
Third Party Entity
And
California WIC Local Agency

This Fee for Service Agreement (this "Agreement") is made and entered into as of date by and between **Third Party Entity** and **California WIC Local Agency**, the party identified under Section I as the "Customer" for the purpose of this Agreement.

IDENTITY OF CUSTOMER:

Legal Name: _____
DBA of Customer: _____
Address: _____
City/State/Zip: _____
Business Telephone: _____
Email of Customer: _____
Name of Customer Contact: _____
Phone Number of Customer Contact: _____

IDENTITY OF THIRD PARTY ENTITY:

Legal Name: _____
DBA: _____
Address: _____
City/State/Zip: _____
Business Telephone: _____
Data Reporting System Name: _____
Project Director Name: _____

Project Director Phone #: [REDACTED]

Project Director Email Address: [REDACTED]

Contract Manager Name: [REDACTED]

Contract Manager Email Address: [REDACTED]

I. **Term and Termination**

Term: The term of this Agreement shall begin after signed by both parties and it shall remain in effect for four (4) years.

Termination without Cause: Either party may terminate this Agreement at any time and for any reason with at least thirty (30) calendar days prior written notice to the other party.

Termination for Cause: With reasonable cause, either party may terminate this Agreement effective immediately upon the giving of written notice of termination for cause. Reasonable cause shall include:

- i. A material violation or breach of this Agreement by the other party which is not cured within 15 calendar days after written notice from the terminating party.

II. **Scope of Work**

The above Customer gives permission to **Third Party Entity** to download and access their Standard Local Agency Dataset (SLAD) on a monthly basis from the California Department of Public Health's data system. **Third Party Entity** System Administrators will have access to the Customer's WIC data contained in the SLAD files, and said files will reside at **Third Party Entity** for the purpose of this project.

Customer's SLAD data, containing WIC participant identifiable information, will not be shared with any entity outside of this Customer without written permission.

Third Party Entity will use the SLAD files to generate a standard set of caseload reports for this Customer and will provide the Customer access to those reports on a secure website.

This Customer will only have access to detailed reports on its own participant data. Some reports may contain aggregated data from other California Local WIC Agencies also using the **Third Party Entity's Data Reporting System** for comparison of overall statistics. Individual California Local WIC Agencies are not identified in these aggregated data reports, and the **Third Party Entity's Data Reporting System** will only display aggregated data from other California Local WIC agencies for comparison purposes if the **Third Party Entity's Data Reporting System** includes 10 or more California Local WIC Agencies.

The following services will be provided by the **Third Party Entity**:

1. **Third Party Entity** will host and provide support (including backup, recovery and periodic software updates) for the **Third Party Entity's Data Reporting System**.
2. **Third Party Entity** will add all new users to the system as User Security Affidavits (USA) are received from this Customer.

III. Cost

Third Party Entity will invoice the Customer on an annual basis, and payment will be due from the Customer upon receipt of invoice for services.

Formula used to determine cost per year: _____

The total cost for this Customer for a full year will be: \$ _____

IV. Indemnification

Each party shall indemnify, defend and hold harmless the other party and its officers, directors, trustees, and employees from and against any claim, demand, liability, loss, judgment, settlement, suit, action, cost or expense, including reasonable attorneys' fees, arising out of or incident to the negligent or intentional acts or omissions of the Indemnifying Party, its officers, directors or employees in connection with this Agreement.

V. Insurance

Third Party Entity shall obtain and maintain on file in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

1. Workers' Compensation insurance.
 - a. E.L. Each Accident \$1,000,000
 - b. E.L. Disease EA Employee \$1,000,000
 - c. E.L. Disease Policy Limit \$1,000,000.
2. Liability insurance. **Third Party Entity** shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, issued by a company admitted to do business in California and with an A.M. Best rating of A:VII or better, or equivalent self-insurance.
3. General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of **Third Party Entity** or any officer, agent, or employee of **Third**

Party Entity under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

4. Professional Liability/Errors and Omissions. **Third Party Entity** shall provide professional liability or errors and omissions insurance for all activities of **Third Party Entity** arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.
5. Comprehensive Automobile Liability Insurance. If **Third Party Entity's** obligations under this Agreement shall involve the operation of owned, hired, leased and/or non-owned vehicles, **Third Party Entity** shall provide comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with **Third Party Entity's** business of not less than THREE HUNDRED THOUSAND DOLLARS (\$300,000) combined single limit per occurrence.

VI. Confidentiality

1. Maintenance of Confidential Information. Confidential information is defined as all information disclosed to or created by **Third Party Entity** which relates to the Customer's past, present, and future activities, as well as activities under this Agreement. **Third Party Entity** shall hold all such information as **Third Party Entity** may receive or create, if any, in trust and confidence, except with the prior written approval of the Customer, as expressed through the identified contact for this Agreement. Upon cancellation or expiration of this Agreement, to the extent permitted by law, **Third Party Entity** shall delete all online data which contains any such confidential information, except that **Third Party Entity** may retain for its files a copy of **Third Party Entity's** work product if such product has been made available to the public by the customer.
2. Protection of Personally Identifiable Information and Protected Health Information.
 - a. This software system does not contain any Protected Health Information (PHI) and is therefore not constrained by HIPAA regulations.
 - b. This software system does contain information managed by The California Department of Public Health, The Special Supplemental Nutrition Program for Women, Infants and Children (CDPH/WIC) and all data shall be managed and kept confidential according to the rules governing CDPH/WIC.
 - c. **Third Party Entity** shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of the Customer's information; these standards, will, at a minimum, conform to CDPH's standards as outlined in its

Information Privacy and Security Requirements (For Non-HIPAA/HITECH Act Contracts). This document is the standard Exhibit G included in the October 2015 – September 2019 contracts between CDPH/WIC and each WIC Local Agency.

- d. **Third Party Entity** agrees to notify the Customer immediately of any unauthorized access to or disclosure of WIC information that it becomes aware of.
- e. **Third Party Entity** will be responsible for all costs associated with **Third Party Entity's** breach of the security and the privacy of the Customer's WIC information, or its unauthorized access to or disclosure, including, but not limited to, mitigation of the breach, cost to the Customer of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations.

VII. Notices

Notices shall be delivered in person, via email or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by email/mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

Customer

Name: _____

Attn: _____

Address: _____

Email: _____

Third Party Entity

Name: _____

Attn: _____

Address: _____

Email: _____

VIII. Venue

This Agreement is entered into in **Third Party Entity's** County, California. This Agreement shall be interpreted, construed and governed by, in accordance with and consistent with the laws of the State of California without giving effect to its conflicts of laws principals. Such laws shall apply in all respects, including statutes of limitation, to any disputes or controversies arising out of or pertaining to this Agreement. The sole, exclusive and proper venue for any proceedings brought to interpret or enforce this Agreement or to obtain a declaration of the rights of the parties hereunder shall be **Third Party Entity's** County, California. Each of the parties hereto submits to the exclusive personal jurisdiction of the courts located in **Third Party Entity's** County, California and waives any defense of forum non conveniens.

IX. Access to Records/Retention

The Customer, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of **Third Party Entity** which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, **Third Party Entity** shall maintain all required Agreement related records for at least seven (7) years after the Customer makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

WIC data contained in the system shall be retained for one (1) year after the termination of the Agreement unless otherwise requested by the Customer.

X. Administration

The below signed parties certify that they have read and understood the nature and scope of this Agreement and support it in its entirety. The individual signing this Agreement on behalf of an entity represents and warrants that he/she has authority to bind such entity to this Agreement.

Third Party Entity:

Individual's Name

Date

Printed Name

Title

Customer:

Individual's Name

Date

Printed Name

Title