

**MASTER SERVICES AGREEMENT
BETWEEN
THE COUNTY OF SANTA CLARA, dba VALLEY HEALTH PLAN
AND
ZIPARI, Inc.**

THIS MASTER SERVICES AGREEMENT (“Agreement”) is entered into as of August 13, 2019 (“Effective Date”) between Zipari, Inc., (“Zipari”), and The County of Santa Clara, d/b/a Valley Health Plan (“VHP”), whose mailing address is 2480 North First Street, Suite 200, San Jose, CA 95131 (“Client” or “County”).

1) DEFINITIONS

- 1.1 **“Affiliate”** shall mean any entity controlling or controlled by or under common control with a party, at the time of execution of the Agreement and any time thereafter, where "control" is defined as (a) the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity, or (b) any other entity with respect to which such party has significant management or operational responsibility, even if such party may own less than fifty percent (50%) of the equity of such entity.
- 1.2 **“Documentation”** shall mean the documentation for the Service, if any, generally supplied by Zipari to assist its customers in the use of the Service, including user and system manuals.
- 1.3 **“Force Majeure”** shall mean acts of civil or military authority, civil disturbance, war, terrorism, explosions, fires, earthquakes, floods or other acts of God or any other cause beyond reasonable control of a party.
- 1.4 **“Materials”** shall mean all material that Zipari produces for Client in the performance of the Services.
- 1.5 **“Purchase Order”** means each Zipari ordering document signed by the duly authorized representatives of both parties.
- 1.6 **“Services”** shall mean those services provided by Zipari pursuant to Section 2.1 hereof. Client may order Services from Zipari by executing a SOW.
- 1.7 **“SOW”** means a Scope of Work or Purchase Order signed by the duly authorized representatives of both parties that sets forth and describes Services to be provided hereunder, the fees to be paid, delivery schedules, timelines and specifications.

2) SERVICES

- 2.1. **Services.** Zipari shall provide Sales Automation Solution & Services if and as specified in a SOW. All changes to a SOW must be approved by both parties in writing.

- 2.2. **Ownership of Intellectual Property.** Each party shall retain all rights, title, and interest, in and to its own Intellectual Property. Zipari expressly retains all rights, title, and interest to the Services, and any improved, updated, modified or additional parts thereof. County shall retain all right, title, and interest in and to the data it provides to Zipari ("County IP") and any updates, modifications and additions to County IP including any Intellectual Property embodied in County IP. Any intellectual Property produced, conceived, or otherwise developed by or for Zipari hereunder without the use of County IP shall be the exclusive property of Zipari. Any Intellectual Property produced, conceived, or otherwise specifically developed by or for County or based on County IP, including the Materials, shall be the exclusive property of County, however County hereby grants to Zipari a non-exclusive, non-revocable, perpetual, worldwide license to use such Intellectual Property, on a strictly anonymous basis, for its own research, development and internal business purposes. For the avoidance of doubt, in no event shall Zipari be entitled to sell, license, assign or otherwise transfer any Intellectual Property produced, conceived, or otherwise specifically developed by or for County or based on County IP to a third party, without County's prior written consent, which County may withhold in its sole and absolute discretion, unless such transfer is to a related party of Zipari, or caused by the merger, consolidation, recapitalization or reorganization of Zipari, in which case County's consent shall not be unreasonably withheld. Each party grants the other a limited, non-exclusive, revocable, nontransferable, non-sublicenseable, royalty-free license to use certain Intellectual Property of the other party solely for the purposes of performing obligations or exercising rights under the Agreement, as designated by and in accordance with the guidelines of such granting party, and subject to the terms of the Agreement. "Intellectual Property" as used herein means, with respect to each party, its patents, trademarks, service marks, and taglines, logos, copyrights, trade secrets, and any other intellectual property.
- 2.3. **Staffing, Designated Contact and Cooperation.** Zipari shall have sole discretion in staffing the Services and may assign the performance of any portion of the Services to any subcontractor; provided that Zipari shall be responsible for the performance of any such subcontractor. Client shall designate at least one employee with knowledge of Client's business and Zipari's technology and services as its primary contact to be available for communication with Zipari in providing the Services. Client will cooperate with Zipari, will provide Zipari with accurate and complete information, will provide Zipari with such assistance and access as Zipari may reasonably request, and will fulfill its responsibilities as set forth in this Agreement and the SOW. If Zipari personnel are required to be present on a Client site, Client will provide adequate workspace and may provide reasonable worksite safety and security rules to which such personnel are to conform. All resources and information that are required for Zipari to perform the Services shall be provided at Client's expense as agreed by Client in a mutually executed SOW. Client agrees that all intellectual property rights and all other ownership in any ideas, modifications, or suggestions it proposes, creates, or authors relating to the Services or Pre-Existing IP ("Suggestions") are hereby assigned to Zipari and shall be the sole and exclusive property of Zipari. Zipari will have sole discretion as to whether and how to implement any such Suggestions into the Services.
- 2.4. **Company License Grant.** If in accordance with the applicable SOW, the Client logo or other data or materials provided by Client ("Client IP") are to be incorporated into the

Materials. Client hereby grants to Zipari a worldwide right and license during the term of the applicable SOW to use and store such Client IP solely for the purpose of inserting, displaying and posting such Client IP into the Materials.

3) TERM AND TERMINATION

- 3.1 The term of this Agreement will commence on the Effective Date and will continue for a period of five (5) years unless terminated as provided herein.
- 3.2 This Agreement may be terminated without cause after the first eighteen (18) month period, by either party by giving one hundred eighty (180) days prior written notice to the other party.
- 3.3 A party may terminate this Agreement for material breach of any term or condition of the Agreement by the other party, which breach is not cured within thirty (30) days (“Cure Period”) following written notice of such breach to the breaching party, describing in detail the circumstances giving rise to the breach.
- 3.4 County may terminate this Agreement effective immediately if Zipari becomes insolvent or declares bankruptcy or initiates voluntary or involuntary dissolution.
- 3.5 This Agreement will automatically terminate upon the revocation, suspension or restriction of any license, certificate, accreditation or other authority required to be maintained by Zipari or Client in order to perform the services required under this Agreement or upon Zipari’s or Client’s failure to obtain such license, certification, accreditation, or authority.
- 3.6 In addition to Zipari’s rights to terminate this Agreement as provided elsewhere in this Agreement, Zipari may terminate this Agreement for cause, effective immediately, upon written notice of termination describing the circumstances giving rise to cause for termination. Cause for termination by Zipari will include:
 - (i) Loss of VHP’s Knox-Keene license; or
 - (ii) If VHP becomes insolvent or declares bankruptcy, or initiates voluntary or involuntary dissolution.
- 3.7 Subject to the limitation of liability specified in Section 9.2 herein, County shall have the right to either (i) collect from the Zipari, or (ii) recoup against amounts due Zipari under this Agreement, any penalties or other monetary amounts payable by County to government agencies or other health care contractors as a result of Zipari’s failure to comply with any provision(s) of this Agreement. County’s rights and remedies under this section will be in addition to all other rights and remedies available to County to enforce this Agreement, including the right of termination.
- 3.8 In the event of termination of the Agreement, and in exchange for payment of all amounts owing to Zipari, Zipari will deliver copies of all finished or unfinished documents, data, studies, patient records, patient charts, billing information, reports and other materials (collectively referred to as “materials”) prepared or maintained by Zipari under this Agreement to County.

4) COMPENSATION AND PAYMENTS

- 4.1 In consideration of the Contracted Services provided to County by Zipari, the County shall pay Zipari for all undisputed (any disputed invoices shall be disputed in good faith and in writing received by Zipari prior to the due date thereof) charges in accordance with the schedule described in Exhibit A (Scope of Work and Cost Schedule), attached hereto and incorporated herein by this reference. The maximum compensation paid to Zipari pursuant to this Agreement shall not exceed, one million, four hundred, thirty-five thousand dollars **\$1,435,000.00**, inclusive of all expenses. The County will not pay any cost or charge that is not delineated in this Agreement.
- 4.2 The County shall not pay and shall have no responsibility to pay salary, social security, workers compensation, or other employee benefit of any kind for Zipari employees or personnel, as well as for any liabilities that may arise in connection with their employment and for their direction and control.
- 4.3 Zipari shall submit to County each month an invoice, in the form reasonably acceptable to the County, for the Services specified in the SOW which is incorporated herein by this reference. Invoices shall include: List of Zipari provided services, rate of pay, and the dates and hours of services during the immediately preceding calendar month. Invoices shall be sent to the following address:
- Contracts@vhp.sccgov.org
Valley Health Plan
Attention: Contracts Unit
State on subject line: Invoice
- 4.4 Payment by County shall be due net forty-five (45) days of the date of the undisputed (any disputed invoices shall be disputed in good faith and in a writing received by Zipari prior to the due date thereof) invoice. If the County makes payments using electronic transfer of funds, payments made to the payee's bank account with a financial institution will be deemed to have been made when the funds are transferred by the County and Zipari has confirmed electronic receipt via industry standard means and technology.
- 4.5 County shall be responsible for taxes levied on any transaction under this Agreement and/or SOW, including all federal, state, and local taxes, levies and assessments, excluding any tax based on Zipari's income.
- 4.6 BUDGETARY CONTINGENCY. This Agreement is contingent on the appropriation of sufficient funding by the County for the services covered by this Agreement. If funding is reduced or deleted by the County for purposes of this Agreement, the County has the option to either terminate this Agreement with no liability occurring to the County or to offer an amendment to the Agreement indicating the reduced amount. Notwithstanding, the County shall be required to pay for Services performed hereunder.

5 CONFIDENTIALITY

- 5.1 (a) "Confidential Information" means all written, electronic or oral information, disclosed by one party (the "Discloser") to the other (the "Recipient"), identified as confidential or proprietary, as well as information that, based on its nature and the circumstances surrounding its disclosure, a reasonable person would consider to be confidential or proprietary. The Recipient will keep confidential any Confidential Information disclosed to it by the Discloser. With respect to any Confidential Information, the Recipient shall: (i) maintain confidentiality using the same care that it would use for its own confidential information, but in any event with reasonable care; (ii) use the Confidential information solely for the purposes of the Agreement; (iii) cease use of such Confidential Information immediately upon termination or expiration of the Agreement and either return or permanently destroy it upon request of the Discloser; and (iv) not attempt to reverse engineer, decompile or create derivative works from or using the Confidential Information. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable laws, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other in order to seek protective relief, if legally permissible, and provided such assistance as may be reasonably requested to limit or prevent such disclosure. The confidentiality obligations of this Section 5 shall terminate with respect to any Confidential Information when the Recipient can prove that such information was (i) in the public domain at the time of Discloser's communication to the Recipient, or it subsequently entered the public domain through no fault of the Recipient, (ii) in the Recipient's possession free of any obligation of confidence at the time of the Discloser's communication to the Recipient, (iii) subsequently rightfully communicated to the Recipient free of any obligation of confidence, or (iv) was or is independently developed by the Recipient without reference or recourse to the Discloser's Confidential Information.
- (b) Promptly upon the Discloser's request, the Recipient will, and will confirm in a writing provided by a duly appointed officer that: (1) all materials and media embodying Confidential Information of the Discloser, including all originals, copies, reproductions and summaries of such Confidential Information have been returned to the Disclosing Party or permanently destroyed; and (2) all copies of Confidential Information of the Disclosing Party in its possession, power or control, which are present on magnetic media, optical disk, volatile memory or other storage device, have been permanently destroyed in a manner that ensures that such Confidential Information is rendered unrecoverable.
- (c) The parties acknowledge and agree that the provisions of this Section 5.1 are subject to Section 6, below.
- 5.2 Zipari will obtain written consent of County prior to dissemination of any marketing materials or materials promoting health and wellness activities or other information that refers to County.
- 5.3 Zipari acknowledges and agrees that information, communications and documents given by or to County and meetings involving County management may be subject to public records and meetings laws and regulations. Zipari will use commercially reasonable efforts to cooperate with County in order that it may fully comply with the requirements of such laws and regulations.

- 5.4 Zipari may use the name of the County for necessary internal purposes, but will not use the name of the County in any public communications, promotional or informational materials, or any other reason without specific prior written consent of the County.
- 5.5 Zipari will prominently mark their information and materials with Zipari's Name and label "Trade Secret," "Confidential," or "Proprietary" as appropriate and that County and the officers, employees and agents of County will notify Zipari if disclosure of such information is sought to allow Zipari, in its own discretion and at its own expense, to seek a protective order. Zipari's disclosure of such information specified under this Section to County constitutes a waiver of any claims against the County, its officers, and individually and collectively, its employees and agents for the disclosure or use of such information or materials as required under the California Public Records Act or other applicable laws.

6) CALIFORNIA PUBLIC RECORDS ACT

The County is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Zipari's proprietary information is contained in documents submitted to County, and Zipari claims that such information falls within one or more CPRA exemptions, Zipari must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the County will provide notice to Zipari prior to such disclosure. If Zipari contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the County's deadline for responding to the CPRA request. If Zipari fails to obtain such remedy within County's deadline for responding to the CPRA request, County may disclose the requested information.

7) COUNTY DATA

"County Data" shall mean data and information received by Zipari from County. As between Zipari and County, all County Data shall remain the property of the County. Zipari shall not acquire any ownership interest in the County Data. Zipari shall not, without County's written permission consent, use or disclose the County Data other than in the performance of its obligations under this Agreement. Notwithstanding the foregoing, or anything else in this Agreement, Zipari may perform Data Aggregation services in accordance with HIPAA , provided Data Aggregation is for the internal purposes of evaluating and understanding general trends in the "navigation behavior" of users with respect to Zipari's products. Zipari shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data, protect against any anticipated threats or hazards to the security or integrity of County Data, protect against unauthorized access to or use of County Data that could result in substantial harm or inconvenience to County or any end users; and ensure the proper disposal of County data upon termination of this Agreement. Zipari shall take appropriate action to address any incident of unauthorized access to County Data, including addressing and/or remedying the issue that resulted in such unauthorized access, notifying County as soon as possible of any incident of unauthorized access to County Data, or any other breach in Zipari's security that materially affects County or end users; and be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality provisions hereof.

Should confidential and/or legally protected County Data be divulged to unauthorized third parties, Zipari shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code Sections 1798.29 and 1798.82 at Zipari's sole expense (if applicable). Zipari shall not charge the County for any expenses associated with Zipari's compliance with the obligations set forth in this section.

8) WARRANTY

- 8.1 **Service Warranty and Remedy.** Zipari warrants that (i) the Service will conform, in all material respects, to its Documentation and (ii) it will provide the Service in a competent and workmanlike manner and in accordance with the service level commitments, if any, set forth in the applicable SOW (the "Service Level" commitments). Zipari does not warrant that it will be able to correct all reported defects or that use of the Service will be uninterrupted or error free. Zipari makes no warranty regarding features or services provided by third parties. Further, Zipari does not warrant that the services will (i) meet all of County's requirements; (ii) will operate uninterrupted, timely, secure or error-free, or that known or discovered errors will be corrected; or (iii) will provide results that are accurate or reliable; or (iv) will meet County's expectations. Zipari is not responsible for any data or other material downloaded or otherwise obtained through the use of the service, all of which is obtained at County's own discretion and risk, and County acknowledges and agrees that County will be solely responsible for any damage to computer systems or devices or loss of data that results from the download and/or use of any such data and/or materials. Client must report any deficiency in Services to Zipari in writing within ten (10) days of completion of such Services. For any breach of the above warranty, Zipari will, at its option and at no cost to Client, provide remedial services necessary to enable the Services to conform to the warranty or, if such remedial services are unsuccessful, refund amounts paid solely in respect of the defective Services. Client will provide Zipari with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. Except for any additional remedies set forth in any Service Level Commitments, the remedies set out in this subsection are Client's sole remedies for breach of the above warranties.
- 8.2 **No Other Warranty.** THE ABOVE WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE.

9) LIABILITY LIMITATIONS

- 9.1 **Accuracy of Information.** Zipari's performance is based upon the information it receives from Client. Zipari shall not be held accountable if that information is inaccurate or incomplete. Client shall promptly notify Zipari, in writing, of any error or omission with any information that it provides to Zipari, or any error or omission that it discovers in the Materials that Zipari produces for Client. Zipari's sole liability and Client's sole remedy for errors will be correction of such Materials. Such additional work shall be at Client's expense if the error was not caused by Zipari or its subcontractor.
- 9.2 **Liability.** Neither party will be liable to the other party for any consequential, special, punitive or exemplary damages of any kind, including loss of profits, loss of business or

other economic damage. In no event shall Zipari's aggregate liability under this Agreement exceed the fees paid by Client under the SOW for the Services which form the subject of the claim during the twelve (12) month period that preceded the event giving rise to the liability. The limitations to liability specified in this Section 10.2 shall not apply to a party's breach of Section 5 (Confidentiality) or Zipari's indemnification obligations under Section 11 (Indemnification) and Business Associate Agreement.

10) INDEMNIFICATION

Zipari shall indemnify, defend, and hold harmless the County, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with any bodily injury, death or damage to tangible personal property caused by the negligent acts or omissions of Zipari or its employees or subcontractors in the performance of this Agreement by Zipari and/or its agents, employees or sub-contractors, excepting only the extent of any loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. Zipari shall reimburse the County for all costs, reasonable attorneys' fees, expenses and liabilities incurred with respect to any litigation in which Zipari is obligated to indemnify, defend and hold harmless the County under this Agreement. The provisions of this section will survive the termination of this Agreement.

County will give Zipari: (a) prompt written notice of any such claim or threatened claim; (b) sole control of the defense, negotiations and settlement of such claim; and (c) full cooperation in any defense or settlement of the claim (at Zipari's cost).

11) INSURANCE

11.1 Zipari will comply with the insurance requirements set forth in **Exhibit E**, which is attached hereto and incorporated herein by this reference.

11.2 It is understood and agreed that County is self-insured pursuant to the authority granted in California Government Code section 990.4, and that such self-insurance satisfies County's obligations hereunder.

11.2 **Exclusions.** Regardless of the foregoing, Zipari shall have no liability or obligation to Client with respect to any claim if such a claim is based on (i) the combination, operation, or use of the Materials or Services with software or equipment which was not provided by Zipari, to the extent that Client's liability for such claim would have been avoided in the absence of such combination, operation, or use or (ii) Client's use of any altered version of the Materials or Services (which was not altered by or on behalf of Zipari), to the extent that Client's liability for such claim would have been avoided by the unaltered version of the Materials or Services, or (iii) compliance with Client's specifications and/or designs.

11.3 **Sole Obligations.** This Section 11 states Zipari's sole obligation and Client's sole remedy in the event that the Materials or Services infringe or misappropriate any intellectual or proprietary rights of any third party.

12) NOTICE

All notices required by this Agreement will be deemed given when in writing and delivered personally, or five (5) days after deposit in the United States Mail, postage pre-paid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing in accordance with this section.

County Debra Halladay, Chief Executive Officer Valley Health Plan 2480 North First St., Suite 200 San Jose, CA 95131	Zipari Mark Nathan, Chief Executive Officer Zipari, Inc. 45 Main Street, Suite 206 Brooklyn, NY 11201
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13) ENTIRE AGREEMENT

This Agreement contains the entire agreement between Zipari and County relating to the rights granted and the obligations assumed by this Agreement. Any prior agreement, negotiations, or representations are hereby superseded and will have no force and effect.

14) AMENDMENTS

This Agreement and each Exhibit to this Agreement may be amended only by a written instrument that is signed by both parties.

15) ASSIGNMENT

Neither party shall assign this Agreement without the prior written consent of the other party, which will not be unreasonably withheld or delayed, except that either party may assign this Agreement or its rights or obligations hereunder to an Affiliate or to a third party in connection with a sale of all or a portion of the assigning party's assets or business.

16) FORCE MAJEURE

Neither party will be liable for the non-performance of its obligations under this Agreement if such non-performance is caused by a Force Majeure event. The party so affected shall give notice to the other party and shall use commercially reasonable efforts to resume performance. If the period of non-performance exceeds sixty (60) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may terminate this Agreement upon written notice without further obligation.

17) SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to

be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken, if not so conformable, so as not to affect the validity or enforceability of this Agreement.

18) WAIVER

No delay or failure to require performance of any provision of this Agreement will constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing and will apply to the specific instance expressly stated.

19) COUNTERPARTS

This Agreement and any amendments thereto, may be executed in counterparts, each of which will constitute an original document, but which together will constitute one and the same instrument.

20) CAPTIONS

Captions in this Agreement are descriptive only and do not affect the intent or interpretation of Agreement.

21) NON-EXCLUSIVITY

This is not an exclusive Agreement. Zipari and County may enter into similar agreements with other parties. County reserves the right to arrange for the provision of any Services to Members and County Responsibility Patients from any other contractor.

22) NO VOLUME GUARANTEE

County does not represent, warrant, or covenant any minimum volume of members or County Responsibility Patients to Zipari under this Agreement.

23) FOOD AND BEVERAGE STANDARDS

Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by Zipari with County funds for County-sponsored meetings or events:

If food is to be provided, healthier food options shall be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low fat and low calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, Zipari shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high calorie desserts; (3) attempt to accommodate special, dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and Zipari should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of

calories from saturated fat; (3) zero trans-fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County's nutritional criteria are (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, provided that sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored, reduced fat (either nonfat or 1% low fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8 ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8 ounce serving. Sugar-sweetened beverages shall not be provided.

24) ASSIGNMENT OF CLAYTON ACT, CARTWRIGHT ACT CLAIMS

Zipari hereby assigns to the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Zipari for sale to the County pursuant to this Agreement.

25) COUNTY NO SMOKING POLICY

Zipari and its employees, agents and subcontractors, shall comply with the County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

26) INTEGRATION

This Agreement including any exhibits, attachments and SOWs constitute the entire agreement between the parties with respect to the subject matter hereof, and any amendment or change to this Agreement must be in writing and signed by both parties. The terms of this Agreement shall govern in the event of conflicting terms among any exhibits, attachments or SOWs as allowed by law.

27) GOVERNING LAW

This Agreement has been executed and delivered in, and will be enforced in accordance with the laws of the State of California notwithstanding choice of law rules. The parties agree that venue will be the federal or state courts located within Santa Clara County for all purposes.

28) LEGAL REQUIREMENTS

- 28.1 Without limiting any of Zipari's other obligations under this Agreement, Zipari and Zipari's employees and agents will comply with and be bound by all statutory, regulatory, and contractual requirements applicable or relating to this Agreement and specified herein.
- 28.2 In addition to County's and Zipari's obligations to comply with applicable federal, state and local laws respecting the conduct of their respective businesses and professions, County and Zipari acknowledges that they are subject to certain federal and state laws governing referral of patients which are in effect or will become effective during the term of this Agreement.
- 28.3 Zipari will comply with all applicable federal, state and local laws, rules and regulations that are in effect at the inception of this Agreement and that become effective during the term of this Agreement, including without limitation the Health Insurance Portability and Accountability Act (42 U.S.C. section 1320d, et seq.) The parties will execute any amendments necessary to implement such laws.

29) COMPLIANCE WITH ALL LAWS, INCLUDING NONDISCRIMINATION, EQUAL OPPORTUNITY, AND WAGE THEFT PREVENTION

- 29.1 Compliance with All Laws. Zipari shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.
- 29.2 Compliance with Non-Discrimination and Equal Opportunity Laws: Zipari shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Zipari shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Zipari discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.
- 29.3 Compliance with Wage and Hour Laws: Zipari shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local minimum wage, prevailing wage, or living wage Laws.

- 29.4 **Definitions:** For purposes of this Section 29, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality Assurance.
- 29.5 **Prior Judgments, Decisions or Orders against Zipari:** **By signing this Agreement, Zipari affirms that it has disclosed any final judgments that (A) were issued in the five years prior to executing this Agreement by a court, an investigatory government agency, arbiter, or arbitration panel and (B) found that Zipari violated an applicable wage and hour law or pay equity law. Zipari further affirms that it has satisfied and complied with – or has reached Agreement with the County regarding the manner in which it will satisfy – any such final judgments.**
- 29.6 **Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract:** If at any time during the term of this Agreement, Zipari receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Zipari shall promptly satisfy and comply with any such Final Judgment. Zipari shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment against it within 30 days of the Final Judgment becoming final or of learning of the Final Judgment, whichever is later. Zipari shall also provide any documentary evidence of compliance with the Final Judgment within 5 days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.
- 29.7 **Access to Records Concerning Compliance with Pay Equity Laws:** In addition to and notwithstanding any other provision of this Agreement concerning access to Zipari’s records, Zipari shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County’s request, Zipari shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records that are related to the purpose of this Section 29, except where prohibited by federal or state laws, regulations or rules. County’s access to such records and facilities shall be permitted at any time during Zipari’s normal business hours upon no less than 10 business days’ advance notice.

- 29.8 Pay Equity Notification: Zipari shall (1) at least once in the first year of this Agreement and annually thereafter, provide each of its employees working in California and each person applying to Zipari for a job in California (collectively, "Employees and Job Applicants") with an electronic or paper copy of all applicable pay equity Laws or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of Zipari's Employees and Job Applicants.
- 29.9 Material Breach: Failure to comply with any part of this Section 29 shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. County may, among other things, take any or all of the following actions:
- (i) Suspend or terminate any or all parts of this Agreement.
 - (ii) Withhold payment to Zipari until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law.
 - (iii) Offer Zipari an opportunity to cure the breach.
- 29.10 Subcontractors: Zipari shall impose all of the requirements set forth in this Section 29 on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

30) INDEPENDENT CONTRACTOR

It is agreed that Zipari has contracted with County as an independent contractor for the performance of professional services under this Agreement. It is understood that no relationship of employment, partnership, joint venture or agency is created or intended to be created by this Agreement. County will not pay and will have no responsibility to pay vacation pay, sick leave, retirement benefits, social security, workers' compensation, disability or unemployment insurance, or employee benefits of any kind to or for Zipari.

31) SUB-CONTRACTING

The Services to be performed by Zipari under this Agreement may be otherwise assigned, sub-contracted, or delegated, provided that Zipari shall be responsible for any provider to whom the Services are assigned, sub-contracted, or delegated. Notwithstanding the foregoing, County acknowledges and agrees that from time to time Zipari may use personnel that are not Zipari employees and are independent contractors to Zipari to perform some of the Services.

32) CONTRACTING PRINCIPLES

Zipari agrees to comply with the County's Contracting Principles set forth in the Board of Supervisors' Policy Manual, which is available on the County website. The Contracting Principles require, among other things, that Zipari be a fiscally responsible entity and treat its employees fairly. Zipari is also required to (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) upon the County's written request of at least 30 days on not more than one occasion in any 12 month period during the term of the Agreement, provide the County reasonable access, through representatives of Zipari, to facilities and records that are related to

the purpose of the fees charged under the Agreement, except where prohibited by federal or state laws, regulations or rules.

33) CONFLICTS OF INTEREST

In accepting this Agreement, Zipari covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services. Zipari further covenants that, in the performance of this Agreement, it will not employ any contractor or person having such an interest.

34) CONTRACT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

35) RELATIONSHIP OF THE PARTIES

The parties are independent contractors, and nothing in this Agreement shall be construed as making them partners or creating the relationships of employer and employee, master and servant, or principal and agent between them, for any purpose whatsoever. Neither party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other party’s name or on its behalf.

36) INTENT OF PARTIES

It is the intent of either Zipari or the County that no payments made under this Agreement be in return for the referral of patients or ongoing business, if any, or in return for the purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, ordering or arranging of any item or service. All payments specified in this Agreement are consistent with what the parties reasonably believe to be fair market value for the Services to be provided.

37) EXHIBITS

The following exhibits are incorporated herein and constitute a material part of the Agreement:

Exhibit A	Implementation Plan
Exhibit B	Service Level Attachment
Exhibit C	Cost Schedule
Exhibit D	Business Associate Agreement
Exhibit E	Insurance Requirements for Professional Services Contracts

Exhibit F Zipari, Inc. Terms and Conditions to the Platform Subscription Services Agreement between Zipari, Inc. and Customer

In the event of conflict between the terms of any of the foregoing exhibits and this Master Services Agreement, the terms of this Master Services Agreement shall control. In the event of conflict among the foregoing exhibits, the order of precedence is as follows: (i) Exhibit (D), (ii) Exhibit (E), (iii) Exhibit (F), (iv) Exhibit (C), (v) Exhibit (A), Exhibit (B)

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EXHIBIT A
IMPLEMENTATION PLAN
ZIPARI, INC.

This Implementation Plan (“IP”) shall be subject to and hereby incorporates the terms and conditions of the Master Services Agreement Agreement by and between Zipari and the County of Santa Clara d/b/a Valley Health Plan (the “Agreement”), including all attachments thereto. Any capitalized terms used but not defined in this SOW will have the meaning given to them in the Agreement if defined therein.

Definitions:

Implementation Services - Services provided by Zipari that prepare, connect, and configure the Zipari product.

Zipari Payer APIs - The Zipari defined and documented application programming interface which enables customer to download as well as transmit data to the Zipari product.

Zipari Payer File Specifications – File format specifications, established by Zipari, that enable Zipari to ingest or deliver data to and from VHP.

New Feature - Features that are not standard components of the Zipari product and require custom work to be developed, operationalized, and configured.

Functional Enhancement – Modifications to existing product features that require custom development.

Zipari Platform – The applications developed and maintained by Zipari.

Description/Scope of Services:

Under this IP, Company will provide the Services which will include implementation of the IFP Broker Portal, IFP DTC Shopping, and Sales and Marketing Automation – Broker and Commission Management products. The Go-Live Date shall be achieved on or about March 1, 2020.

Company will perform the Implementation Services so that the software licensed pursuant to the terms and conditions of this Agreement includes, at a minimum, the capabilities set forth in the tables below (the “Licensed Software”).

All integrations with Zipari products will be completed using standard specification Zipari Payer APIs or batch file uploads meeting standard Zipari Payer File Specifications. VHP is responsible

for providing data access that meets either of these standards provided that these standards are provided by Zipari to VHP prior to the commencement of such integrations.

Table A: In-scope for IFP Broker Portal implementation (Go-live on or about 03/01/2020):

#	Feature Description	Feature Dependency	Assumption
1	Embedded CX Behavior Tracking - View all of the user behavior, touchpoints, data and workflows.		
2	Enrollment and Sold Case Workflows.		
3	Contact/Prospect Management: create contacts, edit contacts, take action on contacts (create quote, create enrollment).		
4	Quoting: create quotes for standard and customized plans, share quotes/proposals with clients.		
5	Policies/Sold Case Management: Manage book of business including demographic updates.		
6	Renewals: complete plan changes for AEP and SEP		
7	Commissions: View compensation details for individual and group business, including statement summaries, statement copies, and performance information.	Dependent upon data availability from VHP	
8	Document Management: Availability of useful documents including benefit documents, compensation information, administrative forms, and other important materials		
9	Alerts - Important messaging to brokers including renewal availability, license expiration, and industry news.		
10	Billing/Payment Integration: Availability of invoices and other billing information, including real time payment integration.	Zipari cannot store PCI data.	This will be accomplished via integration with VHP's PCI-compliant payment processing vendor.
11	Member Management: Member updates including demographic changes, coverage level changes, and adds & deletes.		

Table B: In-scope for IFP DTC Shopping implementation (Go-live on or about 03/01/2020):

#	Feature Description	Feature Dependency	Assumption
1	Embedded CX Behavior Tracking - View all of the user behavior, touchpoints, data and workflows		

2	Browse Plans - Consumers will be able to browse plans based on their eligibility information		
3	Compare Plans - select specific plans to get a line-by-line comparison of benefits		
4	Decision Support - select preferences to filter results based on specific member priorities		
5	Sort and Filter Plans		
6	Link to Provider and Prescription search tools		
7	Payments - Integrates with 3rd party vendors to process payments	Zipari cannot store PCI data.	This will be accomplished via integration with VHP's PCI compliant payment processing vendor.

Table C: In-scope for Sales and Marketing Automation – Broker and Commission Management implementation (Go-live on or about 03/01/2020):

#	Feature Description	Feature Dependency	Assumption
1	Deliver a Microsoft Dynamics application to support VHP's internal Broker Management teams.		
2	Ability to integrate with Core Admin system to receive product and plan data		
3	Ability to accommodate various agency and broker hierarchy structures		
4	Ability to manage (add/edit/delete) agency and broker information		
5	Ability to capture broker preferences and communication requests		
6	Ability to accommodate various agency and Internal Sales hierarchy structures		
7	Ability to manage (add/edit/delete) agency and Internal Sales information		
8	Ability to capture Internal Sales preferences and communication requests		
9	Ability to calculate and export incentive programs (i.e. commissions)		
10	Support for IFP line of business.		
11	Multiple user roles that can be configured.		
12	Ability to track and manage the lead life cycle.		
13	Ability to manage and view assigned tasks, cases and workload		

14	Ability to reassign tasks, cases and workload		
15	Ability to distribute leads to internal Sales		
16	Ability to manage and view assigned tasks, cases and workload		
17	Ability to manage (add/edit/delete) prospective member information including demographic and contact information.		
18	Ability to capture member preferences and communication requests		
19	Ability to track method of enrollment (broker facilitated, online, spreadsheet, etc.)		
20	Ability to track who signs and submits an application (i.e. member or broker)		
21	Ability to send enrollment spreadsheet or 834 to health plan for installation		

Deliverables/Service Level Agreements:

Company will commence the Implementation Services upon the Effective Date, and each phase is anticipated to be completed upon the following schedule:

SCHEDULE TO BE CREATED IN FUTURE DISCOVERY SESSION

Company shall provide the Services in accordance with and in a manner that meets or exceeds the Service Level Requirements outlined in Exhibit B to the Agreement.

Fees/Costs:

Upon execution of this document, Company shall be entitled to a one-time implementation fee of \$175,000 to be paid in accordance with the payment schedule below. VHP shall pay all undisputed fees, without setoff or deduction (except as permitted by this agreement), or delay, in accordance with the payment terms of this Agreement.

VHP shall reimburse Company for expenses which have been approved by VHP in writing, in advance. All reimbursable expenses directly incurred by Company in the performance of its Services under this Agreement shall be reasonable, ordinary and necessary, shall be billed at cost. Fees will not exceed such approved amount without VHP's additional prior written approval.

Payment Schedule:

Invoice Date	Amount	Description
Execution of this SOW	50% of implementation fee	Services Payment #1
1/1/2020	50% of implementation fee	Services Payment #2

Changes in Scope:

During the course of the project, VHP may request a change in the scope of Services for provided under this Agreement. Such request for change must be made in written Amendment to this SOW. The assigned project sponsor/manager from both parties will review the proposed changes, and will jointly determine the effect that the implementation of the change will have on price, schedule, and other terms and conditions of the SOW. Upon completion of this review, any agreed upon changes in price, schedule or other terms will be documented in an Amendment. An authorized agent for each party will sign the Amendment to indicate agreement to the alteration of the project schedule and price. Changes in scope such as New Feature and Functional Enhancement development will be billed at the rate of \$200 per hour.

Removal of Vendor Team Members:

VHP reserves the right to request the immediate removal of any or all Company team members from the engagement. Company will provide a replacement team member to be approved by VHP.

EXHIBIT B
SERVICE LEVEL ATTACHMENT
ZIPARI, INC.

I. SERVICES

This Exhibit B Service Level Attachment (the “Attachment”) sets forth quantitative Service Levels against which Zipari’s performance shall be measured. Zipari will meet or exceed the Expected Service Levels set out in Section 2 of this Attachment.

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- 1** **Definitions.** Capitalized terms used in this Attachment will have the meanings given below or in the context in which the term is used, as the case may be. Any capitalized terms used but not defined in this Attachment will have the meaning given to them in the Agreement if defined therein.
- 1.1 **“Available” or “Availability”** means, with respect to the Zipari Platform, that the Zipari Platform, and all material functionality and Data, Anonymous Data, Analyzed Data and Customer Data therein or related thereto, is available for access and use by Customer and users of the Zipari Platform, in conformance with the Specifications, Agreement, and any relevant user Documentation. If Customer experiences a Severity 1 Incident, then the Zipari Platform will be considered not available. The functionality of Customer and third party vendor feeds to and from the Zipari Platform are a critical component of Availability and a failure of these feeds, the result of which is a Severity 1 incident, does not make the Zipari Platform not available for the purposes of SLA performance.
- 1.2 **“Contract Month”** means each calendar month during the Term.
- 1.3 **“Downtime”** means any time the Zipari Platform is not available.
- 1.4 **“Excused Downtime”** means any Downtime that is either:
- i) caused exclusively or primarily by a third-party vendor of Customer, such as:
 - (1) Medical claims vendor,
 - (2) Pharmacy claims vendor, and
 - (3) Marketing or other third-party content and functionality.
 - ii) occurs on Tuesdays between 5:00 AM EST and 8:00 AM EST to support regularly scheduled releases and maintenance
 - iii) Scheduled in advance by Zipari and approved in writing in advance by Customer.
 - iv) Caused by exclusively or primarily by the Customer; or
 - v) Caused by an event of Force Majeure.
- 1.5 **“Incident”** means any interruption of, or a reduction in functionality or the level of service of, the Zipari Platform or any Service, including any Downtime related to the Zipari Platform or such Service.

- 1.6 “Service Level Default” means a failure to achieve an Expected Service Level specified herein.
- 1.7 “Severity Level 1 Incident” (i.e. Major Business Impact) means a problem that causes complete loss of service to the production environment and work cannot reasonably continue. Workarounds to provide the same functionality are not possible and cannot be found in time to minimize the impact on the Customer’s business.
- 1.8 “Severity Level 2 Incident” (i.e. Significant Business Impact) means when processing can proceed but performance is reduced and/or operation of the system is considered severely limited. No workaround is available, however operation can continue in a restricted fashion.
- 1.9 “Severity Level 3 Incident” (i.e. Minor Business Impact) means a problem that causes minimal loss of service. The impact of the problem is minor or an inconvenience, such as a manual bypass to restore product functionality.
- 1.10 “Time to Resolve” means the time taken for Zipari to resolve an Incident (i.e., to repair or update the system to resolve the Incident and restore full functionality and capacity, including, for any Incident involving Downtime, restoring Availability), which is calculated from the moment that Zipari detects or is advised of the Incident until full completion of such resolution, excluding any time where Zipari is waiting on direction or efforts from Customer or third-party vendors.
- 1.11 “Time to Respond” means the time taken for Zipari to assign one or more appropriately skilled and knowledgeable personnel to work on resolving an Incident, which is calculated from the moment that ZIPARI detects or is advised of the Incident until such personnel actively begin working to resolve such Incident.

2 Service Levels.

2.1 Zipari Platform **Availability.**

Service	Zipari Platform Availability
Description	Parameter used to measure the aggregate Availability of the Zipari Platform
Formula	100 - [Aggregate number of minutes the Zipari Platform was unavailable during a particular Contract Month] divided by [Total number of minutes in such Contract Month minus excused Downtime] multiplied by 100
Expected Service Level	99.9%
Measurement Interval	Monthly.
Report Frequency	Monthly.
Tools	Tools to measure Availability will include industry standard tools with the ability to monitor Availability and track ticket

	information. All tickets for incidents affecting the Customer related to these tools shall be open for inspection, auditing, and reconciliation purposes.
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2.2 Incident Response and Resolution.

Service	Incident Response and Resolution		
Description	Parameter used to measure time required for response to, and resolution of, Incidents		
Formula	N/A		
Expected Service Level	For each Incident, the Time to Respond and the Time to Resolve are less than the applicable times in the following table:		
	<u>Incident Severity Level</u>	<u>Time to Respond</u>	<u>Time to Resolve</u>
	1	60 minutes	6 hours
	2	12 hours	36 hours
	3	16 hours	84 hours
Report Frequency	Monthly.		
Tools	Tools to measure Time to Respond and Time to Resolve will include industry standard tools with the ability to track Incidents. All tickets for Incidents affecting the Customer related to these tools shall be open for inspection, auditing, and reconciliation purposes.		

Severity Level of Incidents will be determined as follows:

(1) When reporting an Incident, Customer will provide information to Zipari which will enable Zipari to assign a Severity Level to the Incident based on the Severity Level definitions set forth herein. To the extent Customer disagrees with the Severity Level assigned by Zipari, Zipari will consider such issue in good faith and consider and discuss re-assignment proposed by Customer unless it is unreasonable.

(2) In the event an Incident has been reported by Customer without a Severity Level assignment or the Incident has been identified by Zipari directly, Zipari will use the Severity Level definitions set forth herein to assign the Severity Level. To the extent Customer disagrees with the Severity Level assigned by Zipari, Zipari will consider such issue in good faith and consider and discuss re-assignment proposed by Customer unless it is unreasonable.

EXHIBIT C
COST SCHEDULE
ZIPARI, INC.

II. COST

1. Services: Zipari will provide Services to Customer on a subscription basis for the Zipari products outlined in the attached Implementation Plan (IP) set forth in Exhibit A. Zipari will implement the licensed products as described in the IP.
2. Subscriptions Access: Customer's subscription to the Services allows up to 30,000 IFP members to use and receive services from the Services, and up to 10 internal VHP users to have access to the Broker Management tool. Additionally, the subscription allows access to updates and upgrades to the Zipari product for the duration of the subscription period.
3. Training: Training is provided at no additional charge and includes occasional webinars on how to maximize use of the Services and the Zipari Platform. Additional training shall be provided pursuant to the relevant terms and conditions of the Agreement.
4. Support: Support shall be made available by Zipari via phone, and email to ensure the Zipari Platform is available to Customer and any user and fully functional. Zipari Service Levels are detailed in the Service Level Agreement attached hereto as Exhibit B.
5. Fees: Commencing on the Go Live Date (anticipated on or about 03/01/2020), Zipari product license fees will be billed on an annual basis based on the pricing schedule below:

Pricing Schedule A

Product	Per Month License Fee
IFP Shopping	\$21,000
IFP Broker Portal	
IFP Sales and Marketing Automation – Broker and Commission Management	

Subscription Access is for up to 30,000 IFP Members for the IFP Shopping and IFP Broker Portal products, and up to 10 internal VHP users for the IFP Sales and Marketing Automation – Broker Management product.

In the event that there are more than 30,000 members within a given month, members 30,001+ will be billed at a rate of \$.50 per member per month (“PMPM”).

In the event that there are more than 10 internal VHP users for the IFP Sales and Marketing Automation – Broker Management product, additional users can be provisioned at a rate of \$500.00 per user per month (“PUPM”)

All IFP Sales and Marketing Automation – Broker Management users are required to have a Microsoft Dynamics CRM user license. The Microsoft Dynamics CRM user license must be purchased separately from the applicable third-party vendor (Microsoft), and the fee for that license cost is not included in the above pricing.

VHP will provide an updated member count for billing purposes on or about September 1st of each year for the subsequent billing cycle commencing on September 1, 2020 and each September 1st thereafter as long as this agreement remains in effect. Fees will be invoiced annually, in advance, according to the payment schedule table below. VHP shall pay all undisputed fees, without setoff or deduction (except as permitted by this agreement), or delay in accordance with the terms and conditions of this Agreement..

Payment Schedule:

Invoice Date	Amount	Description
3/1/2020	\$210,000*	License Fee March 2020 – December 2020
1/1/2021	\$252,000*	License fee for 2021
1/1/2022	\$252,000*	License fee for 2022
1/1/2023	\$252,000*	License fee for 2023
1/1/2024	\$252,000*	License fee for 2024
1/1/2025	\$42,000*	License fee January 2025 – February 2025

* License fee is an estimate based on the minimum monthly fee (\$21,000.00). Actual license fees will be computed based on the actual membership provided by VHP on or about September 1st of each year.

6. Terms: The Term of this Agreement commences on the Effective Date, and continues as long as a Subscription Period is active (and continues during any suspension period, as described in Section 6) unless earlier terminated in accordance to the terms of this Agreement. The initial Subscription Period begins on March 1, 2020 (or such later date in

the event of a suspension, as described in Section 6) (“Subscription Start Date”) and terminates on February 28, 2025. Subscription Periods will automatically renew for successive one (1) year periods after the expiration of the initial period, unless a party notifies the other party in writing of non-renewal at least 90 days prior to expiration of the then-current Subscription Period.

EXHIBIT D BUSINESS ASSOCIATE AGREEMENT

WHEREAS, County of Santa Clara (“County” or “Covered Entity”) is a Covered Entity, as defined below, and wishes to disclose certain Protected Health Information (“PHI”) to **Zipari, Inc.** “Business Associate” pursuant to the terms of the Agreement and this Business Associate Agreement (“BAA”); and

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable law; and

WHEREAS, as part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this BAA.

Whereas, this Agreement shall be limited to PHI that Business Associate Surveyors access while on-site at Covered Entity and in the course of conducting the accreditation survey at Covered Entity. No other PHI will be accessed, maintained or received by Business Associate.

In consideration of the mutual promises below and the exchange of information pursuant to the BAA, the parties agree as follows:

I. Definitions

Terms used, but not otherwise defined, and terms with initial capital letters in the BAA have the same meaning as defined under the Health Insurance Portability and Accountability Act of 1996, 42 USC §§ 1320d et seq. (“HIPAA”) and the implementing regulations and with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.

Privacy Breach Any acquisition, access, use or disclosure of Protected Health Information in a manner not permitted or allowed under state or federal privacy laws.

Business Associate is a person, organization, or agency other than a workforce member that provides specific functions, activities, or services that involve the use, creation, or disclosure of PHI for, or on behalf of, a HIPAA covered health care component. Examples of business associate functions are activities such as claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management, and repricing; and legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services.

Covered Entity shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

Designated Record Set shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

Electronic Protected Health Information means Protected Health Information that is maintained in or transmitted by electronic media.

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.

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.

Privacy Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

Protected Health Information or PHI means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.103. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103 and 164.501].

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

Security Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.

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).

II. Duties & Responsibilities of Business Associate

- a. Permitted Uses.** Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and the BAA. Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)] or (iv) Business Associate may perform Data Aggregation services in accordance with HIPAA , provided Data Aggregation the internal purposes of evaluating and understanding general trends in the "navigation behavior" of users with respect to Business Associate's products..
- b. Permitted Disclosures.** Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and the BAA. Business Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information to a third party, Business Associate 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 BAA and only disclosed as required 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 Business Associate of any breaches of confidentiality of the Protected Information within 10 calendar days of discovery, 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)].
- c. Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Business Associate 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)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement.
- d. Appropriate Safeguards.** Business Associate shall implement appropriate administrative, technological and physical safeguards as are necessary to prevent the

use or disclosure of Protected Information otherwise than as permitted by the Agreement and the BAA 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, 164.312 and 164.316. [45 C.F.R. Section 164.504(e) (2) (ii) (B); 45 C.F.R. Section 164.308(b)]. Business Associate 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].

- e. **Reporting of Improper Access, Use or Disclosure.** Business Associate shall report to Covered Entity in writing any access, use or disclosure of Protected Information not permitted by the Agreement and BAA, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than 10 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e) (2) (ii) (C); 45 C.F.R. Section 164.308(b)]. All reports to Covered Entity pursuant to this section shall be sent to the Covered Entity Compliance Officer by facsimile and U.S. mail using the following contact information:

Compliance & Privacy Officer
Santa Clara Valley Health & Hospital System
2325 Enborg Lane, Suite 240
San Jose, CA 95128
Facsimile (408) 885-6886
Telephone (408) 885-3794

The breach notice must contain: (1) a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known, (2) the location of the breached information; (3) a description of the types of PHI that were involved in the breach, (4) Safeguards in place prior to the breach; (5) Actions taken in response to the breach; (6) any steps individuals should take to protect themselves from potential harm resulting from the breach, (7) a brief description of what the business associate is doing to investigate the breach, to mitigate harm to individuals, and to protect against further breaches, and (8) contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website or postal address. [45 C.F.R Section 164.410] Business Associate 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.

- f. **Business Associate's Agents.** Business Associate shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e) (2) (ii) (D); 45 C.F.R. Section 164.308(b)]. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e) (1)).

- g. Access to Protected Information.** Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within ten (10) days of a written request by Covered Entity to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e) (2) (ii) (E)]. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. Electronic PHI.** If Business Associate receives, creates, transmits or maintains EPHI on behalf of Covered Entity, Business Associate will, in addition, do the following:
- (1) Develop, implement, maintain and use appropriate administrative, physical, and technical safeguards in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320(s) or the United States Code and Title 45, Part 162 and 164 of CFR to preserve the integrity and confidentiality of all electronically maintained or transmitted PHI received from or on behalf of Covered Entity.
 - (2) Document and keep these security measures current and available for inspection by Covered Entity.
 - (3) Ensure that any agent, including a subcontractor, to whom the Business Associate provides EPHI, agrees to implement reasonable and appropriate safeguards to protect it.
 - (4) Report to the Covered Entity any Security Incident of which it becomes aware. For the purposes of this BAA and the Agreement, Security Incident means, as set forth in 45 C.F.R section 164.304, “the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.”
- i. Amendment of PHI.** Within ten (10) days of receipt of a written request from Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to the County for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule. If any individual requests in writing an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity.
- j. Accounting Rights.** Promptly upon any disclosure of Protected Information for which Covered Entity is required to account to an individual, Business Associate and its agents or subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule, and the HITECH Act, as determined by Covered

Entity. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. Accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for three (3) years prior to the request, and only to the extent Business Associate 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 for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Information except as set forth in the Agreement, including this BAA.

- k. Governmental Access to Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Business Associate's compliance with the Privacy Rule. Business Associate shall provide to Covered Entity a copy of any Protected Information that Business Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- l. Minimum Necessary.** Business Associate (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. Business Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- m. Data Ownership.** Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Information.

III. Termination

- a. Material Breach.** A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision in the Agreement to the contrary notwithstanding [45 C.F.R. Section 164.504(e)(2)(iii)].

- b. Judicial or Administrative Proceedings.** Covered Entity may terminate the Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate has been joined.
- c. Effect of Termination.** Upon termination of the Agreement for any reason, Business Associate shall, at the option of Covered Entity, return or destroy all Protected Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by Covered Entity, Business Associate shall continue to extend the protections of Section 2 of the BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e) (ii) (2)(I)]. If Covered Entity elects destruction of the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

IV. General Provisions

- a. Indemnification.** In addition to the indemnification language in the Agreement, Business Associate agrees to be responsible for, and defend, indemnify and hold harmless the County for any breach of Business Associate's privacy or security obligations under the Agreement, including any fines and assessments that may be made against SCVHHS or the Business Associate for any privacy breaches or late reporting.
- b. Disclaimer.** The County makes no warranty or representation that compliance by Business Associate with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- c. Amendment to Comply with Law.** The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement and/or BAA 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 the County must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all Protected Information.

Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to the BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH

Act, the Privacy Rule, the Security Rule or other applicable laws. The County may terminate the Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend the Agreement or BAA when requested by the County pursuant to this Section or (ii) Business Associate does not enter into an amendment to the Agreement or BAA providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

- d. No Third-Party Beneficiaries.** Nothing express or implied in the Agreement or BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- e. Effect on Agreement.** Except as specifically required to implement the purposes of the BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.
- f. Interpretation.** The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA. The BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

Survivorship. The respective rights and responsibilities of Business Associate related to the handling of PHI survive termination of this Agreement

EXHIBIT E
INSURANCE REQUIREMENTS FOR
PROFESSIONAL SERVICES CONTRACTS

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

County of Santa Clara
c/o EBIX RCS, Inc.
P.O. Box 257
Portland, MI USA 48875

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified COUNTY insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. **Commercial General Liability Insurance** - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence - \$1,000,000
 - b. General aggregate - \$2,000,000
 - c. Personal Injury - \$1,000,000

2. **General liability coverage shall include:**

- a. Premises and Operations
- b. Personal Injury liability
- c. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

‘County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insured’s.’”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

4. **Automobile Liability Insurance**

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to owned, non-owned and hired vehicles.

5. **Workers’ Compensation and Employer’s Liability Insurance**

- a. Statutory California Workers’ Compensation coverage including broad form all-states coverage.
- b. Employer’s Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

6. **Professional Errors and Omissions Liability Insurance**

- a. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence/aggregate.
- b. If coverage contains a deductible or self-retention, it shall not be greater than fifty thousand dollars (\$50,000) per occurrence/event.
- c. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this Agreement.

7. Claims Made Coverage

If coverage is written on a claim made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will Furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

Acknowledgement of Insurance Requirements

I, **Mark Nathan**, on behalf of **Zipari, Inc.** have read and understand the terms and conditions of the Insurance Requirements under this Agreement. I understand that all Insurance certificates MUST be in effect, prior to the services rendered. I understand that if **Zipari, Inc.** is not compliant with these insurance requirements, **Zipari, Inc.** will not be compensated for services rendered until insurance certification is obtained that meets the requirements set forth in this agreement. In addition, if **Zipari, Inc.** fails to obtain the required insurance certification in a timely manner, this agreement may be terminated.

<small>DocuSigned by:</small>  <small>DDFD72935C5848B...</small>	7/29/2019
Signature	Date

Exhibit F

ZIPARI, INC.

TERMS AND CONDITIONS TO THE PLATFORM SUBSCRIPTION SERVICES AGREEMENT BETWEEN ZIPARI, INC. AND CUSTOMER

Terms and Conditions

1. DEFINITIONS

- 1.1. "Analyzed Data" means the Data, once analyzed by the Services, together with any related visualizations, reports, and alerts generated by the Services and made available to Customer via the Zipari Platform.
- 1.2. "Anonymous Data" means all information captured by the Product that when viewed or analyzed does not provide any ability to determine the true identity of any Member or User in accordance with all other Applicable Laws, including those relating to PHI/medical records, PII, privacy, confidentiality and information security.
- 1.3. "Applicable Laws" shall mean all laws, ordinances, codes, rules, regulations, policies, orders, conditions of approval and other requirements of any federal, state or local governmental or quasi-governmental entity, authority, agency or body having or asserting jurisdiction.
- 1.4. "Broker" means a person designated by the Customer as a representative to sell the Customer's products.
- 1.5. "Customer" means the entity identified as such in the Agreement.
- 1.6. "Customer Data" means any PII, PHI, Customer's Confidential Information, or any other information and data (including text, images, graphics, pictures, photos, videos, audio, and documents) or any other content provided by Customer to Zipari.
- 1.7. "Customer Specific Terms" means terms, if any, specific to a given Customer that are incorporated into the Agreement.
- 1.8. "Data" means all navigation and event information captured by the Services to understand Member behavior and navigation usage of the Services.
- 1.9. "Documentation" means any documentation made available to Customer by Zipari in connection with the Services or Zipari Platform.
- 1.10. "Effective Date" means the date set forth in the Agreement.
- 1.11. "Force Majeure" means default for any delay or failure in performance under the Agreement deemed resulting, directly or indirectly, from causes beyond the reasonable control of a party.
- 1.12. "Intellectual Property" means, with respect to each party, its patents, Marks, logos, copyrights, trade secrets, and any other intellectual property.
- 1.13. "Marks" means, with respect to each party, its trademarks, service marks, and taglines and associated logos.

- 1.14. "Member" means a person enrolled and effectuated in an insurance plan offered by the Customer.
- 1.15. "Portal" means the components, user experience, business logic and data integration to allow Users to access information. As required, further definitions will be provided in the relevant SOW(s).
- 1.16. "Product Licenses" means the number of Product licenses based on the maximum number of Members that the Customer had on the month prior to invoice.
- 1.17. "Protected Health Information" or "PHI" means "protected health information" as such phrase is used in the Business Associate Agreement ("BAA").
- 1.18. "Recovery Point Objectives" is the acceptable amount of data loss that the Customer can tolerate losing.
- 1.19. "Recovery Time Objectives" is the acceptable amount of downtime of services that Customer can tolerate.
- 1.20. "Security Incident" means any theft or loss of or unauthorized or unlawful disclosure, use, alteration, or destruction of, or unauthorized or unlawful access to Customer Data or any network, device, machine, site, or system that contains any Customer Data or any attempt, whether or not successful, of the same.
- 1.21. "Service Levels" means, for Services under any work order, all service levels described in the "Service Level Requirements" or "Service Levels" section thereof.
- 1.22. "Services" means the products and services, including, without limitation, the software application used to collect, aggregate, track, and analyze Data and generate Analyzed Data for Customers to access via the Zipari Platform.
- 1.23. "Specifications" shall mean the features, functionalities, tasks, activities or other requirements of the Services, Zipari Platform or any other software or deliverable as provided in the Agreement, any statement of work, scope of work, Documentation or any other material delivered by either party pursuant to Services performed hereunder.
- 1.24. "Subscription Period" means the period during which Services and Zipari Platform are provided, as stated in the Agreement.
- 1.25. "Subscription Start Date" means the date the Product is made available to the Customer for use on the Customer's Zipari Website Components.
- 1.26. "Term" means the period starting on the Effective Date and ending upon the expiry, non-renewal or termination of this Agreement, whichever occurs first.
- 1.27. "User" means a person accessing the Zipari Website Components that is not yet an identified Member of the Customer.
- 1.28. "Zipari API" means the Zipari application programming interface which enables Customer to download the Data or Analyzed Data.
- 1.29. "Zipari Properties" means any and all websites and mobile sites owned or controlled by Zipari.

- 1.30. "Zipari Website Components" means the components of the customer website provided by Zipari, where Members, Brokers and Users are accessing Online Shopping, Prescription Search, and any Portal

2. SERVICES

- 2.1. Services. Zipari shall provide the following Services to Customer: (a) Zipari Website Components. The parties acknowledge and agree that Zipari will use commercially reasonable efforts to continually develop, deliver and provide ongoing innovation to the Services in the form of new features, functionality, bug fixes, defect resolutions, new capabilities and services and, accordingly, Zipari reserves the right to modify the Services from time to time in its sole discretion; provided that such modification to the Services or Zipari Platform does not decrease or remove from the Services functionality that is available to Customer as of the date of this Agreement, materially adversely affect Customer's rights under this Agreement, cause additional charges for Customer, or otherwise cause Zipari to be in breach of this Agreement. Zipari may employ subcontractors to provide the Services, provided that (i) Zipari shall remain primarily responsible to Customer, (ii) any such subcontractors with access to Customer Data shall be under confidentiality, security and breach reporting obligations at least as stringent as Zipari is under, and (iii) upon request by Customer, Zipari shall provide a list of any subcontractors performing Services directly for Customer or that have access to Customer Data.
- 2.2. Zipari will assure the competency and eligibility of its employees, agents, and contractors providing Services under the Agreement or a statement of work by (a) solely in relation to Services performed on-site at Customer's offices, conducting a drug screening directly or through a third party prior to providing personnel to perform Services and at any point thereafter upon Customer's request (b) conducting a criminal background check prior to providing personnel to perform Services and at any point thereafter upon Customer's request, (c) performing identification checks for the purpose of verifying Social Security numbers or a similar unique governmental identifier, and (d) checking the OIG Cumulative Sanction Report List of Excluded Individuals and Entities (LEIE) and the General Services Administration (GSA) Excluded Parties Listing Services (EPLS) and System for Award Management (SAM) prior to providing personnel to perform Services and at any point thereafter if Zipari has reason to believe one of those personnel may be sanctioned or debarred from contracting.
- 2.3. Training. Training is provided at no additional charge by Zipari and will be provided in an appropriate amount reflecting the implementation of the Agreement. Training of Customer's employees shall not exceed 40 hours of direct training over the Term, unless otherwise agreed to by the parties. Zipari represents and warrants that the foregoing training shall be sufficient to allow Customer's employees to successfully utilize the Services and Zipari Platform.
- 2.4. Support. Support shall be made available by Zipari via service desk, phone and email as further detailed in Exhibit B. Zipari shall appoint an account manager to support Customer.

Customer may request that Zipari replace its account manager, and Zipari shall use commercially reasonable efforts to do so promptly.

- 2.5. Customer Obligations. Customer shall cooperate with Zipari to enable Zipari's provision of the Services and Zipari Platform. On a regular basis and as applicable to the relevant SOW(s), Customer will update provider and facility information so that the Product provides accurate information.
- 2.6. License. Contingent on Customer compliance with the terms of the Agreement, Zipari hereby grants to Customer a limited, non-exclusive, and non-transferable, right to use the Services and Zipari Platform, in object code only (except as may be otherwise contemplated by the Documentation), solely (i) for Customer's own business purposes; (ii) to allow Customer's Members, potential Members, Users and Brokers to access the Services during the Term; and (iii) subject to these Terms and Conditions and the Agreement. Contingent on Customer's compliance with the terms of the Agreement, Zipari hereby grants to Customer a limited, non-exclusive, revocable, and non-transferable, right to use the Data or Analyzed Data solely for Customer's own business purposes for the Term of this Agreement. Any and all rights not expressly granted to Customer are reserved by Zipari.
- 2.7. Restrictions. With respect to the Services, the Data, the Analyzed Data, the Zipari API and any other Zipari Intellectual Property (collectively the "Zipari IP"), Customer may not, directly or indirectly, except as expressly permitted by the Agreement or these Terms and Conditions: (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit the Zipari IP in whole or in part; (ii) copy (other than as permitted by the Documentation or backups made in ordinary course of business), modify or make derivative works based upon the Zipari IP in whole or in part; (iii) reverse engineer or otherwise decompile or disassemble the Zipari IP in whole or in part; (iv) intentionally interfere with or disrupt the integrity or performance of the Services; (v) attempt to gain unauthorized access to the Services or circumvent or modify any security mechanism employed by Zipari; (vi) publish Data, Analyzed Data or any data derived therefrom or otherwise use the Services or the Zipari API other than for lawful business purposes (except as Customer may share any Analyzed Data with third parties in the ordinary course of business) and as authorized under this Agreement; (vii) use any robot, spider, site search/retrieval application or other device to retrieve or index any portion of the Zipari Services or collect information about users for any unauthorized purpose or create user accounts by automated means or under false or fraudulent pretenses; (viii) intentionally transmit any viruses, worms, defects, Trojan horses or any items of a destructive nature or (ix) make use of the Zipari IP in whole or in part in any way to: (a) build a competitive product or service; (b) build a product using similar ideas, features, functions or graphics; or (c) copy any of its ideas, features, functions, or graphics. Customer shall comply with all Applicable Laws and regulations concerning export, data privacy and protection and cooperate with Zipari in connection with compliance thereto. Zipari retains the right to terminate or suspend the Services or the Agreement immediately for any breach by Customer of this Section.
- 2.8. Acceptance. All deliverables regarding the Zipari Platform and any Services under any statement of work or scope of work will be subject to testing and review as deemed reasonably necessary by Customer to ensure compliance with any applicable

Specifications (“Acceptance Testing”). Customer shall use commercially reasonable efforts to notify Zipari in writing of any faults or deficiencies which Customer has actual knowledge of and believes need to be corrected in any deliverables regarding the Zipari Platform or any Services within thirty (30) business days of delivery of such deliverables or completion of the Services (the “Acceptance Testing Period”). Upon receipt of such a notice from Customer, Zipari shall use commercially reasonable efforts to resolve the faults or deficiencies identified by customer or provide a reasonable alternative within thirty (30) business days. When the faults or deficiencies are corrected, the provisions of this Section will again apply and Zipari will submit the deliverables or Services for a further round of Acceptance Testing. If Customer rejects the deliverables regarding the Zipari Platform or any services after two (2) rounds of Acceptance Testing, Customer may, in its sole discretion, either require Zipari to correct the faults or deficiencies, or in the event any major faults or major deficiencies remain uncorrected by Zipari, Customer may terminate this Agreement without penalty for breach by Zipari. If Customer does not respond within the Acceptance Testing Period, then Customer will be deemed to have accepted the applicable deliverables or Services. Testing criteria and procedures required for Acceptance Testing will be jointly agreed to by Zipari and Customer. Notwithstanding any other provision herein, (i) the Services and/or deliverables under any statement of work or scope of work shall be accepted only after Customer has had a reasonable opportunity to conduct an adequate security review, and (ii) Zipari shall be obligated to correct any material defects during the Term, even if the Acceptance Testing Period has passed.

3. COMPLIANCE

- 3.1. HIPAA Compliance. Zipari acknowledges and agrees that it is a business associate of Customer under the Health Insurance Portability and Accountability Act and the regulations promulgated thereunder (“HIPAA”). The Parties have entered into the BAA attached hereto as Exhibit D and incorporated herein by this reference to ensure each Party’s compliance with HIPAA. In the event of any inconsistency between the terms of this Agreement and the terms of the BAA, the terms of the BAA shall govern. Zipari will provide all Zipari representatives with sufficient HIPAA privacy and security training to permit them to understand and comply with Zipari’s obligations pursuant to the BAA. Zipari will not permit any Zipari representative that has not successfully completed such training to access PHI under any circumstances.
- 3.2. Personal Information. Zipari acknowledges that for purposes of providing the Services to Customer, Zipari may receive access to Confidential Information (as defined in Section 6, below) regarding certain individuals, which may include, among other things, Personally Identifying Information or “PII” as that term is used by the Federal Trade Commission. Therefore, to the extent Zipari receives or obtains such access, Zipari shall, and shall cause all Zipari representatives to, comply with all Applicable Laws relating to the confidentiality of all such Confidential Information (all such Applicable Laws collectively referred to herein as “Privacy Laws”).
- 3.3. Security.
 - (A) General. At all times during the Term, Zipari will provide all Services and the Zipari Platform, and use all resources related thereto, in a secure manner and in accordance with (a) Applicable Laws, including Privacy Laws and those relating to PHI/medical records, PII, privacy, confidentiality and information security, and (b) Customer’s reasonable security requirements. Zipari will provide evidence reasonably satisfactory to

allow Customer to confirm that Zipari has satisfied its obligations as required under this Section 3.3. Without limitation, this may include Customer's review of audits, summaries, test results and other equivalent evaluations of Zipari. To the extent that any duties and responsibilities under this Agreement are delegated to an agent or contractor, Zipari shall ensure that such agents and contractors adhere to the same requirements and Zipari agrees to be fully responsible for any action or inaction by any agent or contractor that causes a Security Incident.

- (B) **Minimum Security Standards.** Zipari shall implement proper administrative, physical and technical safeguards to protect the Customer Data that are no less rigorous than generally accepted industry practices for similar types of data and shall ensure that all such safeguards, including the manner in which Customer Data is collected, accessed, transmitted, used, stored, processed, disposed of and disclosed, comply with Applicable Laws, as well as the terms and conditions of this Agreement. In no event will Zipari's or any Zipari representative's, contractor's and agent's actions or inaction result in any situation that is less secure than reasonable security consistent with Applicable Laws, including those relating to PHI/medical records, PII, privacy, confidentiality and information security.
 - (C) **Security Incidents.** In the event Zipari becomes aware of any Security Incident, or any breach by Zipari or any Zipari representative, contractor or agent of Zipari's security or confidentiality obligations under this Agreement, Zipari shall at its sole expense: (i) promptly notify Customer in writing, (ii) promptly perform all activities necessary to mitigate and remediate such Security Incident or breach, and (iii) provide Customer with all assistance necessary to enable Customer to address such Security Incident or breach at Customer's sole option. Where such Security Incident is the direct result of Zipari's, its contractors' or its agents' acts or omissions, or Zipari's willful or intentional misconduct, Zipari agrees to provide, at its sole cost and expense, and at no charge to any affected persons, appropriate credit monitoring services as determined by Customer for at least one (1) year, and all other remedies for affected persons required by Applicable Laws or any enforcement action. Zipari shall reimburse or otherwise indemnify Customer for any costs or expenses necessarily and reasonably incurred by Customer associated with the Security Incident, including but not limited to, the costs of investigations, retrieving, repossessing and recovering data and any legal proceedings against Customer or its employees, agents or contractors.
- 3.4. **Anonymous Information.** Zipari reserves the right to capture and store Anonymous Data associated with Customer behavior to enhance future versions of the Product; provided, however, under no circumstances shall the foregoing violate the confidentiality obligations set forth in Article 6 or the BAA.
- 3.5. **Audit.** During the Term, upon reasonable advance notice from Customer, but no more than once during any twelve (12) month period, Zipari shall provide Customer or its third party designees access to those facilities and records of Zipari (or its representatives, contractors or agents) that relate to the Services and Zipari Platform for the purpose of allowing, at Customer's expense, an audit or inspection of billing records, compliance with this Agreement and Applicable Laws. Any such inspection shall occur during normal business hours and shall not unreasonably interfere with Zipari's (or its third party contractors) normal business operations. Zipari (or its representatives, contractors or agents) shall provide such auditors or inspectors assistance that such inspectors or auditors may reasonably require to carry out such inspection or audit. Zipari agrees to

respond to reasonable requests for information and documentation. In the event that the inspection or audit identifies any: (i) deficiencies with respect to Zipari's (or its representatives, contractors or agents) performance of the Services or provision of the Zipari Platform such that it shows Zipari has misreported its performance of the Services by more than 10% under the Service Level Requirements set forth in Exhibit B to this Agreement for the period being audited; or (ii) billing error in excess of 5% for the period being audited, Zipari shall pay for the costs of the inspection or audit. In all events, where the inspection or audit identifies deficiencies with respect to Zipari's (or its representatives, contractors or agents) performance of the Services or provision of the Zipari Platform or billing errors, then Zipari, at its sole expense, shall take prompt corrective measures required to address such deficiencies and promptly correct any billing errors.

- 3.6. **Special Government Audit.** If at any time during the Term, Customer is required by any Applicable Law, including, but not limited to, audits and inspections required pursuant to the Sarbanes-Oxley Act and HIPAA, or by a governmental or regulatory agency having jurisdiction over Customer, to have an audit or inspection of the Services and Zipari Platform then being provided to Customer or information concerning Customer held by Zipari under this Agreement, then Zipari, upon reasonable advance written notice will allow the governmental or regulatory agency exercising jurisdiction over the business of Customer to conduct such an audit or inspection as it relates to Zipari's provision of the Services under this Agreement. Zipari's cooperation in such an audit or inspection will include providing access to facilities and records relevant to Customer as reasonably necessary to perform the audit. Zipari shall reimburse or otherwise indemnify Customer for any costs or expenses necessarily and reasonably incurred by Customer associated with any Zipari breach of this Agreement found during any government audit.
- 3.7. **Service Level Requirements.** Zipari warrants that it shall comply with all Service Level Requirements. In the event of the same cause Severity Level 1 Incident in two consecutive months, such non-availability shall incur financial penalties as described in the Service Level Requirements attached to this Exhibit B.

4. PROPRIETARY RIGHTS

- 4.1. Subject to Section 7 of the Agreement, each party shall retain all rights, title, and interest, in and to Intellectual Property. Zipari expressly retains all rights, title, and interest to the Services, including the Zipari Product and Zipari Platform, and any improved, updated, modified or additional parts thereof. Customer shall retain all right, title, and interest in and to the Customer Data and any updates, modifications and additions to the Customer Data including any Intellectual Property embodied in the Customer Data. Any Intellectual Property produced, conceived, or otherwise developed by Zipari hereunder without the use of Customer Data shall be the exclusive property of Zipari. Any Intellectual Property produced, conceived, or otherwise specifically developed by or for Customer or based on de-identified Customer Data (within the meaning of "de-identified" contained in the BAA) shall be the exclusive property of Customer, however Customer hereby grants to Zipari a non-exclusive, non-revocable, perpetual, worldwide license to use such Intellectual Property, on a strictly anonymous basis, for its own internal research, development and business purposes, provided, however, such use is in accordance with the BAA. For the avoidance of doubt, (i) in no event does the foregoing license apply to PII or PHI or Customer's Confidential Information, and (ii) in no event shall Zipari be entitled to sell, license, assign or otherwise transfer any Intellectual Property produced, conceived, or

otherwise specifically developed by or for Customer or based on Customer Data on a non-anonymous basis to a third party, without Customer's prior written consent, which Customer may withhold in its sole and absolute discretion, unless such transfer is to a related party of Zipari in connection with, or otherwise caused by the merger, consolidation, recapitalization or reorganization of Zipari, in which case Customer's consent shall not be unreasonably withheld. Each party grants the other a limited, non-exclusive, revocable, nontransferable, non-sublicenseable, royalty-free license to use certain Intellectual Property of the other party solely for the purposes of performing obligations or exercising rights under the Agreement, as designated by and in accordance with the guidelines of such granting party, and subject to the terms of the Agreement. Customer shall not remove any Zipari Marks from any Data, Analyzed Data or Documentation. Customer and Zipari shall have the right to issue press releases and use the other party's Marks, name and logo for marketing and promotion purposes. Any use by Zipari of Customer's Marks, name or logo will inure to the exclusive benefit of Customer and Zipari agrees not to disparage, dilute or adversely affect the validity of the Customer's Marks, name or logo. Any use by Customer of Zipari's Marks, name or logo will inure to the exclusive benefit of Zipari and Customer agrees not to disparage, dilute or adversely affect the validity of Zipari's Marks, name or logo.

- 4.2. Customer and its users may, from time to time, make known to Zipari suggestions, enhancement requests, techniques, know-how, comments, feedback or other input with respect to the Services or Zipari Intellectual Property (collectively, "Suggestions"). Unless otherwise agreed to in writing by the parties with respect to any Suggestion, Zipari shall: (a) be entitled to exploit any Suggestion without restriction or obligation of any kind, on account of confidential information, Intellectual Property rights or otherwise, and may incorporate into its services any service, product, technology, enhancement, documentation or other development ("Improvement") incorporating or derived from any Suggestion with no obligation to license or to make available the Improvement to Customer or any other person or entity, and (b) own all rights, title, and interest, in and to the Intellectual Property derived from any Suggestions and/or Improvements.

5. ADDITIONAL PROVISIONS

- 5.1. General. The Agreement, including these Terms and Conditions : (i) will be binding upon and inure to the benefit of the Parties, their successors and permitted assigns;; and (ii) has no third party beneficiaries. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, (i) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) Customer shall not permit users to access or use Services in violation of any U.S. export embargo, prohibition or restriction. No terms or conditions stated in a Zipari order form or invoice, Customer purchase order or in any other Customer order documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

Availability of Records. Until the expiration of ten (10) years after the furnishing of Services under the Agreement, Zipari agrees that the Secretary of the Department of Health and Human Services (the "Secretary") and the Comptroller General of the United States, or the designee or duly authorized representative of either of them, shall have

access to all books and records of Zipari pertaining to the subject matter of the Agreement and the provision of Services under it, in accordance with the criteria presently or hereafter developed by the Department of Health and Human Services as provided in Section 952 of the Omnibus Reconciliation Act of 1980 (the "Act"). Upon request of the Secretary, the Comptroller General, or the designee or authorized representative of either of them, Zipari shall (at reasonable times and places during normal business hours) make available the Agreement, and all books, documents and records of Zipari that are necessary to verify the nature and extent of the costs of the Services provided by Zipari furnished in connection with the Agreement. Notwithstanding the foregoing provisions, the access to the books, records and documents of Zipari and any related organization provided for herein shall be discontinued and become null and void upon a finding by a court or quasi-judicial body of competent jurisdiction that the Agreement is outside the scope of the regulatory or statutory definition of those contracts and agreements included within the purview of Section 952 of the Act or the rules and regulations promulgated thereunder. If Zipari carries out any of the duties of the Agreement through an approved subcontractor, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a similar clause. Any correspondence, filings, notices or other document sent to the Attorney General of any state or any Federal Agency or the Solicitor General or Attorney General of the United States concerning the Services provided under this Agreement shall be filed concurrently with Customer. Notwithstanding anything to the contrary in the foregoing, any access to books and records of Zipari required by the BAA, Section 6 and 29.7 of the Agreement shall not be impeded by this Section.

- 5.3 Diaster Recovery. In the event of a disaster, the Recovery Time Objectives for customer-facing business functions are within 48 hours, where other functions that are less critical are within 5 days, and the Recovery Point Objectives are 24 hours.
- 5.4 Zipari agrees to provide access to three full environments for the Platform including production, system test and unit test, at no charge to Customer.