

**Reporting Service Subscription Agreement
For Internet Access to SafeMeasures®**

This agreement is between the National Council on Crime and Delinquency ("NCCD"), a nonprofit corporation organized under the laws of New York, with business offices in Madison, Wisconsin, USA and the County of Fresno on behalf of its Department of Social Services ("Customer").

**BACKGROUND AND
PRODUCT DESCRIPTION**

- A. NCCD has developed and owns all rights, title, and interest in a certain child welfare reporting service identified as the NCCD Internet Reporting Service, and referred to as SafeMeasures®. SafeMeasures uses case-level data from a child welfare agency's management information system (MIS) and publishes it via a conventional web-browser in a series of concise, interactive management reports.
- B. SafeMeasures is a subscription reporting service that permits customers to monitor service delivery activity by navigating an extensive set of reports presented in graph and chart format. These reports permit them to estimate current workload demand, plan more effective service interventions, and monitor certain performance indicators established by state or federal regulatory requirements. SafeMeasures includes case-level quality control displays that agencies may employ to improve compliance with state or federal performance audits.

Acknowledging the sufficiency of the consideration exchanged, the parties agree as follows:

- 1. Provision of Service.
 - 1.1 Web-Based Reports. During the Term of this Agreement, NCCD will provide Customer with interactive web-based management reports ("Management Reports"), which permit the Customer to categorize agency compliance with various measures, and permit Customer to identify the specific cases within each category. NCCD will specifically:
 - (a) Provide Management Reports within 45 business days after first receiving raw MIS data from the State of California or Customer; and
 - (b) Provide regular updates of Management Reports, provided that Customer or another agency regularly submits raw MIS data to NCCD for processing and analysis. Such updates will be provided within three business days of receipt of the MIS data by NCCD.
 - 1.2 Access to Customer Data. If requested by NCCD, Customer will supply a copy of the CWS/CMS databases, or specifically designated data tables therein, that store agency data to be used by NCCD. If data is supplied by a third party, Customer will authorize and facilitate release of the data to NCCD.
 - 1.3 Access to Website Restricted. The right to access the SafeMeasures website is jurisdiction- and agency-specific. Only Customer and its employees or agents may access or use the SafeMeasures website for the Customer's monitoring and reporting needs. Specifically, and without limitation, Customer may not act as a relay or intermediary allowing access to the

SafeMeasures website to any third party jurisdiction, agency, individual, or business for any purpose.

- 1.4 Internal Business. Customer may only use SafeMeasures for its own internal purposes. Customer's internal purposes do not include extending this service to third parties, except that data may be provided to state and governmental authorities if required by law.
 - 1.5 Competing Services or Products. Customer shall not use all or any part of SafeMeasures or its documentation to create a service or product that competes with, or is used in a product that competes with, all or any part of SafeMeasures, regardless of whether such service or product is distributed with or without consideration.
 - 1.6 Copyright Ownership and License. Customer acknowledges that NCCD owns the copyright in all graphic interfaces, reports, displays, and formats ("Original Works"). NCCD grants Customer a fully paid license to display, reproduce, and distribute the Original Works for its internal purposes with no sub-licensing rights for the Term of the Agreement. This is not intended to curtail Customer's use of printed reports for public use.
 - 1.7 Training. NCCD will provide training as specified in Exhibit A. Customer will provide training facility, equipment, and access to NCCD Internet training site.
2. Data Transmission. Customer, or other party supplying MIS data, shall use one of the following methods to send weekly extracts of agency MIS data to NCCD for processing and analysis:
 - 2.1 Compact Disk. Customer or supplying party will copy data onto one or more compact disks and mail to NCCD via overnight delivery service; or
 - 2.2 Secured File Transfer Protocol (SFTP) over Secure Shell (SSH). Customer or supplying party will send data over a secure channel to NCCD's secure SSH server. This transfer may be made using a dedicated SSH file transfer client.
3. Reporting Service Subscription Fee. Customer will pay NCCD the fees ("Reporting Service Subscription Fees") according to the payment schedule specified in attached Exhibit A and all applicable taxes related thereto unless Customer provides evidence that Customer is exempt from such taxes.
 4. Updates. During the Term of this Agreement, NCCD will provide to Customer updates, error corrections, and modifications to SafeMeasures displays ("Updates") as such Updates become available. Updates do not include modifications to displays specifically requested by Customer. Any Customer requested modifications must be made by NCCD at NCCD's published service rates. NCCD reserves the right to use the displays created for Customer, and analyses to produce such displays for other parties whether such displays were suggested by NCCD or the Customer. NCCD shall not use any Customer data in its publishing for other parties without Customer's permission.
5. Term and Termination.
 - 5.1 Term. The Term of this Agreement shall commence on July 1, 2020 and end on June 30, 2023 unless earlier terminated pursuant to Section 5.3. After expiration of the current Term, NCCD will not provide any Updates to Customer, and Customer must cease all use of SafeMeasures.

5.2 Renewal. If Customer is not in default of this Agreement, Customer and NCCD may renew this Agreement for two additional one-year periods ("Extension"), for a total term not to exceed five years. Prior to the expiration of the current Term, NCCD may, in its discretion, issue a quotation of the Reporting Service Fees for the Extension. Any increase in the Reporting Service Fees for the Extension will not exceed 10% of the Reporting Service Fees specified in Exhibit A. Renewal of this Agreement will be effective upon (a) NCCD's issuance of a quotation of the new Reporting Service Fees, and (b) NCCD's acceptance of Customer's written intent to accept the terms of NCCD's quotation of Reporting Service Fees for the extension period.

In order to ensure continuous access to the SafeMeasures internet reporting service, the effective date of any renewal contract will begin one day after the previous contract expires. If a renewal contract is not fully executed and received by NCCD within 30 days of contract expiration, NCCD reserves the right to discontinue access to the SafeMeasures internet reporting service until a renewal contract is in place.

5.3 Termination for Cause. A party may terminate this Agreement if the other party commits a material breach that is not cured within 30 days of a written notice of such material breach. This Agreement may be terminated immediately for a breach of Customer's obligation to pay fees under this Agreement or a breach of Sections 1.3, 1.4, or 1.5 of this Agreement.

5.4 Termination Without Cause. Under circumstances other than those set forth above, this Agreement may be terminated by NCCD or COUNTY or COUNTY's DSS Director, or designee, upon the giving of thirty (30) days advance written notice of an intention to terminate the Agreement. Upon termination, Customer shall receive a prorated refund of the Reporting Service Fee.

5.5 Non-Allocation of Funds. The terms of this Agreement, and the services to be provided thereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated by NCCD or COUNTY or COUNTY's DSS Director, or designee, by giving NCCD written notice prior to June 30th.

6. NCCD Warranty, Disclaimers, and Remedies.

6.1 Warranty. NCCD warrants that:

- (a) Provided that Customer or another designated party regularly submits the required raw MIS data to NCCD, SafeMeasures will perform substantially as described in this Agreement and SafeMeasures promotional material.
- (b) It is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. NCCD also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs issued by the General Services Administration.
- (c) NCCD will utilize all reasonable means and due diligence to protect the confidentiality and security of Customer data.

- (d) Except for the foregoing express warranties, NCCD neither makes nor grants any other warranties, express or implied. NCCD excludes all implied warranties including specifically any implied warranty arising by statute or otherwise in or from a course of dealing or usage of trade including any and all implied warranties of merchantability, merchantable quality, or fitness for any purpose, particular, specific or otherwise. The foregoing express warranty is the only warranty of any kind for SafeMeasures. NCCD makes no warranties whatsoever for any Original Works that have been modified by Customer nor does NCCD warrant that SafeMeasures will be offered without interruption.
- (e) Customer acknowledges that NCCD provides no monitoring, analysis or review of the accuracy or quality of the Customer's data accessed through SafeMeasures.

6.2 Remedies. If SafeMeasures does not operate substantially as warranted (hereinafter described as "Noncompliance"), Customer will provide NCCD with sufficient details available to Customer about the Noncompliance to allow NCCD to reproduce it. As Customer's exclusive remedy for any Noncompliance, and as NCCD's entire liability in contract, tort, or otherwise of such Noncompliance, NCCD will either:

- (a) Correct the Noncompliance; or
- (b) If NCCD is unable to correct the Noncompliance after a reasonable opportunity to do so, Customer may:
 - (i) Request that NCCD cease publication of any demonstrably incorrect information and request a pro-rata reduction in the Reporting Service Fee; or
 - (ii) Terminate the Reporting Service Subscription and receive a pro-rated refund of the Reporting Service Subscription Fee.

7. Intellectual Property Indemnification by NCCD.

- 7.1 Indemnification. If a third party claims that SafeMeasures infringes any copyright, patent, trade secret, or other rights of any third party, NCCD will (as long as Customer is not in material breach of this Agreement) defend Customer against such claim at NCCD's expense, and NCCD will pay all damages that a court finally awards based solely on such claim, provided that Customer notifies NCCD in writing of such claim within 21 days of Customer's receipt of notice of the existence or possible existence of such claim, and further provided that Customer allows NCCD sole and exclusive control over the resolution of such claim and that Customer cooperates fully with NCCD, at NCCD's cost, in the defense of such claim and in any related settlement negotiations.
- 7.2 Replacement, Refund. If such a claim is made or appears possible, NCCD may, using reasonable business judgment, either secure Customer's right to continue to use SafeMeasures by modifying or replacing the portion of SafeMeasures that is the basis for the claim so that such portion of SafeMeasures is no longer infringing, or NCCD may provide Customer with a credit equal to the portion of previously paid Reporting Service Fee prorated to the remainder of the Term or Renewal Term of the Agreement.
- 7.3 Hold Harmless. In addition to the above intellectual property indemnification provision, NCCD agrees to indemnify, save, hold harmless, and at COUNTY's request, defend COUNTY, its officers,

agents and employees from any and all costs and expenses, including attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to COUNTY in connection with the performance, or failure to perform, by NCCD, its officers, agents or employees under this Agreement, and from any and all costs and expenses, including attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to any person, firm or corporation who may be injured or damaged by the performance, or failure to perform, of NCCD, its officers, agents or employees under this Agreement. In addition, NCCD agrees to indemnify COUNTY for Federal, State of California and/or local audit exceptions resulting from noncompliance herein on the part of the NCCD.

8. Insurance. Without limiting COUNTY's right to obtain indemnification from NCCD or any third parties, NCCD, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement:
- 8.1 Commercial General Liability. Commercial General Liability Insurance with limits of not less than One Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$4,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require specific coverage including completed operations, product liability, contractual liability, Explosion, Collapse, and Underground (XCU), fire legal liability or any other liability insurance deemed necessary because of the nature of the Agreement.
- 8.2 Automobile Liability. Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000) per person, Five Hundred Thousand Dollars (\$500,000) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000). Coverage should include owned and non-owned vehicles used in connection with this Agreement.
- 8.3 Professional Liability. If NCCD employs licensed professional staff (e.g. Ph.D., R.N., L.C.S.W., M.F.C.T.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence, Three Million Dollars (\$3,000,000) annual aggregate.
- 8.4 Worker's Compensation. A policy of Worker's Compensation Insurance as may be required by the California Labor Code.

NCCD shall obtain endorsements to the Commercial General Liability insurance naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees shall be excess only and not contributing with insurance provided under NCCD's policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to COUNTY.

NCCD hereby waives its right to recover from COUNTY, its officers, agents, and employees any amounts paid by the policy of worker's compensation insurance required by this Agreement. NCCD is solely responsible to obtain any endorsement to such policy that may be necessary to accomplish such waiver of subrogation, but NCCD's waiver of subrogation under this paragraph is effective whether or not NCCD obtains such an endorsement.

Within thirty (30) days from the effective date of this Agreement, NCCD shall provide certificates of insurance and endorsements as stated above for all of the foregoing policies, as required herein, to the County of Fresno, DSS, PO BOX 1912, Fresno, California, 93718-1912, Attention: Contracts, stating that such insurance coverages have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that for such worker's compensation insurance NCCD has waived its right to recover from the COUNTY, its officers, agents, and employees any amounts paid under the insurance policy and that waiver does not invalidate the insurance policy; that such Commercial General Liability insurance names the County of Fresno, its officers, agents and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance provided under NCCD's policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to COUNTY.

In the event NCCD fails to keep in effect at all times insurance coverage as herein provided, COUNTY may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

All policies shall be with admitted insurers licensed to do business in the State of California. Insurance purchased shall be from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

9. Customer Warranties. Customer warrants that:

- 9.1 Customer will only allow access to SafeMeasures as permitted under this Agreement. If Customer wishes to extend its use of SafeMeasures beyond this Agreement, Customer will obtain NCCD's prior written consent and pay the applicable Reporting Service Subscription Fees.
- 9.2 Customer will provide the requested case-based MIS data to NCCD using one of the methods described in Section 2, or if data is supplied by another party, execute all necessary agreements and permissions to release this data to NCCD.

10. General.

- 10.1 Installation. Customer is responsible for providing access to the SafeMeasures website via the Internet to its users. NCCD will, as requested, provide reasonable assistance (up to three hours) with set-up of user workstations and use of SafeMeasures via telephone, fax, or email at no additional charge to the fees as outlined in Exhibit A. Customer may hire NCCD to provide additional training or assistance at the prevailing published rates plus travel expenses.
- 10.2 Notification of Rights. In copying SafeMeasures web reports as authorized under the terms of this Agreement, Customer will not remove, suppress, or modify any notice of copyright, trademark, or other proprietary rights that appear in SafeMeasures. Customer will use reasonable efforts to keep persons with access to SafeMeasures from modifying or suppressing any of the copyright notices that appear on SafeMeasures media, documentation, files, and banners.
- 10.3 Service Fees. NCCD reserves the right to charge additional service fees if Customer seeks assistance for any other matters not explicitly covered by this Agreement.

- 10.4 Complete Agreement, Modification of This Agreement. This Agreement contains the complete and final agreement of the parties and supersedes previous understandings related to the subject matter hereof whether oral or written. This Agreement may only be modified by an amendment signed by authorized representatives of NCCD and Customer. Any term in Customer's purchase order that is in addition to or different from terms of this Agreement other than acceptance of the Reporting Service Fees for the Renewal Term, are not part of this Agreement.
- 10.5 Non-Assignment. Neither this Agreement nor the rights of Customer under this Agreement may be transferred, leased, assigned, or shared without NCCD's prior written consent.
- 10.6 Confidentiality. Customer will not disclose SafeMeasures Original Works to anyone other than its employees, consultants (who are bound by a written confidentiality agreement), volunteers, and interns, except for information that is or later enters the public domain through no fault of Customer.
- 10.7 Waiver. The waiver by either party of any default or breach of this Agreement does not constitute a waiver of any other default or breach of this Agreement or a subsequent waiver of that same default or breach.
- 10.8 Governing Law and Severability. The laws of the State of Wisconsin and the United States govern this Agreement. Customer consents to jurisdiction and venue in the courts of Dane County, Wisconsin or in the Federal District court in the Western District of Wisconsin, for any claims arising out of this Agreement. If any part of this Agreement is held to be invalid, that part will be omitted, but the balance of the Agreement will remain in full force and effect.
- 10.9 Survival. All provisions of this Agreement relating to warranties, confidentiality, non-disclosure, proprietary rights, limitation of liability, indemnification obligations, and payment obligation survive the termination or expiration of this Agreement.
- 10.10 Headings. The headings used herein are for reference and convenience only and will not be used to interpret any provision of this Agreement.
- 10.11 HIPAA Compliance. NCCD will utilize all reasonable means and due diligence to protect the confidentiality and security of Customer data. Customer acknowledges that the privacy and security regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (the "HIPAA Privacy and Security Rules") do not apply to the Customer data which is the subject of this Agreement, because the data is not subject to requirements of HIPAA. However, NCCD acknowledges that the Customer data may include health information and other information of a personal and sensitive nature, and will adopt and keep current confidentiality and security procedures that are reasonably consistent with the current professional standards recommended by the HIPAA Privacy and Security Rules.
- 10.12 Disclosure of Self-Dealing Transactions. This provision is only applicable if NCCD is operating as a corporation (a for-profit or non-profit corporation) or if during the term of this agreement, the NCCD changes its status to operate as a corporation.

Members of NCCD's Board of Directors shall disclose any self-dealing transactions that they are a party to while NCCD is providing goods or performing services under this agreement. A self-dealing transaction shall mean a transaction to which NCCD is a party and in which one or more of its directors has a material financial interest. Members of the Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a *Self-Dealing Transaction Disclosure Form* (Exhibit B) and submitting it to the Customer prior to commencing with the self-dealing transaction or immediately thereafter.

- 10.13 Notices. All notices or other communications required or permitted under this Agreement will be in writing and will be delivered by personal delivery (effective upon service to the recipient), email (with delivery receipt) (effective upon receipt), registered mail return receipt requested (effective three business days after deposit in the United States mail, postage prepaid), a "Next Day Air" delivery service (effective one business day after deposit with the delivery service), or by facsimile transmission (effective when transmission to the recipient is completed), addressed to the parties indicated below:

If to NCCD: NCCD
 Attn: Efrem Teweldebrahan
 426 South Yellowstone Drive, Suite 250
 Madison, WI 53719
 Phone/Fax: (608) 831-8882; (608) 831-6446
 Email: ETeweldebrahan@nccdglobal.org

If to Customer: Trisha Gonzalez, Deputy Director
 Department of Social Services
 1404 L Street
 Fresno, CA 93721-1203
 Phone/Fax: (559) 600-2306; (559) 600-2375
 Email: gonzapd@fresnocountyca.gov

Contact Person in Matthew Calvillo
Case of System 205 Pontiac Way, Building 2
Maintenance/Outage: Clovis, CA 93612
 Phone/Fax: (559) 600-2205; (559) 455-4611
 Email: mcalvillo@fresnocountyca.gov

Direct invoices to: Department of Social Services
 205 Pontiac Way, Building 2
 Clovis, CA 93612
 Attn: Contracts
 Phone/Fax: (559) 600-2300; (559) 600-2357
 Email: DSSInvoices@co.fresno.ca.us

[For all claims arising out of related to this Agreement, nothing in this section establishes, waives, or modifies any claims presentation requirements or procedures provided by law, including but not limited to the Government Claims Act \(Division 3.6 of Title 1 of the Government Code, beginning with section 810\).](#)

IN WITNESS WHEREOF, both parties have caused this Agreement to be executed by their respective duly authorized representatives.

Customer:

(County of Fresno Signatures on following page)
Signature

Name

Title

Date

NCCD:

Signature

Katherine H. Park
Name

Chief Executive Officer
Title

Date

IN WITNESS WHEREOF, both parties have caused this Agreement to be executed by their respective duly authorized representatives.

ATTEST:

COUNTY OF FRESNO:

BERNICE E. SEIDEL, Clerk of the Board of
Supervisors County of Fresno, State of California

By Lise Cuyf, Deputy

By Ernest Buddy Mendes
Ernest Buddy Mendes, Chairman of the Board of
Supervisors of the County of Fresno

Fund/Subclass: 0001/10000
Organization: 56107001
Account: 7294/0

Exhibit A

Reporting Service and Additional Fees

Reporting Service Fee

\$227,535.00 from July 2020 to June 2023 (This reflects a 10% discount for a multiple-year Agreement.)

Payment Schedule

\$75,845.00 on Agreement effective date (July 1, 2020).

\$75,845.00 on first anniversary date of Agreement (July 1, 2021).

\$75,845.00 on second anniversary date of Agreement (July 1, 2022).

\$83,429.50 Renewal Year 1 on third anniversary date of Agreement (July 1, 2023).

\$83,429.50 Renewal Year 1 on third anniversary date of Agreement (July 1, 2024).

Total Maximum Compensation not to exceed \$394,394.00

Training (if requested by Customer)

Up to two remote training sessions via the internet to train supervisors, managers, and administrators as requested by the County at no additional charge.

Additional/Onsite Support/Training (if requested by Customer)

Time and Materials at \$150 per hour

All Travel Expenses as agreed upon by Customer and NCCD.

County Responsibilities

- Provide computer lab for training.
- Designate at least one local SafeMeasures administrator to maintain user IDs and to coordinate the handling of questions or problems regarding SafeMeasures with NCCD.
- Provide access to the SafeMeasures website: <https://app.safemeasures.org/ca/>

Exhibit B

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a NCCD's board of directors (hereinafter referred to as "County Contractor") must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

(1) Company Board Member Information:

Name:		Date:	
Job Title:			

(2) Company/Agency Name and Address:

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(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):

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(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):

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(5) Authorized Signature

Signature:		Date:	
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