FIRST AMENDMENT TO
TULARE COUNTY AGREEMENT NO. 28599

THIS FIRST AMENDMENT ("Amendment") to Tulare County Agreement Number 28599 (the "Agreement") is entered into by and between the **COUNTY OF TULARE** ("COUNTY") and **AGILOFT, INC.** ("CONTRACTOR") as of _____, with reference to the following:

A.   The COUNTY and CONTRACTOR entered into the Agreement on May 22, 2018, for the purpose of providing Contracts Management system services;

B.   COUNTY and CONTRACTOR now wish to amend the Agreement in order to add Exhibit B which is the Business Associate Addendum.

ACCORDINGLY, COUNTY and CONTRACTOR agree as follows:

1. This First Amendment becomes effective upon signatures by the Tulare County Board of Supervisors.

2. Except as provided above, all other terms and conditions of the Agreement shall remain in full force and effect.

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FIRST AMENDMENT TO
TULARE COUNTY AGREEMENT NO. 28599

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

AGILOFT, INC.

Date October 09, 2018

By _Patricia Pritts_

Print Name Patricia Pritts

Title VP, Sales

Date October 09, 2018

By _Bridget Conrad_

Print Name Bridget Conrad

Title CFO

[Pursuant to Corporations Code section 313, County policy requires that contracts with a Corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a Limited Liability Company be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]
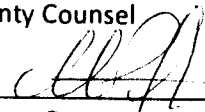
COUNTY OF TULARE

Date_____

By_____
Chairman, Board of Supervisors

ATTEST: MICHAEL C SPATA
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By_____
Deputy Clerk

Approved as to Form:
County Counsel

By_____ October 22, 2018
Deputy

Matter # 2018/291

Agiloft

BUSINESS ASSOCIATE ADDENDUM (EXHIBIT B)

This Agiloft Business Associate Addendum (the "Addendum") to the Agiloft Hosted Services Agreement and/or License Agreement by and between _____ ("Covered Entity," "You," "you," "Your," or "your") and Agiloft, Inc. ("Agiloft," "We," "we," "Us," "us," "Our," or "our") with an effective date of _____ (the "Agreement") is made as of the date of full execution by the parties below (the "Addendum Effective Date").

The parties hereby agree as follows:

1.   **Applicability and Definitions.** This Addendum applies only to HIPAA Knowledgebases. A "HIPAA Knowledgebase" means a Knowledgebase under the Agreement: (a) that uses only the HIPAA Eligible Services (alone or in combination) to store or transmit any "protected health information" (as defined in 45 CFR 160.103; (b) that you have identified as required under Section 4.1 of this Addendum; and (c) to which you have applied the required security configurations specified in the list of HIPAA Eligible Services (defined below), if any, and in Section 4.3 of this Addendum. You acknowledge that this Addendum does not apply to any other types of Knowledgebases you may have now or in the future, and that any of your Knowledgebases that do not satisfy all of the HIPAA Knowledgebase requirements are not subject to this Addendum. Unless otherwise expressly defined in this Addendum, all capitalized terms in this Addendum will have the meanings set forth in the Agreement or in HIPAA. "HIPAA" means the Administrative Simplification Subtitle of the Health Insurance Portability and Accountability Act of 1996, as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and their implementing regulations. A "HIPAA Eligible Service" means the Agiloft Hosted Services, subject to any required security configurations applicable to such Services or functionality of such Services, as may be updated by us from time to time. We will provide you at least six (6) months prior written notice if we decide to remove an existing Service or existing functionality of a Service from the HIPAA Eligible Services. Protected health information ("PHI") shall have the same meaning as provided for in 45 CFR 160.103 that is received by us from or on behalf of you and that is in a HIPAA Knowledgebase.

2.   **Permitted and Required Uses and Disclosures**

2.1.   **Service Offerings.** We may Use or Disclose PHI for or on your behalf as specified in the Agreement.

2.2.   **Administration and Management of Agiloft.** Except as otherwise limited in this BAA, we may Use and Disclose PHI for proper management and administration of our organization

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and/or to carry out our organization's responsibilities, provided that any Disclosure may occur only if: (a) required by law; or (b) we obtain written reasonable assurances from the person to whom the PHI is Disclosed that it will be held confidentially and Used or further Disclosed only as required by law or for the purpose for which it was Disclosed to the person, and the person notifies our organization of any instances of which it becomes aware in which the confidentiality of the PHI has been breached.

3. Obligations of Agiloft

3.1. Agiloft Obligations Conditioned on Appropriate Configurations. For any of your Knowledgebases that is not a HIPAA Knowledgebase, we do not act as a business associate (as defined by HIPAA) and will have no obligations to you under this Addendum.

3.2. Limit on Uses and Disclosures. We will use or disclose PHI only as permitted by this Addendum or as required by law, provided that any such use or disclosure would not violate HIPAA if done by you, as a Covered Entity (as defined by HIPAA), unless otherwise permitted under HIPAA for a Business Associate.

3.3. Safeguards. We will use reasonable and appropriate administrative and technological safeguards to prevent the Use or Disclosure of your PHI other than as provided for by this Addendum, and consistent with the requirements of Subpart C of 45 CFR 164 (with respect to "Electronic PHI") as determined by us and as reflected in the Agreement.

3.4. Reporting. For all reporting obligations under this Addendum, you acknowledge that, because we do not know the nature of PHI contained in any of your Knowledgebases, it will not be possible for us to provide information about the identities of the Individuals who may have been affected, or a description of the type of information that may have been subject to a Security Incident, Impermissible Use or Disclosure, or Breach.

3.4.1. Reporting of Impermissible Uses and Disclosures. We will report to you, in a reasonable time, any Use or Disclosure of PHI not permitted or required by this Addendum of which we become reasonably aware.

3.4.2. Reporting of Security Incidents. We will report to you, but no less than on a quarterly basis, any Security Incidents involving PHI of which we become reasonably aware in which there is a successful unauthorized access, use, disclosure, modification, destruction of information, or interference with system operations in our Hosted Service or Software Product in a manner that risks the confidentiality, integrity, or availability of such information. Notice is hereby deemed provided, and no further notice will be provided, for unsuccessful attempts at such unauthorized access, use, disclosure, modification, or destruction, such as pings and other broadcast attacks on a firewall, denial of service attacks, port scans, unsuccessful login attempts, interception of encrypted information where the key is not compromised, or any combination of the above.

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3.4.3. Reporting of Breaches. We will report to you any Breach of your Unsecured PHI that we may become reasonably aware to the extent required by 45 CFR 164.410. We will make such report without unreasonable delay, and in no case later than sixty (60) calendar days after the discovery of such Breach.

3.5.   Subcontractors. We will ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of us agree to restrictions and conditions at least as stringent as those found in this Addendum, and which agree to implement reasonable and appropriate safeguards to protect PHI.

3.6.   Access to PHI. If applicable, we will make PHI in a Designated Record Set available to you so that you can comply with 45 CFR 164.524.

3.7.   Amendment to PHI. If applicable, we will make PHI in a Designated Record Set available to you for amendment and incorporate any amendments to the PHI, as may reasonably be requested by you in accordance with 45 CFR 164.526.

3.8.   Accounting of Disclosures. We will make the information required to provide an accounting of Disclosures available to you, in accordance with 45 CFR 164.528, of which we are aware, upon reasonable request by you. You acknowledge that we cannot readily identify which Individuals are identified, or what types of PHI are included, in Your Data, which you or any End User: (a) run on the HIPAA Eligible Services; (b) cause to interface with the HIPAA Eligible Services; or (c) upload to the HIPAA Eligible Services under your Knowledgebases or otherwise transfer, process, use, or store in connection with your Knowledgebase ("Customer Content"). You will be solely responsible for identifying which Individuals, if any, may have been included in Customer Content that we have disclosed and for providing a brief description of the PHI disclosed.

3.9.   Internal Records. We will make our internal practices, books, and records relating to the Use and Disclosure of PHI under this Addendum available to the Secretary of the U.S. Department of Health and Human Services ("HHS") for the purposes of determining your compliance with HIPAA. Nothing in this section will waive any applicable privilege or protection, including any with respect to trade secrets and confidential commercial information.

4.   Your Obligations

4.1.   Identification of HIPAA Knowledgebase(s). All of your Knowledgebases that you intend to be applicable to this Addendum, that contain PHI as defined in 45 CFR 160.103, are identified in Exhibit A to this Addendum.

4.2.   Appropriate Use of HIPAA Knowledgebase(s). You are responsible for implementing appropriate privacy and security safeguards in order to protect your PHI in compliance with HIPAA and this Addendum. Without limitation, you will: (a) not include PHI in any Services that are not HIPAA Eligible Services; (b) utilize the highest level of audit logging in connection with your use of all HIPAA Eligible Services; (c) maintain the maximum retention of logs in

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connection with your use of all HIPAA Eligible Services; (d) not include PHI, or redact PHI, in information you submit to technical support personnel through a technical support request or to community support forums, if any; and (e) implement privacy and security safeguards in your HIPAA Knowledgebase(s), and in any software you control, configure, or otherwise integrate with your HIPAA Knowledgebase(s), and in any data that you upload to your HIPAA Knowledgebase(s).

4.3.   Necessary Consents. You represent and warrant that you have obtained any and all necessary authorizations, consents, and other permissions that may be required under applicable law prior to placing Customer Content, including without limitation PHI, in your Knowledgebase(s).

4.4.   Restrictions on Disclosures. You will not agree to restriction requests, or place any restrictions in any notice of privacy practices, that would cause us to violate this Addendum or any applicable law.

4.5.   Compliance with HIPAA. You will not request or cause us to make a Use or Disclosure of PHI in a manner that does not comply with HIPAA or this Addendum.

5.   Term and Termination

5.1.   Term. The term of this Addendum will commence on the Addendum Effective Date and will remain in effect with respect to each Knowledgebase that you identify as being subject to this Addendum until the earlier of: (a) the termination of the Agreement; (b) notification by you that a Knowledgebase is no longer subject to this Addendum; or (c) the termination of this Addendum.

5.2.   Termination. Either party has the right to terminate this Addendum for any reason upon ninety (90) days' prior written notice to the other party. A material breach of this Addendum will be treated as a material breach of the Agreement. Either party may provide the other party a thirty (30) calendar day period to cure a material breach of default within such written notice.

5.3.   Effect of Termination. Upon termination of this Addendum, if feasible, we will return or destroy all of the PHI that we still maintain in any form and retain no copies of such PHI or, if such return or destruction is not feasible, extend the protections of this Addendum to the PHI and limit further Uses and Disclosures to those purposes that make the return or destruction of the PHI infeasible. You acknowledge that it is not feasible for us to destroy or return PHI immediately upon termination of this Addendum, and will do so, if applicable, within a reasonable period of time.

6.   General Provisions

6.1.   No Agency Relationship. As set forth in the Agreement, nothing in this Addendum is intended to make either party an agent of the other. Nothing in this Addendum is intended to

confer upon you the right to authority to control our conduct in the course of our compliance with the Agreement and this Addendum.

6.2.   Nondisclosure. You agree that the terms and conditions of this Addendum are not publicly known and constitute Agiloft Confidential Information under the Agreement.

6.3.   Entire Agreement; Conflict. Except as amended by this Addendum, the Agreement will remain in full force and effect. This Addendum, together with the Agreement: (a) is intended by the parties as a final, complete, and exclusive expression of the terms of the parties' agreement; and (b) supersedes all prior agreements and understandings (whether oral or written) between the parties with respect to the subject matter.
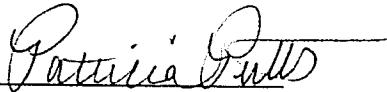
6.4.   Counterparts and Signatures. This Addendum may be executed in two or more counterparts, each of which will be deemed an original, and all of which taken together will be deemed to constitute one and the same document. The parties may sign and deliver this Addendum: (a) by facsimile transmission; (b) scanned and emailed; or (c) other secure electronic signature method.

IN WITNESS WHEREOF, the parties herein have executed this Addendum below as of the Addendum Effective Date.

AGILOFT, INC.   **COVERED ENTITY**

By: _____   By: _____

Name: _Patricia Pritts_____   Name: _____

Title: __VP of Sales_____   Title: _____

Date: _____   Date: _____

EXHIBIT 1

AGILOFT KNOWLEDGEBASE(S)

Agiloft Knowledgebase(s) (Number/Name)

1.   This Addendum will cover only the Knowledgebase(s) listed above. You may update this list of Knowledgebases by providing written notice to us in a manner provided for in the Agreement. Any such update will be effective only upon written acknowledgement of receipt by us.

2.   You represent and warrant that you are the owner of all Knowledgebase(s) listed above to be covered by this Addendum.