



To: Board of Health

From: Anne Marrin, Director of Operations and Planning

Date: April 21, 2025

Re: MAP Communications, Inc. Answering Services Agreement

Staff collaborated with County Purchasing to issue a Request for Qualifications (RFQ) for answering services. A total of nine responses were received. Following a comprehensive review, three finalists were selected for interviews. After conducting the interviews, staff selected MAP Communications, Inc.

MAP Communications provides call handling services for various healthcare clients, including the Lake County Department of Health and its Animal Control Division.

The attached agreement outlines a 12-month term, with renewal available upon 30 days' notice. The base monthly rate is \$550 for up to 500 minutes of call time. Any usage beyond 500 minutes will incur an additional charge of \$1.10 per minute. Historically, our call volume averages around 500 minutes per month, with increases during the summer, primarily related to animal control.

BOH CONTRACT SUMMARY

☒ New Contract
☐ Renewal

NAME OF ORGANIZATION	MAP Communications
EFFECTIVE DATES OF CONTRACT	May 2025-, April, 2026
BRIEF DESCRIPTION OF CONTRACT PURPOSE	Staff went out for an RFQ for answering services due to issues with the current provider. After review of submittals and interviews with the final three agencies, MAP Communications was selected.
MCDH DEPT/STAFF INVOLVED	All Directors
CONTRACT TERMS	12-month term and 30 day prior-renewal notice.
FINANCIAL TERMS	Base Charge of \$550 per month for 500 minutes and \$1.10 for anything over 500 minutes
INDEMNIFICATION CLAUSE?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
SPECIAL ARRANGEMENTS, REQUIREMENTS, CONDITIONS	Business Associate Agreement (BAA) per HIPAA Security Final Rule Requirements (BAA Attached)

MAP COMMUNICATIONS SERVICES AGREEMENT

This Communications Services Agreement ("**Agreement**"), made and entered into this 21st day of April 2025, (the "**Effective Date**"), by and between Map Communications, Inc. an entity duly organized under the laws of Delaware with a principal place of business at 555 Belair Avenue 6th Floor, Chesapeake, VA 23320, acting on its behalf and on behalf of itself, its subsidiaries and its affiliates (hereinafter referred to as "**Company**") and between the County of McHenry, Illinois, a Body Politic located at 2200 North Seminary Avenue, Woodstock, Illinois 60098, on behalf of the McHenry County Department of Health, 667 Ware Road, Suite 207, Woodstock, IL 60098 (hereinafter "**Customer**" together with the Company, collectively the "**Parties**" and individually a "**Party**"), sets forth the terms and conditions pursuant to which Company agrees to provide the Services (as defined below) to Customer and Customer agrees to utilize and pay for such Services according to the terms and conditions hereinafter provided. In consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, intending to be bound, agree as follows.

Article 1 Scope of Work

Company shall provide call answering services to Customer as set forth below and more fully detailed in McHenry County's Request for Proposal (RFP) RFP 24-7443 Answering Service for the McHenry County Department of Health, and in Company's proposal submitted to RFP 247443 ("Company's Proposal") signed by Company on September 6, 2024. RFP 24-7443 and Company's Proposal are incorporated by reference into this agreement along with all terms and conditions therein. If any of the terms or conditions in the RFP 24-7443 or Company's Proposal conflict with the terms or conditions or this Agreement, this Agreement shall govern.

Article 2 Term and Termination

Section 2.01 Term

The Initial Term of this Agreement shall be for a period of 12 months from the Effective Date. Unless his Agreement is terminated pursuant to Section 2.02 or Section 2.03 below, following expiration of the Initial Term, this Agreement shall renew on a month-to-month basis until either Party provides the other of its intent not to renew by providing thirty (30) days' written notice. Once renewed on a month-to-month basis, the Rates charged for all Services shall be equal to one hundred five percent (105%) of the current Rates being paid by Customer under the 2025 agreement for all Services as set forth in Section 4.01 with all other terms, conditions, rights, and obligations described in the Agreement continuing unaffected.

Section 2.02 Termination

Either Party may terminate this Agreement, effective on written notice to the other Party if the other Party materially breaches the terms hereunder, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured for thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach. In addition, either Party may terminate this Agreement, effective upon 30 days written notice to the other Party, if the other Party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

Section 2.03 Non-Appropriation of Funds

This Agreement is made subject to available budgetary appropriations and shall not create any obligation on behalf of the County in excess of such appropriations. In the event that no funds or insufficient funds are appropriated and budgeted, this Agreement shall terminate without penalty or expense to the County thirty (30) days after written notification of termination from the County.

Article 3 Payment Terms

Section 3.01 Rates and Charges for Services

Customer hereby agrees to pay Company (the "Rates") for the Initial Term of this Agreement as outlined below:

Description	Base Charge	Included	Overage
Base Plan, Minutes	\$550.00	500	\$1.10/minute
IVR, Minutes	No Charge	200	\$0.20/minute
Patch Fee	\$0.25/successful patch	N/A	\$0.25/successful patch
Holiday Fee, 7 Total	\$29.95 ea.	N/A	N/A
Telecom Recoupment Fee	\$0.024/Call	N/A	N/A

Section 3.02 Charges for Services

Usage of Services is measured and billed in 60-second increments and call times are rounded up to the next 60-second increment, so that, for example, if a call is 110 seconds long, it will be billed as 120 seconds. For inbound calls, usage of Services is calculated starting from the time the receptionist receives the call and ending when a receptionist transfers the call through to someone, or to voicemail, or otherwise disconnects because the call is over. Customer is responsible for paying all charges and fees for Services provided by the Company, in accordance with any payment terms set forth in this Agreement. The Company reserves the right to change its charges or pricing plans or adjust pricing for Services or any components thereof in any manner and at any time with at least thirty (30) days' notice prior to any plan or price change. Customer hereby agrees to pay all one-time and recurring usage charges as contracted including seven (7) per year holiday fees of \$29.95 per holiday.

Section 3.03 Invoicing and Payment

Company will invoice Customer on a monthly basis for all applicable fees and expenses based on Services performed by Company. Customer will pay each such invoice no later than (30) days after Customer's receipt thereof.

Section 3.04 Automated Payments, Credit Card Use & Payment Authorization

If Customer authorizes automated payments via the Company's Simplified Payment Plan ("SPP") the Customer is expressly authorizing the Company to charge the payment method on file for the balance due on its account. Cancellation of SPP requires a Written Notice of Cancellation Request emailed to: custsvc@mapcommunications.com, or written notice mailed to: Map Communications, Inc. 555 Belaire Ave, 6th Floor, Chesapeake, VA 23320, Inc. Attention: Billing Department. Please note we do not charge a surcharge for payments made by debit cards, ACH or check. To the extent permitted by applicable law, payments made by credit card will incur a 3.0% surcharge.

Article 4

General Provisions

Section 4.01 Mutual Representations and Warranties: Each Party represents and warrants to the other Party that:

4.01.1 it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering;

4.01.2 it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder;

4.01.3 the execution of this Agreement by its representatives whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the party; and

4.01.4 when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

Section 4.02 Additional Company Warranties Company warrants to Customer that:

4.02.1 it shall perform the services hereunder using personnel of required skill, experience and qualifications and in a manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement; and

4.02.2 in performing the services hereunder, Company will comply with all applicable laws.

Section 4.03 Disclaimer of Warranties: Except for the express warranties set forth herein, each Party hereby disclaims all warranties, whether express, implied, statutory or otherwise under this Agreement.

Section 4.04 Service

Our Services are subject to transmission limitations caused by failures in third party telephone, satellite or wireless carriers that provide service links and other elements of the Services, scheduled and emergency maintenance, atmospheric conditions and other uncontrollable interferences.

Section 4.05 Access Numbers

Customer has no property rights to any Company telephone number that Company assigns to Customer. Company may assign, designate, change such numbers when, in its sole opinion, it is reasonably necessary in the conduct of its business to do so, without liability should their telephone, pager, or ID number/s no longer be available.

Section 4.06 Indemnification

Both Parties shall defend, indemnify and hold the other Party, their respective affiliates, subsidiaries, and parent companies, and their respective officers, directors, employees, agents, information providers, and partners (the "Indemnified Parties") harmless from and against all claims, causes of action, suits for personal injury including death or damage to property, liability, loss, and expense, including reasonable costs, collection, expenses, attorney's fees incurred, which arise out of or in connection with the conduct of the Indemnifying Party and its employees provided under this Agreement. In no event shall either party's obligation to defend, indemnify, and hold the Indemnified Parties harmless extend to those claims, liabilities, damages, losses, and expenses caused by the negligence or willful misconduct of the Indemnified Parties. This paragraph shall survive termination of this Agreement. Under no circumstance will the Company be liable for damages of any kind that result from your use of, or the inability to use, the Services.

Section 4.07 Limitation of Liability

Neither Company nor Customer will be responsible for special, indirect, incidental, consequential, or other similar damages, including but not limited to lost profits, that the other party may incur or experience in connection with this Agreement or the services provided, however caused, even if such party has been advised of the possibility of such damages.

Section 4.08 Survivability

Any terms of this Agreement, which by their nature are intended to extend beyond termination or expiration of the Agreement, shall survive termination or expiration of the Agreement.

Section 4.09 Litigation Costs

In the event of any litigation or relating to this Agreement, each Party shall bear its own costs.

Section 4.10

Section Section 4.11 Governing Law

The parties agree that any dispute, action, claim, cause of action, breach of contract, or other remedy or relief sought pursuant to the provisions of this Agreement shall be controlled and decided by the laws of the State of Illinois. The parties further agree that the appropriate venue for such disputes shall be the Circuit Court for the 22nd Judicial Circuit, McHenry County, Illinois.

Section 4.12 Confidentiality

Each party to this Agreement may from time to time disclose (in that capacity "Discloser") to the other party (in that capacity "Recipient") information which Discloser regards as confidential. For the purposes of this Agreement, "Confidential Information" means any information that a party designates as confidential, is required by law to remain confidential, or which the receiving party knows or has reason to know is confidential.

Each party agrees to maintain in confidence and not disclose to any other person or entity or utilize, directly or indirectly, any Confidential Information disclosed by the other party in connection with this Agreement or the discussions and negotiations leading thereto except information which is (i) already known and not received from the other party in the course of negotiating or fulfilling this Agreement, (ii) information which becomes generally available to the public through no fault of the party who wishes to utilize the information, (iii) information received from a non-party who has the right to disclose such information without breaching any obligations to the other party, or (iv) information which a party is legally obligated to disclose.

Disclosure of Confidential Information shall be permitted if such disclosure is in response to a valid order of a

court or other governmental body of the United States, any State, or any political subdivision thereof or is otherwise required to be disclosed by law (including the Freedom of Information Act). Contractor agrees to waive any and all potential claims or causes of action against the County and its employees arising out of the County's disclosure of Contractor's Confidential Information when such disclosure is made pursuant to the Freedom of Information Act.

The Recipient agrees that it will (a) use such Confidential Information of the Discloser only to carry out the services contemplated by this Agreement, (b) disclose such Confidential Information only to employees who have a reasonable need for such information, (c) instruct all employees who have access to Discloser's Confidential Information of the necessity to maintain the confidentiality of such information, and (d) use at least as great a standard of care in protecting the Discloser's Confidential Information as it uses to protect its own information of like character, but in no event less than a reasonable degree of care.

Section 4.13 Notices and Communications

All notices, consents and other communications under this Agreement will be in writing and shall be effective upon the earlier of actual receipt, five (5) business days following deposit into United States mail (certified mail, return receipt requested), the next business day following deposit with a nationally recognized overnight courier service, in each case with any delivery fees pre-paid and addressed to the party at the address set forth below, or at any other address as any Party may from time to time specify by notice to the other, or the same day transmission of electronic mail, or delivered by hand to the Parties at the following addresses, or at any other address as any Party may from time to time specify by notice to the other:

If to Customer:

Melissa A. Adamson, Public Health Administrator
McHenry County Department of Health
Administration Building
667 Ware Road, Suite 207, Woodstock, IL 60098
MHAdamson@mchenrycountyil.gov

If to Company:

Map Communications, Inc.
555 Belaire Avenue
6th Floor
Chesapeake, VA 23320
Attention: Client Services (Legal)

Section 4.14 Successors, Affiliates and Assignment

Except to the extent expressly provided hereto to the contrary, no third-party beneficiaries are intended under this Agreement. This Agreement is binding on each Party hereto and on each of its successors, assigns, heirs, legatees and legal representatives. No assignment of this Agreement or the rights, powers, or duties hereunder will be valid without the express written consent of both parties hereto, and any such unauthorized assignment will be void. Notwithstanding the preceding, either party may assign its rights and obligations under this Agreement without the consent of the other party in the event either party shall effect a corporate reorganization, consolidate with, or merge into, any Person or transfer all or substantially all of its properties or assets to any Person. This Agreement shall inure to the benefit of and be binding upon the parties respective successors, executors, administrators, heirs and permitted assigns.

Section 4.15 Force Majeure

Neither Party will be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by any acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, pandemics, embargoes or blockades in effect on or after the Effective Date, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation facilities (each of the foregoing, a **"Force Majeure Event"**), in each case, provided that (i) such event is outside the reasonable control of the affected Party; (ii) the affected Party provides prompt notice to the other Party, stating the period of time the occurrence is expected to continue; and (iii) the affected Party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

Section 4.16 Exclusion List

Neither Company nor any of Company's employees, contractors, subcontractors or agents are ineligible persons identified on the General Services Administrations' List of Parties Excluded from Federal Programs (available through the internet at <http://www.epls.gov/> or its successor) and the HHS/OIG List of Excluded Individuals/Entities (available through the internet at <http://www.oig.hhs.gov/fraud/exclusions.asp> or its successor), or as otherwise designated by the Federal government. If Company or any employees, subcontractors or agents thereof becomes an ineligible person after entering into this Agreement or otherwise fails to disclose its ineligible person status, Company shall have an obligation to (1) immediately notify Customer of such ineligible person status and (2) within ten (10) days of such notice, remove such individual from responsibility for, or involvement with, the Company's business operations related to this Agreement.

Section 4.17 Insurance

Company at its sole cost and expense shall maintain the appropriate insurance as delineated in the Standard Terms and Conditions of RFP 24-7443.

The County shall be named as an additional insured and the address for certificate holder must read exactly as:

County of McHenry, a body politic
2200 N. Seminary Avenue
Woodstock, IL 60098

Insurance Notices and Certificates of Insurance must be provided to:

McHenry County, Purchasing Department
2200 N. Seminary Avenue, Room 200
Woodstock, Illinois 60098

Section 4.18 Privacy Policy

Company acknowledges that during the relationship with Customer under this Agreement, Company may from time to time have access to Protected Health Information ("PHI") of Customer and/or its consumers. Company shall not divulge or disclose any PHI of Customer or its consumers to any other person or entity whatsoever, for any purpose whatsoever, other than to the Customer for the services provided in this Agreement. The parties agree to protect all PHI in accordance with the Health Insurance Portability and Accountability Act of 1996, and

as outlined in **Addendum B**, the “Business Associate Agreement”, which is attached and incorporated herein.

Section 4.19 Compliance with Laws

Each party hereto covenants and agrees to comply with all applicable federal, state, and local laws, codes, ordinances, rules and regulations.

Section 4.20 Non-Solicitation

Company hereby covenants and agrees with Customer that at all times during the term of this Agreement and for a period of one (1) year following the termination hereof for any reason whatsoever, Company shall not solicit, interfere with, hire, engage or endeavor to entice away from Customer, in order to accept employment, any person who is an employee of Customer at any time during the term of this Agreement

This Paragraph is not intended to restrict the rights of any employee of either party to seek and obtain or engage employment or engagement by the other party by their own initiative or in response to publicly posted employment advertisements, job fairs or employment services, provided however that no solicitation of any kind occurs on the part of the hiring party.

Section 4.21 Waiver

Either Party's failure to insist upon strict compliance with any provision or its failure to enforce any rights or remedy in any instance shall not constitute or be deemed to be a waiver of any provision, right or remedy.

Article 5

Entire Agreement

This Agreement, including any other incorporated attachments or documents incorporated by reference, sets forth the entire understanding between and among the Parties regarding the services provided under this Agreement and supersedes all prior and contemporaneous agreements, arrangements, representations and communications and may not be modified or amended except by the mutual written Agreement of both Parties. If any portion of this Agreement is held invalid, it is agreed that such invalidity shall not affect any of the remaining portions.

Acceptance

In witness whereof, Customer and Company have caused this Agreement Work to be executed by their duly authorized representatives. All terms and conditions of this Agreement, unless specifically amended herein, shall remain in full effect.

Customer:

Map Communications, Inc.

Signature of Authorized Signatory

Signature of Authorized Signatory

Name

Name

Title

Title

Date

Date

ADDENDUM B

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “Agreement”) is made and entered into this _____ day of _____, 2025, by and between the COUNTY OF MCHENRY, ILLINOIS, a body politic, located at 2200 North Seminary Avenue, Woodstock, Illinois 60098 (“Business Associate”) on behalf of the McHenry County Health Department, and Map Communications, Inc., a Delaware corporation, with its principal place of business located at 555 Belair Avenue, 6th Floor, Chesapeake, VA 23320 (“Covered Entity”), individually “the Party” and collectively “the Parties,” and sets forth the terms and conditions under which the parties agree to act in conformity with the Health Insurance Portability and Accountability Act of 1996 as set forth below.

RECITALS

WHEREAS, in accordance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the U.S. Department of Health and Human Services has promulgated the Federal Standards for the Protection of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164, (the “Privacy Standards”), the HIPAA Security Standards Regulations (the “Security Standards”) *see* 45 C.F.R. Parts 160, 162 and 164, and the Health Information Technology for Economic and Clinical Health Act (“HITECH”), which is at Section 13400, *et seq.* of the American Recovery and Reinvestment Act of 2009 (“ARRA”), and guidance promulgated thereunder (herein, collectively HIPAA, the Privacy Standards, the Security Standards, HITECH, and ARRA are referred to as “the HIPAA Privacy and Security Standards”);

WHEREAS, contemporaneously herewith, the Parties have entered into a Communications Services Agreement whereby Business Associate shall provide certain services for or on behalf of Covered Entity;

WHEREAS, pursuant to such Communications Services Agreement, Covered Entity, from time to time, will disclose Protected Health Information (“PHI”) as defined in this Agreement to Business Associate, and Business Associate, from time to time, will use, access, create and/or maintain PHI, and/or electronically transmit PHI; and therefore, Business Associate will be considered a “business associate” of Covered Entity as defined in the HIPAA Privacy and Security Standards; and

WHEREAS, the Parties shall comply with HIPAA, and the Parties agree to enter into this mutually acceptable Agreement as necessary to so comply.

NOW, THEREFORE, in consideration of the Parties’ obligations under the Communications Services Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

This space is intentionally left blank.

AGREEMENT

1. Terms.

- a) Except as otherwise defined herein, any and all capitalized terms in this Section shall have the definitions set forth in the HIPAA Privacy and Security Standards. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy and Security Standards, as amended, the HIPAA Privacy and Security Standards shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy and Security Standards, but are nonetheless permitted by the HIPAA Privacy and Security Standards, the provisions of this Agreement shall control. The terms of this Agreement, **Addendum B**, are hereby incorporated into and made a part of the Communications Services Agreement.
- b) The term “Protected Health Information,” with regard to this Agreement, means information, including demographic information created by a health care provider, health plan, healthcare clearinghouse, or employer which is disclosed by Covered Entity to Business Associate or which is created or received by Business Associate on behalf of Covered Entity and which:
 - i) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual; and
 - ii) Identifies the individual or with respect to the individual there is a reasonable basis to believe the information can be used to identify the individual.
- c) Business Associate acknowledges and agrees that all PHI that is disclosed by Covered Entity or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

2. Confidentiality Requirements.

- a) Business Associate shall take all actions necessary to protect the confidentiality of PHI pursuant to the provisions of the HIPAA Privacy and Security Standards and applicable state law. Business Associate shall take all actions to protect PHI which are required to be taken by Covered Entity. Business Associate shall comply with

those policies and procedures adopted by Covered Entity from time to time which comply with the HIPAA Privacy and Security Standards. Each Party represents and warrants to the other that it has reviewed the HIPAA Privacy and Security Standards and has implemented policies and procedures to comply with the HIPAA Privacy and Security Standards. Each party further represents and warrants that it has implemented safeguards with respect to both its physical facilities and computer systems, which will protect the integrity and confidentiality of PHI in accordance with the HIPAA Privacy and Security Standards. Business Associate shall not use or further disclose PHI other than as permitted or required by this Agreement or as required by law. Furthermore, Business Associate agrees:

- i) To use or disclose any PHI solely as required by applicable law, rule or regulation, or as otherwise permitted under this Agreement;
 - ii) At the termination of this Agreement or the Communications Services Agreement, or upon request of Covered Entity, whichever occurs first and if feasible, Business Associate will return or destroy all PHI disclosed to Business Associate by Covered Entity or created by Business Associate for or on behalf of Covered Entity that Business Associate maintains in any form. If such return or destruction is not feasible, Business Associate shall extend the protections of this Agreement and limit further uses and disclosures. However, Business Associate shall, upon request of Covered Entity, provide Covered Entity with copies of PHI prior to any destruction thereof; and
 - iii) To ensure that its agents, including any subcontractor, to whom it provides PHI, which was disclosed to Business Associate by Covered Entity or created by Business Associate for or on behalf of Covered Entity, agrees to the same restrictions and conditions that apply to Business Associate with respect to PM. Additionally, Business Associate agrees to take reasonable steps to ensure that the acts or omissions of its employees do not cause Business Associate to breach the terms of this Agreement, including and without limitation, requiring each subcontractor to execute a written agreement with Business Associate which is substantially similar to this Agreement.
- b) The above notwithstanding, Business Associate may use and disclose PHI disclosed to Business Associate by Covered Entity or created by Business Associate for or on behalf of Covered Entity, if such disclosure is necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided:

- i) Such disclosure is required by law; or
- ii) Business Associate obtains reasonable assurances from the person to whom PHI is disclosed that such information will be kept confidential 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- iii) Business Associate shall make available to the Secretary of the U.S. Department of Health and Human Services ("Secretary") its internal practices, books, and records relating to Business Associate's use and disclosure of PHI.
- iv) Business Associate shall promptly report to Covered Entity any use or disclosure of PHI which is not in compliance with the terms of this Agreement of which it becomes aware, including breaches of unsecured PHI as required by 45 C.F.R. Section 164.410. Business Associate shall provide Covered Entity with all information requested by Covered Entity regarding such disclosure or use, including and without limitation, the nature of the disclosure or use, the specific PHI affected, the identity of the persons involved with such disclosure or use, the efforts taken by Business Associate to mitigate any damages caused by the disclosure or use, any disciplinary action taken by Business Associate, and the actions which Business Associate has taken or will take to prevent a reoccurrence.

3. Business Associate's Responsibilities Regarding Availability of PHI.

- a) In the event Business Associate is requested to provide access to an individual's PHI disclosed to Business Associate by Covered Entity or created by Business Associate for or on behalf of Covered Entity for purposes of inspection or copying in accordance with 45 C.F.R. Section 164.524, Business Associate shall, if the request is not conveyed by Covered Entity, notify Covered Entity within five (5) days of such request. Such notification shall include the date such request was made, the identification of the individual, and the content of such request. Business Associate agrees to make available to Covered Entity within ten (10) days of such request, all PHI disclosed to Business Associate by Covered Entity or created by Business Associate for or on behalf of Covered Entity in its custody which Covered Entity reasonably believes will satisfy such individual's

request. Covered Entity shall be responsible for the disclosure to the individual, and Business Associate shall not make such disclosure directly.

- b) In the event an individual requests an amendment be made to his or her PHI disclosed to Business Associate by Covered Entity or created by Business Associate for or on behalf of Covered Entity, Business Associate shall, if the request for such amendment is not conveyed by the Covered Entity, notify Covered Entity within five (5) days of such request. Such notification shall include the date such request was made, the identification of the individual, content of such request, and the reason the individual believes an amendment is appropriate. Business Associate agrees to make available to Covered Entity within ten (10) days of such request, all PHI disclosed to Business Associate by Covered Entity or created by Business Associate for or on behalf of Covered Entity in its custody, which Covered Entity reasonably believes will satisfy such individual's request. Covered Entity in its sole discretion shall determine the accuracy of such PHI and whether such requested amendment shall be made. Business Associate agrees to incorporate any amendments to PHI as requested by Covered Entity in accordance with the requirements of 45 C.F.R. Section 164.526.
- c) Business Associate agrees to make available to Covered Entity all PHI in its custody Covered Entity reasonably believes will satisfy an individual's request for an accounting of disclosures of the individual's PHI in accordance with 45 C.F.R. Section 164.528. If such a request for accounting is conveyed to Business Associate by an entity other than Covered Entity, Business Associate shall notify Covered Entity within five (5) days of such request. Such notification shall include the date such request was made and the identification of the individual. Business Associate agrees to make PHI and all information regarding disclosures which must be included in an accounting pursuant to 45 C.F.R. Section 164.528 available to Covered Entity within ten days (10) of receipt of request from Covered Entity. Business Associate shall record all disclosures of PHI that it makes other than those for the treatment, payment, and healthcare operations of Covered Entity. Business Associate shall provide a report of all such disclosures to Covered Entity upon request.
- d) Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the HIPAA Privacy and Security Standards. In particular, Business Associate shall comply with the HIPAA Privacy and Security Standards provisions at 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316 relating to the implementation of administrative, physical, and technical safeguards with respect to electronic PHI in the same manner that such provisions apply to. a

HIPAA covered entity. Business Associate shall comply with any additional HIPAA Privacy and Security Standards requirements contained in HITECH which are applicable to covered entities.

- e) Where possible, Business Associate shall secure PHI in accordance with Section 13402(h) of ARRA and the related regulations at 45 C.F.R. Part 164, subpart D, as well as any guidance issued by the U.S. Secretary of Health and Human Services ("Secretary") that specifies secure technologies and methodologies.

4. Term and Termination. This Agreement shall become effective and binding on the date as first listed above and shall continue in effect for an initial term of one (1) year or until all obligations of the Parties have been met, whichever comes first, unless terminated as provided in this Agreement or in the Communications Services Agreement.

- a) Termination for Cause by Covered Entity. Covered Entity may immediately terminate this Agreement and any Communications Services Agreement if Covered Entity determines that Business Associate has breached a material term of this Agreement. Alternatively, Covered Entity may choose to: (i) provide Business Associate with written notice of the existence of an alleged material breach; and (ii) afford Business Associate an opportunity to cure said alleged material breach within thirty (30) days. In the event that Business Associate cannot cure said breach to the satisfaction of Covered Entity within thirty (30) days, or if the breach was a disclosure or use of PHI which cannot be reversed, then Covered Entity shall have the right to immediately terminate this Agreement and the Communications Services Agreement.

5. Termination for Cause by Business Associate. In accordance with Section 13404(b) of ARRA, if Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of this Agreement, Business Associate shall provide Covered Entity with a reasonable opportunity to cure the breach or terminate this Agreement and the Communications Services Agreement if cure is not feasible. If termination is not feasible, Business Associate shall report the violation to Secretary.

6. Reporting.

- a) Business Associate shall immediately report (within no longer than five (5) business days of becoming aware thereof) to Covered Entity's Privacy Officer any use and/or disclosure of PHI that is not permitted by this Agreement of which it becomes aware, including instances in which an agent or subcontractor has improperly used or disclosed PHI.

- b) Business Associate shall immediately report (within no longer than five (5) business days of becoming aware thereof) to Covered Entity's Security Officer any security incident involving electronic PHI of which it becomes aware.
- c) To the extent that any such reportable occurrence involves a breach of unsecured PHI, the Parties shall provide notice to impacted individuals, the media, and Secretary in the time and manner required by Section 13402 of ARRA and 45 C.F.R. Sections 164.404, 406 and 408.
- d) Business Associate shall provide the following information to Covered Entity:
 - (1) the identity of each individual whose unsecured PHI has been or is reasonably believed by Business Associate to have been accessed, acquired, or disclosed during the breach, and
 - (2) any particular information regarding the breach that Covered Entity would need to include in its notification, with such particular information identified in Section 13402(f) of ARRA and 45 C.F.R. Section 164.404.Business Associate shall cooperate with Covered Entity to conduct any risk assessment necessary to determine whether notification of breach is required and maintain any records related to such breach.
- e) Any annual breach notification to Secretary, as required under Section 13402(e) of ARRA, shall be provided by Business Associate unless Covered Entity notifies Business Associate in writing that Business Associate will provide such notice. Within thirty (30) days after the close of the calendar year, Business Associate shall notify Covered Entity in writing if Business Associate is required to provide annual breach notification to Secretary. Business Associate shall maintain complete records related to any such annual notification.
- f) A breach shall be treated as discovered as of the first day that Business Associate (including its employees, workforce members, officers, or agents, except the person who committed the breach) knows of, or reasonably should have known of such breach. For purposes hereof, the terms "breach" and "unsecured PHI" shall have the same meaning given those terms under 45 C.F.R. Section 164.402.

7. **Indemnification.** Each Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party (in such capacity the "Indemnified Party") and any of the Indemnified Party's subsidiaries and affiliates, successors and assigns, and the respective officers, directors, shareholders, employees, agents, and representatives harmless from and against any and all losses, claims, demands, liabilities, risks, damages, suits, judgments, costs, expenses (including reasonable attorneys' fees and court costs), joint or several, arising from or related to the Indemnifying Party's: (i) breach of obligations under this Agreement; or (ii) violation of HIPAA and/or any regulation promulgated pursuant to HIPAA, including any HIPAA Privacy and Security Standards. This provision shall survive the expiration or termination of this Agreement. The Indemnifying Party shall not settle any such matter without the Indemnified Party's consent, which shall not be unreasonably withheld. Furthermore, the Indemnified Party shall not be compelled to approve a settlement for which the Indemnified Party is required to make a payment or through which the Indemnified Party is subject to any sanction, mandated action, or prohibition.

8. **Audit Rights.** Covered Entity shall have the right, upon reasonable notice and during regular business hours, to audit Business Associate's compliance with the terms of this Agreement. The audit rights shall include the right the review Business Associate's procedures to ensure the confidentiality of PHI, the training conducted by Business Associate to instruct its workers on the privacy requirements of HIPAA, the records kept by Business Associate to instruct its workers on the privacy requirements of HIPAA, the records kept by Business Associate with regard to use and disclosure of PHI under the Communications Services Agreement, and governmental review of Business Associate's compliance with HIPAA privacy requirements as related to the Communications Services Agreement.

9. **Miscellaneous.**

a) **Third-Party Rights.** This Agreement is entered into by and between the Parties hereto and for the Parties' benefit. There is no intent by either party to create or establish a third-party beneficiary status or rights of a third-party to this Agreement.

b) **Entire Agreement.** This Agreement contains the entire agreement and understanding of the parties with regard to the subject matter contained herein and supersedes all prior agreements and understandings between the parties dealing with such subject matter, whether written or oral. No modification of this Agreement hereafter made between the parties shall be binding on either party unless reduced in writing and signed by both parties.

- c) Survival. The obligations of Business Associate under Section 2, 3, 6, 7 and 8 of this Agreement shall survive the expiration, termination, or cancellation of this Agreement and the Communications Services Agreement.
- d) Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, successors, and permitted assigns. This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.
- e) Nature of Relationship. It is mutually understood and agreed that the Parties are at all times acting and performing as independent contractors. Neither party is the agent or representative of the other, nor shall either party have any express or implied right or authority to make any agreement, warranty, or representation on behalf of the other Party or to incur any expenses or implied obligation on behalf of the other Party without first obtaining the other Party's prior written consent.
- f) Governing Law. The Parties agree that this Agreement has been executed and delivered in Illinois and that their relationship and any and all disputes, controversies, or claims arising under this Agreement shall be governed by the laws of the State of Illinois, without regard to conflicts of laws principles. The parties further agree that the exclusive venue for all such disputes shall be the Circuit Court of the 22nd Judicial Circuit of McHenry County, Illinois, and the parties hereby consent to the personal jurisdiction thereof.
- g) Waiver. The failure of either party to enforce strict compliance with any provision of this Agreement or failure to enforce any rights or remedy in any instance shall not constitute or be construed as a waiver or limitation of that party's right to enforce and compel strict compliance with every provision, right, or remedy of this Agreement.
- h) Minimum Standard. The Parties agree that in the event any documentation of the arrangement pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the use or disclosure of PHI is more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of PHI.

- i) Severability. The invalidity or unenforceability of any particular word, phrase, sentence, paragraph or provision of this Agreement shall not affect the other words, phrases, sentences, paragraphs or provisions hereof. This Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted and the remainder construed so as to give them meaningful and valid effect. It is the intention of the parties that if any particular provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, the provision shall have the meaning which renders it valid. In the event a party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Privacy and Security Standards, such party shall notify the other party in writing. For a period of up to thirty (30) days, the Parties shall address in good faith such concern and amend the terms of this Agreement, if necessary, to bring this Agreement into compliance. If, after such thirty (30) day period, this Agreement fails to comply with the HIPAA Privacy and Security Standards, then either party may terminate this Agreement and the Communications Services Agreement upon written notice to the other party.
- j) Force Majeure. If performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by causes beyond either party's control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written or verbal notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The Term "Force Majeure" shall include without limitation, acts of God, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies such as to avoid or remove such causes of nonperformance. The invoking party shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party or its employees, successors, assigns, officers, agents, or affiliates.
- k) Notices. Any notice, demand or communication required, permitted or desired to be given hereunder shall be deemed effectively given if: (i) delivered in person; (ii) three (3) business days after mailing, postage prepaid by certified mail, return receipt requested; or (iii), when delivered (and receipted for) by an overnight delivery service, addressed in each case to the parties at the addresses set forth below or to such other address as one party may have furnished to the other in writing.

If to Business Associate: Melissa A. Adamson, Public Health Administrator
McHenry County Department of Health
Administration Building
667 Ware Road, Suite 207
Woodstock, Illinois 60098

If to Covered Entity: Map Communications, Inc.
555 Belaire Avenue
6th Floor
Chesapeake, VA 23320
Attention: Client Services (Legal)5

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

BUSINESS ASSOCIATE
The County of McHenry

COVERED ENTITY:
Map Communications, Inc.

By:_____ By:_____

Printed Name

Printed Name

Title

Title

Date

Date