

# **Attachment 1**

## **Agreement for Services**

### **Triumph Protection Services**



## **AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR**

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Triumph Protection Group with an address at 7 West Figueroa Street, Suite 300, Santa Barbara, CA 93101 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

**WHEREAS**, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

### **1. DESIGNATED REPRESENTATIVE**

Traci Lothery at 912 W. Foster Road, Santa Maria, CA 93454, phone number 805-934-6506 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Jeff Fields at phone number 707-688-4141 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

### **2. NOTICES**

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

**To COUNTY:**                    Scott Hosking, Facilities Manager  
    General Services  
    1105 Santa Barbara Street  
    Santa Barbara, CA 93101

**To CONTRACTOR:**        Mr. Jeff Fields, President  
    7 West Figueroa Street, Suite 300  
    Santa Barbara, California 93101

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

### **3. SCOPE OF SERVICES**

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

### **4. TERM**

CONTRACTOR shall commence performance on September 1, 2016 and end performance upon completion, but no later than June 30, 2018 unless otherwise directed by COUNTY or unless earlier terminated.

## **5. COMPENSATION OF CONTRACTOR**

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

## **6. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

## **7. STANDARD OF PERFORMANCE**

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same 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. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

## **8. DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

## **9. TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

## **10. CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

## **11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

## **12. NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

## **13. COUNTY PROPERTY AND INFORMATION**

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent. CONTRACTOR agrees to be bound by Exhibit E, "Information Privacy and Security Requirements."

#### **14. RECORDS, AUDIT, AND REVIEW**

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

#### **15. INDEMNIFICATION AND INSURANCE**

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

#### **16. NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

#### **17. NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

#### **18. NON-ASSIGNMENT**

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

#### **19. TERMINATION**

A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.

1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing

unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
  3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

## 20. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

## 21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**22. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**23. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

**24. NO WAIVER OF DEFAULT**

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

**25. ENTIRE AGREEMENT AND AMENDMENT**

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

**26. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties 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.

**27. COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

**28. CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

**29. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.



### 30. AUTHORITY

All signatories and 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, or firms represented or purported to be represented by such entity(ies), person(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 have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

### 31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

### 32. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

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Agreement for Services of Independent Contractor between the County of Santa Barbara and Triumph Protection Group.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato  
County Executive Officer  
Clerk of the Board

COUNTY OF SANTA BARBARA:

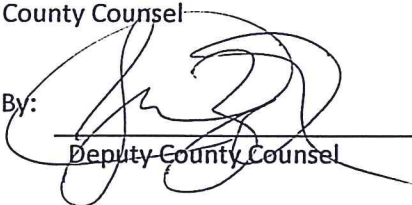
By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Peter Adam, Chair, Board of Supervisors

Date: \_\_\_\_\_


APPROVED AS TO FORM:

Michael Ghizzoni  
County Counsel

By:   
Deputy County Counsel

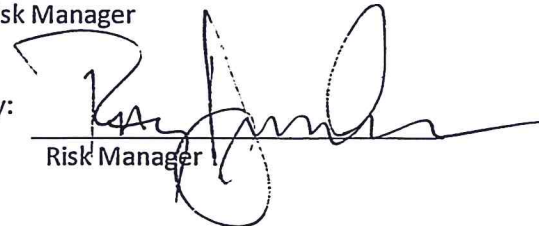
APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA  
Auditor-Controller

By:   
Deputy

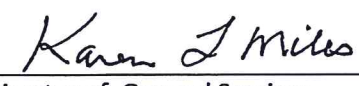
APPROVED AS TO FORM:

Ray Aromatorio  
Risk Manager

By:   
Risk Manager

RECOMMENDED FOR APPROVAL:

Matthew P. Pontes  
General Services

By:   
for \_\_\_\_\_  
Director of General Services

Agreement for Services of Independent Contractor between the County of Santa Barbara and Triumph Protection Group.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

**CONTRACTOR:**

Triumph Protection Group

By:   
Authorized Representative

Name: JOHN CIRILO

Title: DIRECTOR OF OPERATIONS

## EXHIBIT A

### STATEMENT OF WORK

- Triumph Protection Group will provide security services for multiple hours per week at different locations as well as on-call, and other as-needed services.
- The security agent will complete the patrol by foot and focus intently on providing outstanding customer service to guests and staff of all Santa Barbara County buildings. The agent will have the County issued cell phone or two-way radio device during the shift in order to be available for contact.
- The agent will patrol the property looking for signs of unusual activity and/or maintenance issues.
- The agent will utilize Triumph's online software to submit security and maintenance issues in real time. This will enable the agent to receive site specific instructions on a regular basis.

**Contractor Qualifications:** Triumph Protection Group will, at all times while under contract with the County of Santa Barbara, maintain an active California license for security services and registration with the Department of Industrial Regulations. Failure to maintain any of the Contractor Qualifications or notify the County of Santa Barbara within 48 hours of termination of these qualifications may result in immediate revocation of services.

**Agent Qualifications:** Agents will possess a current, valid California guard card and have First Aid/CPR certifications. Triumph Protection Group will provide quarterly training to agents.

**Locations:** See Exhibit A1.

## EXHIBIT B

### PAYMENT ARRANGEMENTS

#### Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$350,000.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in Attachment B1 (Schedule of Fees). Invoices submitted for payment that are based upon Attachment B1 must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in EXHIBIT A.
- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of Attachment B1 shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

**EXHIBIT B1**

**SCHEDULE OF FEES**

	Hourly Rate including weekends	Overtime and Holiday Hourly Rate
Services at locations listed in Exhibit A1 Service Locations	\$22	\$33
Additional services as-needed with minimum 24 hours' notice	\$22	\$33
Additional services as-needed with less than 24 hours' notice (for first 24 hour period)	\$31	\$46.50

## EXHIBIT C

### Indemnification and Insurance Requirements (For Service Contracts Not Requiring Professional Liability Insurance)

#### INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance  
Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage



or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

**EXHIBIT D**

**HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)**

**Not Applicable**

## EXHIBIT E

### INFORMATION PRIVACY AND SECURITY REQUIREMENTS

This Information Privacy and Security Requirements Exhibit (hereinafter referred to as “this Exhibit”) sets forth the information privacy and security requirements **Triumph Protection Group** (herein referred to as “Contractor”) is obligated to follow with respect to any personal and confidential information (as defined herein) disclosed to Contractor, or collected, created, stored, transmitted or used by Contractor for or on behalf of the California Department of Child Support Services (hereinafter “DCSS”), pursuant to Contractor’s agreement with DCSS. (Such personal and confidential information is referred to herein collectively as “DCSS PCI”.) DCSS and Contractor desire to protect the privacy and provide for the security of DCSS PCI pursuant to this Information Privacy and Security Requirements (IPSR) Exhibit and in compliance with State and Federal laws applicable to the DCSS PCI:

- CA FC §17212
- Title 22 CCR §111430
- Title 22 CCR §111440
- CA CC §1798.29 et seq.

#### 1. Order of Precedence

With respect to information privacy and security requirements for all DCSS PCI, the terms and conditions of this Exhibit shall take precedence over any conflicting terms or conditions set forth in any other part of the agreement between Contractor and DCSS, including Exhibit A, Scope of Work, all other exhibits and any other attachments, and shall prevail over any such conflicting terms or conditions.

#### 2. Exceptions and Exclusions

Any and all exceptions and exclusions to this Exhibit and Exhibit E.1, Data Security Standards, must be approved by the DCSS Information Security Office (ISO). If terms described in this Exhibit and Exhibit E.1 are considered not applicable according to specific or unique terms defined in other Exhibits, exceptions or exclusions will be detailed in Exhibit E.2, Exceptions and Exclusions, to this Exhibit.

#### 3. Effect on Lower Tier Transactions

The terms of this Exhibit apply to all contracts, subcontracts, subawards, scope/statements of work (SOW), Memorandums of Understanding (MOU), and interagency agreements (IAA). The Contractor is obligated to follow the information privacy and security requirements with respect to DCSS PCI disclosed to Contractor, or collected, created, stored, transmitted or used by Contractor for or on behalf of DCSS, pursuant to Contractor’s agreement with DCSS. When applicable and appropriate, the Contractor shall incorporate the relevant provisions of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.

#### 4. Definitions

For purposes of the agreement between Contractor and DCSS, including this Exhibit, the following definitions shall apply:

A. Breach: "Breach" means:

- 1) the unauthorized acquisition, access, use, or disclosure of DCSS PCI in a manner which compromises the security, confidentiality or integrity of the information; or
- 2) the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f).

B. Confidential Information: "Confidential information" means information that:

- 1) does not meet the definition of "public records" set forth in California Government Code section 6252(e), or is exempt from disclosure under any of the provisions of Section 6250, et seq. of the California Government Code or any other applicable state or federal laws; or
- 2) is contained in documents, files, folders, books or records that are clearly labeled, marked or designated with the word "confidential" by DCSS; or
- 3) is "personal information" as defined in this Exhibit.

C. Disclosure: "Disclosure" means the release, transfer, provision of, access to, or divulging in any other manner of information.

D. Personal Information: "Personal information" means information, in any medium (paper, electronic, oral) that:

- 1) by itself directly identifies or uniquely describes an individual; or
- 2) creates a substantial risk that it could be used in combination with other information to indirectly identify or uniquely describe an individual, or link an individual to the other information; or
- 3) meets the definition of "personal information" set forth in California Civil Code section 1798.3(a) or
- 4) is one of the data elements set forth in California Civil Code section 1798.29(g)(1) or (2); or
- 5) meets the definition of "medical information" set forth in either California Civil Code section 1798.29(h)(2) or California Civil Code section 56.05(j); or
- 6) meets the definition of "health insurance information" set forth in California Civil Code section 1798.29(h)(3); or
- 7) is protected from disclosure under applicable state or federal law.

E. Security Incident: "Security incident" means:

- 1) an attempted breach; or
- 2) the attempted or successful modification or destruction of DCSS PCI, in violation of any state or federal law or in a manner not permitted under the agreement between Contractor and DCSS, including this Exhibit; or
- 3) the attempted or successful modification or destruction of, or interference with, Contractor's system operations in an information technology system that negatively impacts the confidentiality, availability or integrity of DCSS PCI.

F. Use: "Use" means the sharing, employment, application, utilization, examination, or analysis of information.

5. Disclosure Restrictions

The Contractor and its employees, agents, or sub-contractors shall protect from unauthorized disclosure any DCSS PCI. The Contractor shall not disclose, except as otherwise specifically permitted by the agreement between Contractor and DCSS (including this Exhibit), any DCSS PCI to anyone other than DCSS without prior

written authorization from the DCSS Program Contract Manager, except if disclosure is required by State or Federal law.

6. Use Restrictions

The Contractor and its employees, agents, or subcontractors shall not use any DCSS PCI for any purpose other than carrying out the Contractor's obligations under its agreement with DCSS.

7. Safeguards

The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, security, confidentiality, integrity, and availability of DCSS PCI, including paper or electronic DCSS PCI. At each location where DCSS PCI is located, the Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities in performing its agreement with DCSS, including this Exhibit, and which incorporates the requirements of Section 8, Security, below. Contractor shall provide DCSS with Contractor's current and updated policies.

8. Security

The Contractor shall take any and all steps reasonably necessary to ensure the continuous security of all computerized data systems containing DCSS PCI. These steps shall include, at a minimum, complying with all of the data system security precautions listed in the Data Security Standards set forth in Exhibit E.1 to this Exhibit.

9. Security Officer

At each location where DCSS PCI is located, the Contractor shall designate a Security Officer to oversee its compliance with this Exhibit and for communicating with DCSS on matters concerning this Exhibit.

10. Training

The Contractor shall provide training on its obligations under this Exhibit, at its own expense, to all of its employees who assist in the performance of Contractor's obligations under Contractor's agreement with DCSS, including this Exhibit, or otherwise use or disclose DCSS PCI.

- A. The Contractor shall require each employee who receives training to certify, either in hard copy or electronic form, the date on which the training was completed.
- B. The Contractor shall retain each employee's certifications for DCSS inspection for a period of three (3) years following contract termination.

11. Employee Discipline

Contractor shall impose discipline that it deems appropriate (in its sole discretion) on such employees and other Contractor workforce members under Contractor's direct control who intentionally violate any provisions of this Exhibit.

12. Breach and Security Incident Responsibilities

- A. Notification to DCSS of Breach or Security Incident: The Contractor shall notify DCSS **immediately by telephone call and email** upon the discovery of a breach (as defined in this Exhibit), or **within 24 hours by email** of the discovery of any security incident (as defined in this Exhibit), unless a law enforcement agency determines that the notification will impede a criminal investigation, in which case the notification required by this section shall be made to DCSS immediately after the law enforcement agency determines that such notification will not compromise the investigation. Notification shall be provided to the DCSS Program Contract Manager and the DCSS Chief Information Security Officer, using the contact information listed in Section 12., F., below. If the breach or security incident is discovered after business hours or on a weekend or holiday and involves DCSS PCI in electronic or computerized form, notification to DCSS shall be provided using the contact information listed in Section 12., F., below. For purposes of this Section, breaches and security incidents shall be treated as discovered by Contractor as of the first day on which such breach or security incident is known to the Contractor.

Contractor shall take:

- 1) prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment; and
  - 2) any action pertaining to a breach required by applicable federal and state laws, including, specifically, California Civil Code section 1798.29.
- B. Investigation of Breach: The Contractor shall immediately investigate such breach or security incident. As soon as the information is known and subject to the legitimate needs of law enforcement, Contractor shall inform the DCSS Program Contract Manager and the DCSS Chief Information Security Officer of:
- 1) what data elements were involved and the extent of the data involved in the breach, including, specifically, the number of individuals whose personal information was breached;
  - 2) a description of the unauthorized persons known or reasonably believed to have improperly used the DCSS PCI and/or a description of the unauthorized persons known or reasonably believed to have improperly accessed or acquired the DCSS PCI, or to whom it is known or reasonably believe have had the DCSS PCI improperly disclosed to them;
  - 3) a description of where the DCSS PCI is believed to have been improperly used or disclosed;
  - 4) a description of the probable causes of the breach or security incident; and
  - 5) whether Civil Code sections 1798.29 or any other federal or state laws requiring individual notifications of breaches have been triggered.

DCSS reserves the right to participate in the investigation of a security incident involving DCSS PCI or conduct its own independent investigation, and Contractor shall cooperate fully in such investigations.

- C. Written Report: The Contractor shall provide a written report of the investigation to the DCSS Program Contract Manager and the DCSS Chief Information Security Officer as soon as practicable after the discovery of the breach or security incident. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the breach or security incident, and measures to be taken to prevent the recurrence of such breach or security incident.
- D. Notification to Individuals: If notification to individuals whose information was breached is required under state or federal law, and regardless of whether Contractor is considered only a custodian and/or non-owner of the DCSS PCI, Contractor shall, at its sole expense, and at the sole election of DCSS, either:

- 1) make notification to the individuals affected by the breach (including substitute notification), pursuant to the content and timeliness provisions of such applicable state or federal breach notice laws. Contractor shall inform the DCSS Chief Information Security Officer of the time, manner and content of any such notifications, prior to the transmission of such notifications to the individuals; or
  - 2) cooperate with and assist DCSS in its notification (including substitute notification) to the individuals affected by the breach.
- E. Submission of Sample Notification to Attorney General: If notification to more than 500 individuals is required pursuant to California Civil Code section 1798.29, and regardless of whether Contractor is considered only a custodian and/or non-owner of the DCSS PCI, Contractor shall, at its sole expense, and at the sole election of DCSS, either:
- 1) electronically submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the Attorney General pursuant to the format, content, and timeliness provisions of California Civil Code section 1798.29. Contractor shall inform the DCSS Chief Information Security Officer of the time, manner and content of any such submissions, prior to the transmission of such submissions to the Attorney General; or
  - 2) cooperate with and assist DCSS in its submission of a sample copy of the notification to the Attorney General.
- F. DCSS Contact Information: To direct communications to the above referenced DCSS staff, the Contractor shall initiate contact as indicated herein. DCSS reserves the right to make changes to the contact information below by written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the agreement to which it is incorporated.

DCSS Program Contract Manager	DCSS Chief Information Security Officer
See Exhibit A for Program Contract Manager	Chief Information Security Officer Information Security Office California Department of Child Support Services P.O Box 419064, MS 440 Rancho Cordova, CA 95741-9064 Email: <a href="mailto:information.security@dcss.ca.gov">information.security@dcss.ca.gov</a> Telephone: (916) 464-5045

13. Documentation of Disclosures for Requests for Accounting

Contractor shall document and make available to DCSS or (at the direction of DCSS) to an Individual such disclosures of DCSS PCI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of personal information as required by applicable state or federal law.

14. Requests for DCSS PCI by Third Parties

The Contractor and its employees, agents, or sub-contractors shall promptly transmit to the DCSS Program Contract Manager all requests for disclosure of any DCSS PCI emanating from third parties to the agreement between Contractor and DCSS (and not emanating from an Individual for an accounting of disclosures of personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.

#### 15. Audits, Inspection and Enforcement

From time to time, DCSS may inspect the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit. Contractor will allow audits or inspections by individuals authorized by the DCSS ISO at the Contractor premises during regular business hours, with five (5) business day's prior notice for purposes of determining compliance with the terms of this Agreement. Contractor shall promptly remedy any violation of any provision of this Exhibit and shall certify the same to the DCSS Program Contract Manager in writing.

#### 16. Return or Destruction of DCSS PCI on Expiration or Termination

On expiration or termination of the agreement between Contractor and DCSS for any reason, Contractor shall return or destroy the DCSS PCI. If return or destruction is not feasible, Contractor shall explain to DCSS why, in writing, to the DCSS Program Contract Manager and the DCSS Chief Information Security Officer, using the contact information listed in Section 12.F., above.

- A. Retention Required by Law: If required by state or federal law, Contractor may retain, after expiration or termination, DCSS PCI for the time specified as necessary to comply with the law.
- B. Obligations Continue Until Return or Destruction: Contractor's obligations under this Exhibit shall continue until Contractor returns or destroys the DCSS PCI or returns the DCSS PCI to DCSS; provided however, that on expiration or termination of the agreement between Contractor and DCSS, Contractor shall not further use or disclose the DCSS PCI except as Required by state or federal law.
- C. Notification of Election to Destroy DCSS PCI: If Contractor elects to destroy the DCSS PCI, Contractor shall certify in writing, to the DCSS Program Contract Manager and the DCSS Chief Information Security Officer, using the contact information listed in Section 12.F., above, that the DCSS PCI has been destroyed.

#### 17. Amendment

The parties acknowledge that Federal and State laws relating to information security and privacy are rapidly evolving and that amendment of this Exhibit may be required to provide for procedures to ensure compliance with such laws. The parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of DCSS PCI. The parties agree to promptly enter into negotiations concerning an amendment to this Exhibit consistent with new standards and requirements imposed by applicable laws and regulations.

#### 18. Assistance in Litigation or Administrative Proceedings

Contractor shall make itself and any sub-contractors, employees or agents assisting Contractor in the performance of its obligations under the agreement between Contractor and DCSS, available to DCSS at no cost to DCSS to testify as witnesses, in the event of litigation or administrative proceedings being commenced against DCSS, its director, officers or employees based upon claimed violation of laws relating to security and privacy, which involves inactions or actions by the Contractor, except where Contractor or its sub-contractor, employee or agent is a named adverse party.



19. No Third-Party Beneficiaries

Nothing express or implied in the terms and conditions of this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than DCSS or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

20. Interpretation

The terms and conditions in this Exhibit shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with Federal and State laws and regulations.

21. Survival

If Contractor does not return or destroy the DCSS PCI upon the expiration or termination of the Agreement, the respective rights and obligations of Contractor under Sections 6., 7., and 8. of this Exhibit shall survive the termination or expiration of the agreement between Contractor and DCSS.

