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## Lassen County Probation Department

Adult & Juvenile  
Probation

2950 Riverside Drive,  
Suite 101  
Susanville, CA 96130

Phone: (530) 251-8212  
Fax: (530) 257-9160

### MEMORANDUM

To: Board of Supervisors  
From: Jennifer Branning, Chief Probation Officer  
Date: June 7, 2022  
Subject: Agreement between Lassen County and Redwood Toxicology Laboratory, Inc. for FY 22/23

**Recommendation:** Board of Supervisors approve the agreement between Redwood Toxicology and the Lassen County Probation Department.

This agreement is for testing those we supervise to determine adherence to sobriety. Redwood Toxicology provides further analysis for specimens alleged to be positive with an instant test. Redwood Toxicology provides oral and urine testing supplies.

**Financial Impact:** Expenditure for Probation 145 (0561) not to exceed \$8,000 per fiscal year.

**Attachments:** Copies of the Agreement.

**AGREEMENT BETWEEN LASSEN COUNTY**

**AND**

**REDWOOD TOXICOLOGY LABORATORY, INC.**

**THIS AGREEMENT** is made between the COUNTY OF LASSEN, a political subdivision of the State of California (hereinafter "COUNTY"), and Redwood Toxicology Laboratory Inc. with a principal place of business at 3650 Westwind Blvd. Santa Rosa, CA 95403, (hereinafter "CONTRACTOR").

This Agreement is made with reference to the following facts and circumstances:

**WHEREAS** COUNTY has need for substance/toxicology testing services and supplies identified in the Service Description of the Payment Grid,

**WHEREAS** CONTRACTOR desires to provide those services,

In consideration of the services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

**1. SERVICES.**

The CONTRACTOR shall provide those services described in Attachment "A". CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A".

**2. TERM.**

The term of the agreement shall be for the period of July 1, 2022 through June 30, 2023.

**3. PAYMENT.**

COUNTY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billing for said services to COUNTY in the manner specified in Attachment "B".

**4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY.**

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials, which may be required for furnishing services pursuant to this Agreement.

COUNTY shall:

4.1 Provide program consultation and technical assistance to CONTRACTOR.

4.2 Monitor and evaluate CONTRACTOR's performance, expenditures and service levels for compliance with the terms of this Agreement.

4.3 Provide CONTRACTOR with reporting forms and/or formats and time frames for submission of reports.

4.4 Review all invoices submitted by CONTRACTOR for allowable costs and approve for payment as appropriate conditioned in the availability of state funds.

4.5 Retain ownership and have prompt access to any report, evaluations, preliminary findings, or data provided to COUNTY by CONTRACTOR pursuant to the terms of this Agreement.

## **5. ADDITIONAL PROVISIONS.**

Those additional provisions unique to this Agreement are set forth in Attachment "C".

## **6. GENERAL PROVISIONS.**

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other terms or conditions insofar as the latter are inconsistent with the general provisions.

## **7. DESIGNATED REPRESENTATIVES.**

Jennifer Branning, Chief Probation Officer, is the designated representative of the COUNTY and will administer this Agreement for the COUNTY.

## **8. ATTACHMENTS.**

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

Attachment A - Services  
Attachment B - Payment  
Attachment C - Additional Provisions  
Attachment D - General Provisions

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown opposite their respective signatures.

CONTRACTOR

Redwood Toxicology Laboratory, Inc.  
3650 Westwind Blvd.  
Santa Rosa, CA 95403  
Toll Free: (800) 255-2159, x34317

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Mary Tardel  
Director, Government Services  
Redwood Toxicology Laboratory, Inc.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Kathy Ross, VP Toxicology  
Redwood Toxicology Laboratory, Inc.

COUNTY  
County of Lassen

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Richard Egan, CAO Lassen County

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Jennifer Branning, Chief Probation Officer  
Lassen County Probation Department

Approved as to form:



Lassen County Counsel

**ATTACHMENT A**  
**AGREEMENT BETWEEN LASSEN COUNTY AND**  
**REDWOOD TOXICOLOGY LABORATORY, INC.**

**SCOPE OF SERVICES**

**A.1 SCOPE OF SERVICES AND DUTIES.**

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties include the following:

As an independent contractor, CONTRACTOR shall be responsible for providing services and fulfilling obligations hereunder in a professional manner. COUNTY shall not control the manner of performance.

CONTRACTOR shall perform various substance/toxicology testing services for COUNTY as identified in the Service Description of the Payment Grid located in Attachment B, upon receipt of specimens in mail and return to COUNTY the results of each test with identity in the form of name or confidential client information number no later than ten days from Receipt of specimen.

Specimen Retention: CONTRACTOR will retain positive specimens for three (3) months.

**END OF ATTACHMENT "A"**

**ATTACHMENT B**  
**AGREEMENT BETWEEN LASSEN COUNTY AND**  
**REDWOOD TOXICOLOGY LABORATORY, INC**

**PAYMENT**

COUNTY shall pay CONTRACTOR as follows:

**B.1 CONTRACT FEE.** COUNTY shall pay CONTRACTOR a contract fee not to exceed the maximum Contract Amount in Paragraph B.4 below. CONTRACTOR will provide postage paid envelopes for mailing specimens to the lab. Invoices shall list the name or confidential identification number of the person tested and CONTRACTOR shall mail invoices to COUNTY each month for services performed or supplies ordered. COUNTY agrees to reimburse CONTRACTOR within thirty (30) days of receipt of invoice.

**B.2 RESULTS.** Toxicology testing results are confidential and will be mailed and/or emailed based on COUNTY requests. Mailed results will be sent to the Lassen County Probation Department, 2950 Riverside Dr. Suite 101, Susanville, CA 96130.

**B.3 AUTHORIZATION REQUIRED.** Services performed by CONTRACTOR and not authorized in this Agreement shall not be paid by COUNTY.

**B.4 PAYMENT GRID.**

**Section I: Laboratory Drug & Alcohol Testing Services - Urine**

**URINE LAB TESTS - STANDARD DRUGS**

TEST CODE	DRUG(S)	DESCRIPTION	PRICE PER SPECIMEN
P08	7	Seven Drug Standard Urine Lab Panel - Screen Only	\$8.70
Various	1	GC-MS, LC-MS/MS or GC-FID Standard Urine Confirmation - cost per drug	\$ 19.75
5047	1	GC-FID Alcohol Confirmation	\$ 19.75

Initial screening of standard laboratory tests at RTL will be performed by enzyme immunoassay (EIA). Screening and confirmation methodologies, as well as cutoff levels, vary by drug or metabolite and are subject to change at RTL's discretion. Panel codes and testing equipment are also subject to change. Drugs available in the standard panels vary by panel code.

When laboratory confirmation tests are requested following a screen, they will be performed on an independent portion of the original specimen using gas chromatography- mass spectrometry (GC-MS), liquid chromatography-tandem mass spectrometry (LC-MS/MS), or gas chromatography-gas flame ionization (GC-FID), depending on drug class. GC-FID is used only on samples requiring alcohol (EtOH) confirmation. Confirmation on positive screens for the drugs included in the panel are available at the prices listed above. Separate fees will be incurred for confirmations performed on drugs that are not part of a standard panel, and for designer or esoteric drugs. Confirmation methodologies, as well as cutoff levels, vary by drug or metabolite and are subject to change at RTL's discretion. Panel codes and testing equipment are also subject to change.

#### URINE LAB TESTS - SPECIALTY DRUGS

TEST CODE	DRUG(S)	DESCRIPTION	PRICE PER SPECIMEN
647	1	Ethyl Glucuronide/Ethyl Sulfate (EtG/EtS) Alcohol metabolite- EtG Screen with Automatic Confirmation of Positives for both EtG & EtS	\$ 19.95

TEST CODE	DRUG(S)	DESCRIPTION	PRICE PER SPECIMEN
6473	19	Synthetic Marijuana (K2/Spice) - Standard Panel	\$ 30.00
5550	Multi	Steroid Testing	\$ 65.00

#### URINE LAB TESTS - SPECIALTY DRUG PANELS

##### Section II: Laboratory Drug & Alcohol Testing Services - Oral Fluids

##### ORAL FLUID LAB TESTS - STANDARD DRUGS

TEST CODE	DRUG(S)	DESCRIPTION	PRICE PER SPECIMEN
2101001	N/A	Quantisal Oral Fluid Collection Device - <i>purchase required prior to testing</i>	\$ 2.20
Various	1	GC-MS, LC-MS/MS or GC-FID Standard Oral Fluid Confirmation - cost per drug	\$ 22.50
9516	7	Seven Drug Standard Oral Fluid Lab Panel - Screen Only	\$ 15.30
9527	9	Nine Drug Standard Oral Fluid Lab Panel - Screen + Auto Confirm of Positives	\$ 22.99

Screening and confirmation methodologies, as well as cutoff levels, vary by drug or metabolite and are subject to change at RTL's discretion. Panel codes and testing equipment are also subject to change. Drugs available in the standard panels vary by panel code.

When laboratory confirmation tests are requested following a screen, they will be performed on an independent portion of the original specimen using gas chromatography- mass spectrometry (GC-MS) or liquid chromatography-tandem mass spectrometry (LC-MS/MS), depending on drug class.

Confirmation on positive screens for the drugs included in the panel are available at the prices listed above. Separate fees will be incurred for confirmations performed on drugs that are not part of a standard panel, and for designer or esoteric drugs. Confirmation methodologies, as well as cutoff levels, vary by drug or metabolite and are subject to change at RTL's discretion. Panel codes and testing equipment are also subject to change.

### Section III: Laboratory Supplemental Services

#### PROBLEMATIC SPECIMEN CHARGES AND ADDITIONAL SERVICE CHARGES

TEST CODE	DESCRIPTION	PRICE PER OCCURREN
QNS	Insufficient Volume	\$ 10.00
PROB	Chain of Custody (COC) and/or Specimen Label Errors	\$ 10.00
	Product and/or Supply Shipping Errors due to Incorrect Address Provided	\$ 25.00
ADS	Accidental Delivery Specimen - Specimen Sent to RTL in Error	\$ 100.00
PULL	Specimen Retrieval from Storage for Follow-Up Testing	\$ 10.00
AFFD	Affidavits	\$ 100.00
INTP	Interpretations	\$ 100.00
STAT	STAT Testing Requests (Priority)	\$ 100.00
CORT	Telephonic or Webinar Court Testimony	\$ 250.00
	In-Person Court Testimony	\$700 per day + travel

### Collection & Shipping Supplies

RTL provides all necessary urine specimen collection and shipping supplies to its clients at no additional cost.

For urine testing, these supplies include:

- Urine specimen collection containers: 60 mL or 90mL bottles with lids and built-in temperature strips.
- Specimen baggies with absorbent material
- Preprinted Chain of Custody forms/labels & security seals
- Pre-paid FedEx or UPS lab packs or pre-paid U.S. mailer boxes.

**Lab Supply Shipping and Handling:** Outbound lab supply orders will be shipped at a cost of no more than \$10.00. Expedited shipping of supplies will be charged on an 'at cost' basis. FOB Shipping Point.

**Specimen Shipment to RTL:** Next day air service of inbound specimens sent to RTL for testing is provided at no charge when five (5) or more urine and/or oral fluids specimens are sent in each FedEx overnight shipment. Any combination of urine and/or oral fluids devices may be shipped together via FedEx overnight service. Fewer than five (5) specimens sent to the lab by next day air service will be assessed a twenty-five dollar (\$25.00) charge per shipment.

## Section IV: Rapid Drug & Alcohol Screening Devices

### PANEL-DIP SUBSTANCE ABUSE TEST DEVICE

PART NUMBER	DRUG(S)	CONFIGURATION	PRICE PER DEVICE	BOX PRICE (25/BOX)
01 102 0119	6	PANEL DIP 06 BZO/COC300/MAMP1000/MOP300/OXY/THC	\$2.93	\$73.25

### ORAL FLUID DRUGS OF ABUSE - *For Forensic Use Only*

PART NUMBER	DRUG(S)	CONFIGURATION	PRICE PER DEVICE	BOX PRICE (25/BOX)
01 102 2083	6	OrAlert 6 Oral Fluid Device AMP50/BZO10/COC20/MAMP50/OPI40/THC100 - FFUO**	\$5.80	\$145.00

### COLLECTION SUPPLIES

PART NUMBER	DRUG(S)	CONFIGURATION	PRICE PER DEVICE	BOX PRICE (25/BOX)
031246	N/A	90ml Bottle	\$0.22	N/A
031380	N/A	6.5 oz/ Graduated Beaker	\$0.10	N/A

**Device Order Shipping & Handling:** Device orders will be charged on an 'at cost' basis. FOB Shipping Point.

\*\*Forensic Use Only (FFUO) devices are intended for use only in drugs of abuse testing for law enforcement purposes. Appropriate users of such devices include, for example, court systems, police departments, probation/parole offices, juvenile detention centers, prisons, jails, correction centers and other similar law enforcement entities, or laboratories or other establishments performing forensic testing for these entities. Forensic Use Only devices are not designed, tested, developed, or labeled for use in other settings, such as clinical diagnostic or workplace settings.

The total cost of this agreement shall not exceed \$8,000.00 unless written authorization is issued by the COUNTY.

**END OF ATTACHMENT "B"**

**ATTACHMENT C**  
**AGREEMENT BETWEEN LASSEN COUNTY AND**  
**REDWOOD TOXICOLOGY LABORATORY, INC**

## **ADDITIONAL PROVISIONS**

- C.1 CONFIDENTIALITY.** To the extent applicable, CONTRACTOR agrees to maintain adequate records of each client served under this agreement as required by law. These records will be maintained in the strictest confidence as per STATE law and in accordance with 42 CFR, Part 1 and Article 7 (Commencing with Section 5325) of Subchapter 2, Part 1 of Division 5 of the Welfare and Institutions Code.
- C.2 RETENTION OF RECORDS.** Appropriate service and financial records will be maintained and retained for at least five years, or until audit findings are resolved, whichever is later. Chain of custody records, documentation and analytical records are maintained in secure storage for a period of not less than three (3) years.
- C.3 PATIENTS' RIGHTS.** The parties to this Agreement will comply with all applicable law, regulations, and state policies relating to patients' rights.

**END OF ATTACHMENT "C"**

**ATTACHMENT D**

**GENERAL PROVISIONS**

**D.1. INDEPENDENT CONTRACTOR.** For all purposes arising out of this Agreement, CONTRACTOR shall be: an independent contractor and CONTRACTOR and each and every employee, agent, servant, partner, and shareholder of CONTRACTOR (collectively referred to as "The Contractor") shall not be, for any purpose of this Agreement, an employee of COUNTY. Furthermore, this Agreement shall not under any circumstance be construed or considered to be a joint powers agreement as described in California Government Code sections 6000, et seq., or otherwise. As an independent contractor, the following shall apply:

D.1.1 CONTRACTOR shall determine the method, details and means of performing the services to be provided by CONTRACTOR as described in this Agreement.

D.1.2 CONTRACTOR shall be responsible to COUNTY only for the requirements and results specified by this Agreement and, except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of CONTRACTOR in fulfillment of the requirements of this Agreement.

D.1.3 CONTRACTOR shall be responsible for its own operating costs and expenses, property and income taxes, workers' compensation insurance and any other costs and expenses in connection with performance of services under this Agreement.

D.1.4 CONTRACTOR is not, and shall not be, entitled to receive from or through COUNTY, and COUNTY shall not provide or be obligated to provide the CONTRACTOR with workers' compensation coverage, unemployment insurance coverage or any other type of employee or worker insurance or benefit coverage required or provided by any federal, state or local law or regulation for, or normally afforded to, any employee of COUNTY

D.1.5 The CONTRACTOR shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of the CONTRACTOR any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program or any other type of pension, annuity or disability program required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of COUNTY.

D.1.6 The CONTRACTOR shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe benefit program including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or other type of benefit program, plan or coverage designated for, provided to, or offered to COUNTY's employees.

D.1.7 COUNTY shall not withhold or pay on behalf of CONTRACTOR any federal, state or local tax including, but not limited to, any personal income tax owed by CONTRACTOR.

D.1.8. The CONTRACTOR is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent contractor and not as an employee of COUNTY.

D.1.9 CONTRACTOR shall not have the authority, express or implied, to act on behalf of, bind or obligate the COUNTY any way without the written consent of the COUNTY.

\_\_\_\_ County Initials \_\_\_\_\_ ATTACHMENT D, Page 1 Contractor Initials \_\_\_\_\_

**D.2 LICENSES, PERMITS, ETC.** To the best of its knowledge, CONTRACTOR represents and warrants to COUNTY that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any applicable licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

**D.3 CHANGE IN STATUTES OR REGULATIONS.** If there is a change of statutes or regulations applicable to the subject matter of this Agreement, both parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant to the terms of this Agreement.

**D.4 TIME.** CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

**D.5 INSURANCE.**

D.5.1 Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR shall acquire and maintain during the term of this Agreement insurance coverage (hereinafter referred to as "the insurance") through and with an insurer licensed in California and having a minimum A.M. Best rating of "A-". The insurance shall contain the following coverages:

D.5.1.1 Commercial general liability insurance including public liability insurance with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and with not less than One Million Dollars (\$1,000,000) aggregate; County will be included as additional insured for liability resulting from Contractor's work under this Agreement.

D.5.1.2 During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of professional errors and omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000) per incident and One Million Dollars (\$1,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars (\$2,500).

D.5.1.3 Business automobile liability insurance with minimum coverage of Five Hundred Thousand Dollars (\$500,000) per occurrence and with not less than Five Hundred Thousand Dollars (\$500,000) on reserve in the aggregate, with combined single limit including owned, non-owned and hired vehicles.

D.5.1.4 Workers' Compensation Insurance coverage for all of CONTRACTOR's employees and other persons for whom CONTRACTOR is responsible to provide such insurance coverage, as provided by Division 4 and 4.5 of the California Labor Code.

D.5.2 The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

D.5.3 In respect to any insurance herein, if the aggregate limit available becomes less than that required above, other excess insurance shall be acquired and maintained immediately. For the purpose of any insurance term of this Agreement, "aggregate limit available" is defined as the total policy limits available for all claims made during the policy period.

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\_\_\_\_ County Initials \_\_\_\_\_

ATTACHMENT D, Page 2

Contractor Initials \_\_\_\_\_

D.5.4 The amount of any deductible payable by the insured shall be subject to the prior approval of the COUNTY and the COUNTY, as a condition of its approval, may require such proof of the adequacy of CONTRACTOR's financial resources as it may see fit. The COUNTY may review the financials of Abbott Laboratories at [www.abbott.com](http://www.abbott.com) for adequacy.

D.5.5 Prior to CONTRACTOR rendering services provided by this Agreement, and immediately upon acquiring additional insurance, CONTRACTOR shall deliver a certificate of insurance describing the insurance coverages and required endorsement(s) herein to:

Jennifer Branning, Chief Probation Officer  
2950 Riverside Dr. Suite 101  
Susanville, CA 96130

D.5.6 CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement, as required, is in effect and CONTRACTOR has delivered the certificate(s) of insurance to COUNTY as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, COUNTY may, after providing ten (10) business days advance written notice of the specific non-compliant with the insurance requirements herein and CONTRACTOR does not comply within such period, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to COUNTY upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of not less than one year, it being understood and agreed that prior to the expiration of any policy of insurance, CONTRACTOR will deliver to COUNTY a renewal certificate of insurance to take the place of the policy expiring.

## D.6 INDEMNITY.

### D.6.1. COUNTY INDEMNIFICATION OBLIGATIONS:

The County of Lassen (COUNTY) does hereby agrees to defend and indemnify Redwood Toxicology Laboratory, Inc., its agents, affiliates and their respective directors, officers and employees (hereinafter collectively referred to in this paragraph as CONTRACTOR) from any claim, action or proceeding against CONTRACTOR by COUNTY's acts or omissions in the performance of this Agreement or the use of the Product in accordance with its product insert. At its sole discretion, CONTRACTOR may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve county of any obligation imposed by this Agreement. CONTRACTOR shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense.

COUNTY MAY NOT SETTLE ANY CLAIM AGAINST THE CONTRACTOR UNLESS THE SETTLEMENT UNCONDITIONALLY RELEASES CONTRACTOR OF ALL LIABILITY AND FAULT AND REQUIRES NO PAYMENT BY CONTRACTOR.

### D.6.2. CONTRACTOR INDEMNIFICATION OBLIGATIONS:

The CONTRACTOR hereby agrees to defend and indemnify the County of Lassen, its agents, officers and employees, (hereinafter collectively referred to in this paragraph as County), from any third-party claim, action or proceeding against County, relating to bodily injury to or death of any

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County Initials \_\_\_\_\_

ATTACHMENT D, Page 3

Contractor Initials \_\_\_\_\_

person or damage to any real or tangible property, to the extent caused by CONTRACTOR's negligence, gross negligence, recklessness, or willful misconduct in the performance of this Agreement but not to the extent caused by any negligence, gross negligence, willful misconduct, or breach on part of the COUNTY. At its sole discretion, COUNTY may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve CONTRACTOR of any obligation imposed by this Agreement. COUNTY shall notify CONTRACTOR promptly of any claim, action or proceeding and cooperate fully in the defense.

**D.6.3. Claims Arising From Concurrent Acts or Omissions:**

The County of Lassen (COUNTY) hereby agrees to defend itself, and the CONTRACTOR hereby agrees to defend itself, from any claim, action or proceeding arising out of the concurrent acts or omissions of County and CONTRACTOR. In such cases, county and CONTRACTOR agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 5 below.

**D.6.4. Joint Defense:**

Notwithstanding paragraph D.6.3 above, in cases where COUNTY and CONTRACTOR agree in writing to a joint defense, County and CONTRACTOR may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of CONTRACTOR. Joint defense counsel shall be selected by mutual agreement of County and CONTRACTOR. County and CONTRACTOR agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in paragraph D.6.5 below. County and CONTRACTOR further agree that neither party may bind the other to a settlement agreement without the written consent of both County and CONTRACTOR.

**D.6.5. Reimbursement and/or Reallocation:**

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, County and CONTRACTOR may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

**D.7 CONTRACTOR NOT AGENT.** Except as COUNTY may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

**D.8 ASSIGNMENT PROHIBITED.** CONTRACTOR may not assign any right or obligation pursuant to this Agreement without the prior written consent of COUNTY which cannot be unreasonably withheld. Provided however, that CONTRACTOR may assign this Agreement, without the consent of the COUNTY (1) to one of its affiliates, so long as the CONTRACTOR remains primarily liable hereunder or (2) with prompt notice of assignment in connection with (a) the transfer or sale of substantially all of the CONTRACTOR's business to which this Agreement pertains or (b) a merger or consolidation of CONTRACTOR with another company. In the event prior written consent is required for assignment, CONTRACTOR shall use reasonable efforts to obtain the consent of the COUNTY. Any permitted assignee shall assume all obligations of its assignor under this Agreement. This Agreement will be binding upon and inure to the benefit of the successors and assigns of each party hereto. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect except where COUNTY has unreasonably withheld consent.

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\_\_\_\_ County Initials

ATTACHMENT D, Page 4

Contractor Initials \_\_\_\_\_

D.9 THIS SECTION INTENTIONALLY LEFT BLANK.

**D.10 STANDARD OF PERFORMANCE.** CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

**D.11 POSSESSORY INTEREST.** The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code section 107. For all purposes of compliance by COUNTY with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the County Assessor and the contracting parties hereto. A taxable possessory interest may be created by this, if created, and the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

**D.12 TAXES. CONTRACTOR** hereby grants to the **COUNTY** the authority to deduct from any payments to **CONTRACTOR** any **COUNTY** imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to **CONTRACTOR**.

**D.13 TERMINATION.** Either party shall have the right to terminate this Agreement at any time by giving thirty (30) days written notice of such termination to the other party. In the event COUNTY gives notice of termination, CONTRACTOR shall immediately cease rendering service upon receipt of such written notice and the following shall apply:

D.13.1.1 CONTRACTOR shall deliver to COUNTY copies of all writings prepared by it pursuant to this agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photocopying, photographing computer storage medium (tapes, disks, diskettes, etc.) and every other means of recording upon any tangible thing, and form of communication or representation, including letters, pictures, sounds, or symbols, or combinations thereof.

D.13.1.2 COUNTY shall pay CONTRACTOR the contracted value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by COUNTY as work accomplished to date. Further provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

## D.14 OWNERSHIP OF INFORMATION. INTENTIONALLY OMITTED

**D.15 WAIVER.** A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

**D.16 COMPLETENESS OF INSTRUMENT.** This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and

County Initials \_\_\_\_\_ ATTACHMENT D, Page 5 Contractor Initials \_\_\_\_\_

covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made, express or implied.

**D.17 SUPERSEDES PRIOR AGREEMENTS.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

**D.18 ATTORNEY'S FEES.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

**D.19 MINOR AUDITOR REVISION.** In the event the Lassen County Auditor's office finds a mathematical discrepancy between the terms of the Agreement and actual invoices or payments, provided that such discrepancy does not exceed one percent (1%) of the Agreement amount, the Auditor's office may make the adjustment in any payment or payments without requiring an amendment to the Agreement to provide for such adjustment. Should the COUNTY or the CONTRACTOR disagree with such adjustment, they reserve the right to contest such adjustment and/or to request corrective amendment.

**D.20 CAPTIONS.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**D.21 DEFINITIONS.** Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

**D.21.1 Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**D.21.2 Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

**D.22 TERM INCLUDES EXTENSIONS.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

**D.23 SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**D.24 MODIFICATION.** No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

**D.25 COUNTERPARTS.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**D.26 OTHER DOCUMENTS.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

**D.27 PARTIAL INVALIDITY.** If any term, covenant, condition or provision of this Agreement is held by

County Initials \_\_\_\_\_ ATTACHMENT D, Page 6 Contractor Initials \_\_\_\_\_

a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**D.28 VENUE.** It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the Lake County, State of Illinois.

**D.29 CONTROLLING LAW.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of Illinois.

**D.30** This section is intentionally left blank.

**D.31 TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement and each covenant and term herein.

**D.32 AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

**D.33 CORPORATE AUTHORITY.** If CONTRACTOR is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation or public entity in accordance with its terms.

**D.34 CONFLICT OF INTEREST.**

**D.34.1 Legal Compliance.** Intentionally left blank.

**D.34.2 Advisement.** CONTRACTOR agrees that if any facts come to its attention which raise any questions as to the applicability of this law, it will immediately inform the COUNTY designated representative and provide all information needed for resolution of the question.

**D.34.3 Admonition.** Without limitation of the covenants in subparagraphs D.34.1 and D.34.2, CONTRACTOR is admonished hereby as follows:

The statutes, regulations and laws referenced in this provision D.34 include, but are not limited to, a prohibition against any public officer, including CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest of any type, with certain narrow exceptions.

**D.35 NONDISCRIMINATION.** During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. CONTRACTOR shall ensure

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\_\_\_\_ County Initials \_\_\_\_\_ ATTACHMENT D, Page 7 Contractor Initials \_\_\_\_\_

that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulation issued pursuant to said Act CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

**D.36 JOINT AND SEVERAL LIABILITY.** If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

**D.37 TAXPAYER I.D. NUMBER.** The COUNTY shall not disburse any payments to CONTRACTOR pursuant to this Agreement until CONTRACTOR supplies the latter's Taxpayer identification Number or Social Security Number by providing COUNTY with a completed IRS Form W-9.

**D.38 NOTICES.** All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":

Jennifer Branning, Chief Probation Officer  
Lassen County Probation Department  
2950 Riverside Dr, Suite 101  
Susanville, CA 96130

If to "CONTRACTOR":

Contracts Department  
Redwood Toxicology Laboratory, Inc.  
3650 Westwind Blvd  
Santa Rosa, CA 95403

With copy to:

Abbott Rapid Diagnostics Legal  
100 Abbott Park Road  
Abbott Park, IL 60064, USA  
Attention: DVP & Associate General Counsel,  
ARDx Informatics Rapid Diagnostics Legal

**END OF ATTACHMENT D**

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\_\_\_\_\_ County Initials \_\_\_\_\_

ATTACHMENT D, Page 8

Contractor Initials \_\_\_\_\_