



## PROPIO LANGUAGE SERVICES AGREEMENT

Propio LS, LLC, ("Propio") and City of North Port, Florida ("Client"), agree that the terms and conditions shown below will apply to services provided by Propio.

### TERMS OF SERVICE

1. **TERM OF AGREEMENT.** This Agreement will become effective upon the date signed by both parties and will continue in effect for the initial term of three years. Upon the expiration of the initial three year period, this Agreement will be automatically renewed for one-year periods unless either party provides written cancellation notice to the other at least sixty (60) days prior to the expiration of the current contract. Upon receipt of a timely cancellation notice by either party, this agreement will terminate sixty (60) days from the date of notice.
2. **FEES.** During the Term of this Agreement, usage charges for Interpreter, Translator, or Language Services will be billed monthly at the rates set forth in Attachment B, Rate Sheet, incorporated herein by this reference. Document and website translation services and other content/language related services such as subtitling, closed captioning, voiceover, transcription, localization engineering, documents 508 Compliance, software development, and braille translation and/or printing; along with interpreting services such as simultaneous conference/event interpretation, CART, tactile or gesture sign language, or Certified Deaf Interpreter services will be scoped and bid upon request.
3. **PAYMENT TERMS.** Client agrees to pay all properly invoiced charges for Interpreting, Translation, or other Language Services In accordance with the Local Government Prompt Payment Act, Florida Statutes Sections 218.70, et seq., Customer's payments shall be due forty-five (45) days after receipt of invoice. Overdue amounts shall bear interest from thirty (30) days after the due date at the rate of one percent (1.0%) per month on the unpaid balance. Propio must invoice Customer for any interest accrued in order to receive the interest payment. On occasion, not all End User Data associated with a call may be collected for multiple reasons, including the refusal or inability of the caller to provide the requested information. Missing End User Data will not be reason to deny payment of service to Propio for services that have been rendered. Invoices will be sent to the Client billing address shown in Attachment A, or to such other address as Client may specify by giving written notice to Propio. Client agrees to report any invoice disputes within 30 days of the invoiced date. Propio shall not be considered liable for any dispute reported after 30 days from invoiced date.
4. **Independent Contractor.** A. The relationship between the Interpreter and the City is that of an independent contractor. Nothing contained herein will be deemed or construed as creating the relationship of employer-employee, principal-agent, partnership, or joint venture between the parties. It is understood and agreed that no provision contained herein, or any acts of the parties, will be deemed to create any relationship between them other than that as detailed herein. The Interpreter retains sole and absolute discretion and judgment in the manner and means of carrying out the services, within the established rules and regulations of the City.  
B. The Interpreter is not entitled to any salary or benefits other than the compensation described in Attachment B of this Agreement. The Interpreter must provide, at their sole expense, all supplies and materials needed for the services that are not otherwise provided by the City.
5. **USE OF SERVICE.** Client represents that Client will not use the Interpreter, Translator, or Language Services in any manner that may violate any applicable statute or government regulation. Client will indemnify, defend and hold Propio, its affiliates, and their respective successors harmless from any claim or action whatsoever arising from the use of Interpreter Services in any manner prohibited by this Section.  
Client agrees that all translation orders approved by its staff are considered billable. Client shall be solely and fully responsible for charges resulting from approved translation orders either approved in Propio's online platforms or by email, whether or not such use is authorized. The Client agrees not to disclose translation platform access to other parties unless prior written approval from Propio is received.
6. **UNAUTHORIZED USE OF SERVICE.** Client agrees that all interpreting calls directed from its staff to Propio are authorized to receive billable interpreting services. Client shall be solely and fully responsible for charges resulting from interpreting calls directed to Propio from its staff, whether or not such use is authorized. The Client agrees not to disclose the phone number to other parties unless prior written approval from Propio is received.
7. **REIMBURSEMENT:** Client may on occasion request Propio staff to travel. Client and Propio must agree and approve the expenses to be reimbursed in full, prior to travel arrangements being made.
8. **LIMITED WARRANTIES.**
  - A. Propio will perform Interpreter, Translator, or Language Services in a professional manner. Except as otherwise set forth above, Propio makes no representation, warranty, or guarantee, express or implied, about Interpreter, Translator, or Language Services. Propio does not warrant the availability of interpreters or translators at all times, and Propio specifically disclaims any warranty or condition of merchantability or fitness for a particular purpose. Client recognizes that over-the-phone consecutive interpretations may not be entirely accurate in all cases. Propio may monitor or record calls for quality assurance.
9. **LIMITATION OF LIABILITY.**
  - A. For purposes of the exclusive remedy and limitations of liability set forth in this section, "Propio" shall be deemed to include Propio, its affiliates, and their respective successors, directors, officers, employees, agents, representatives, suppliers, interpreters, and translators (whether employees or independent contractors), and "damages" will refer collectively to all injury, damage, loss or expense incurred.
  - B. Except for obligations under section 3 (Payment Terms), and to the extent not prohibited by applicable law:
    - a. Each party's aggregate liability to the other for claims relating to this Agreement, whether for breach or in tort and including but not limited to negligence, shall be limited to the greater of
      - i. The amount paid by Client within the previous 12 months for the interpreter, translator, or language services or \$10,000.





- b. Neither party will be liable for any indirect, punitive, special, incidental, or consequential damage in connection with or arising out of this Agreement (including loss of business, revenue, profits, use, data, or other economic advantages), however, it arises, whether for breach or in tort, even if that party has been previously advised of the possibility of such damage. Liability for damages shall be limited and excluded, even if any exclusive remedy provided for in this Agreement fails of its essential purpose.

- 9. **FORCE MAJEURE.** A party is not liable under this Agreement for non-performance caused by events or conditions beyond that party's control if the party makes reasonable efforts to perform. This provision does not relieve either party of its obligation to make payments then owing.
- 10. **CONFIDENTIALITY.** Propio will not disclose any information derived from Client's communications, may use it only for purposes specifically contemplated in this Agreement, and will treat it with the same degree of care as it does its own confidential information, but with no less than reasonable care. These obligations do not apply to information, which is or becomes generally known to the public through no act or omission of Propio. If Propio, its agents or employees have been requested or are required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any such communications or else stand liable for contempt or suffer other legal censure or penalty, then Propio, its agents or employees so compelled may disclose such information pursuant to that request or requirement without liability hereunder.
- 11. **NON-SOLICITATION.** Client agrees that for one year after termination, whether voluntary or involuntary, not to directly or indirectly, on its own or behalf of another individual or entity, a) solicit the employees of Propio or any of its subsidiaries or affiliates or other interfere with the employment relationship between Propio and its employees. b) Client also agrees not to solicit, induce or entice any agent, consultant, contractor, or interpreter/translator of Propio's, with whom the Client has access to during the course of this Agreement, to terminate or alter their relationship with Propio.
- 12. **RECORDING POLICY.** As an electronic communications service provider, Propio LS, LLC, under 18 US Code § 2511 (2)(c)(d), records calls for quality monitoring purposes only. Recording access is controlled by a role-based security system and is granted only to authorized Propio personnel. Recordings are protected both while in-motion and at-rest using symmetrical AES256 encryption. Recordings are destroyed within 60 days of service.  
  
Propio is required to maintain strict compliance with various state and federal laws including but not limited to Telephone Recordings Laws and HIPAA regulations, as such, strict privacy, security, and confidentiality policies govern the management, access and destruction of this data. Consequently, Propio does not provide call recordings to clients or any outside third party unless legally compelled to do so and is provided a court or administrative order, such as a subpoena.
- 13. **NOTICES.** All notices required or permitted to be given under this Agreement must be in writing and delivered in person or by means evidenced by a delivery receipt to the other party at the address shown in Attachment A and will be effective upon receipt.
- 14. **ASSIGNMENT.** Client may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Propio.
- 15. **TERMINATION.**
  - A. If (i) Client fails to pay any charge when due and the failure continues for seven (7) days after receipt by Client of written notice of the failure from Propio or (ii) Client fails to perform or observe any other material term or condition of this Agreement and the failure continues for thirty (30) days after receipt by Client of written notice of the failure from Propio, then in either case Client shall be in default and Propio may terminate this Agreement and exercise any available rights or remedies.
  - B. If Propio fails to perform or observe any material term or condition of this Agreement and the failure continues for thirty (30) days after receipt of written notice of the failure from Client, Propio shall be in default, and Client may terminate this Agreement and exercise any available rights or remedies.
  - C. If a minimum usage requirement is noted in Attachment B of this Agreement, Propio shall have the right to terminate this Agreement if Client has not met the minimum usage required and Client has not used any of the services provided for under this Agreement for a period of six consecutive months. Propio shall give Client written notice of termination.
  - D. In the event of any termination of this Agreement, Client shall pay Propio the minimum usage penalty as set out in Attachment B of this Agreement for all remaining unused minutes under the required minimum as well as any other charges due Propio under Attachment B.
- 16. **ENTIRE AGREEMENT.** This Agreement is the parties' entire agreement relating to its subject matter. It supersedes all prior or contemporaneous oral or written communications, proposals, conditions, representations, and warranties and prevails over any conflicting or additional terms of any quote, order, acknowledgment, or other communication between the parties relating to its subject matter during the term of this Agreement. No modification to this Agreement will be binding unless in writing and signed by an authorized representative of each party. If any provision, or part thereof, in this Agreement, is held to be invalid, void, or illegal, it shall be severed from this Agreement and shall not affect, impair, or invalidate any other provision or part thereof, and it shall be replaced by a provision which comes closest to the severed provision, or part thereof, in language and intent, without being invalid, void, or illegal.



- 17. **SURVIVAL OF OBLIGATIONS.** The obligations of the parties under this Agreement by which their nature should continue beyond the termination or expiration of this Agreement will remain in effect after termination or expiration.
- 18. **NO THIRD-PARTY BENEFICIARIES.** Neither this Agreement nor the provision of Interpreter Services shall be construed to create any duty or obligation on the part of Propio to any third parties, including, without limitation, any persons participating in or the subject of conversations for which Interpreter Services are provided. This Agreement does not provide any third party with any right, privilege, remedy, claim or cause of action against Propio, its affiliates, or their respective successors.
- 19. **CHOICE OF LAW. Governing Law and Venue.** The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Agreement. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida
- 20. **DEFINITIONS.** Interpreter: a person who orally or using American Sign Language interprets from one language to another, Translator: a person who translates written text from one language into another, End User Data: data unique to the client organization, their employees, or the people they serve, Language Services: services that assist in communicating between different languages, including translation and interpretation.
- 21. **INCORPORATION OF ATTACHMENT.** Attachment A (Client Contact & Profile Information) and Attachment B (Rate Sheet) are incorporated herein. Your signature below acknowledges that you have read, understand, and agree to the terms and conditions above and those on Attachments A & B.

**CITY OF NORTH PORT, FLORIDA**

Accepted by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
JEROME FLETCHER II, ICMA-CM, MPA  
CITY MANAGER

\_\_\_\_\_  
Date

**Propio LS, LLC**

Accepted by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
~~CEO/Marco Assis~~

\_\_\_\_\_  
Date

Christopher Pesce

CFO, Christopher Pesce

Feb 28, 2023

ATTEST

\_\_\_\_\_  
HEATHER FAUST, MMC  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

\_\_\_\_\_  
AMBER L. SLAYTON, B.C.S.  
CITY ATTORNEY





# Attachment A

## CLIENT CONTACT & PROFILE INFORMATION

Complete this and send a copy of it and the signed Interpreter Services Agreement to:

Propio LS, LLC. Or fax to: 866-231-8176  
C/O Jake Hensley  
10801 Mastin Street, Suite 580  
Overland Park, KS, 66210-1214 Or email all pages to: [jhensley@propio-ls.com](mailto:jhensley@propio-ls.com)

Organization Name: CITY OF NORTH PORT, FLORIDA

**Billing Contact Person:** Responsible for billing correspondence including monthly invoices, billing & payment inquires

Name: Jennifer Ayres Title: Business Manager  
Phone: 941-429-7302 Fax: 941-429-7405  
Billing email 1: jayres@northportpdf.gov  
Billing email 2: rcigich@northportpdf.gov  
Street address: 4970 City Hall Blvd  
City, State, Zip: North Port, FL. 34286

**Communication Contact Person:** Responsible for communication correspondence involving training resources, monthly messages, urgent notifications, etc.

Name: Misty Elmore Title: Telecommunications Manager  
Phone: 941-429-7312 Fax: 941-429-7392  
Email: melmore@northportpdf.gov

Indicate the Interpreter skill set to match client service/industry.

Select one:

Medical  Legal  General

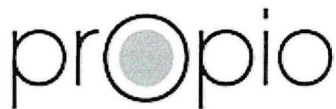
**Billing intake** to be obtained for each service and provided on invoice for client's internal auditing purpose. Please note intake reporting is based on end-user response and is not guaranteed.

Examples of intake are as follows:

- Caller's first & last name
- Caller's location
- Patient's last name only

Please indicate up to three intake questions your staff will be able to provide a response to:

- 1 \_\_\_\_\_
- 2 \_\_\_\_\_
- 3 \_\_\_\_\_



## Attachment B

### RATE SHEET

#### Interpreting Services:

On-Demand Phone Interpretation		
Language	Price	Unit
Spanish	\$.59	Per minute
Non-Spanish*	\$.82	Per minute
LEP Direct Dial (Elective Options by Account)		
Spoken Languages	N/A	Per minute (in addition to stated standard rate)
On-Demand Video Interpretation		
Spanish	\$.95	Per minute
Non-Spanish*	\$.95	Per minute
American Sign Language (ASL)	\$1.49	Per minute
Equipment Minimum Usage Requirements		
Minimum Usage Requirements	N/A	Minutes per year
Minimum Usage Penalty	N/A	Per Unused Minute
Onsite Consecutive Interpretation		
Spanish	N/A	Per hour
Core & Common Spoken Languages	N/A	Per hour
American Sign Language	N/A	Per hour
Premium Fee	N/A	Per hour

#### 1. ON-DEMAND OVER-THE-PHONE INTERPRETATION

- Propio provides remote on-demand interpreting services in hundreds of languages as outlined on the Language Availability List\*.
- Connect time is considered to begin from the instant the language and client account number is identified and ends at the time an interpreter accepts the call effectively beginning the service request. Propio connects participants with a first in queue process.
- Connect times may vary significantly depending on the language and the availability of contracted interpreters at the time of call.
- Each call placed internationally will incur an additional charge.

#### 2. SCHEDULED OVER-THE-PHONE INTERPRETATION

- Clients may schedule phone appointments with interpreters in specific languages. The designated minimum for scheduled phone services are 30 minutes, requested duration, or physical worked time—whichever is greater. Billing is based on the established minimum, requested duration or physical time worked whichever greater.
- Service requests should be placed a minimum of 24 hours in advance.
- Services not cancelled 24 hours in advance of the scheduled start time, will result in the designed minimum being charged.

#### 3. ON-DEMAND VIDEO INTERPRETATION

- On-demand video interpretation is performed on the Propio One platform.
- Connect time is considered to begin from the instant the language and client account number is identified to the time an interpreter accepts the call to begin the service request. Propio connects participants on a first in queue process.
- Connect times may vary significantly depending on the language and the availability of contracted interpreters at the time of call.

#### 4. EQUIPMENT.

- If a minimum usage requirement is noted in Attachment B of this Agreement, contemporaneously with this Agreement Propio is transferring to Client certain equipment ("Equipment") for use in utilizing the services provided under this Agreement. Propio hereby transfers the Equipment to Client free and clear of all liens, but subject to certain software licenses granted to users of the Equipment by the owners of such software. Client shall honor all software license regulations and restrictions. Propio makes no warranties of any kind whatsoever regarding the condition, use, or fitness for a particular purpose of the Equipment, and all warranties of any kind relating to the Equipment are hereby expressly disclaimed.
- If the minimum usage requirements are not met each year of this Agreement, Client shall pay Propio the minimum usage penalty as outlined under the Minimum Usage Requirements and Minimum Usage Penalty for all remaining unused minutes under the required minimum.





- c. Propio also reserves the right to terminate this Agreement if Client has not met the minimum usage requirements during any contract year or Client has not used any of the services provided for under this Agreement for a period of six consecutive months. Propio shall give Client written notice of termination.
- d. In the event of any termination of this Agreement, Client shall pay Propio the minimum usage penalty as outlined under the Minimum Usage Requirements and Minimum Usage Penalty for all remaining unused minutes under the required minimum as well as any other charges due Propio under section 2.

**5. ONSITE/IN-PERSON CONSECUTIVE SERVICES**

- a. Onsite/In-Person services are billed on a monthly basis. Billing for spoken language services are based on the designated minimum (2 hours) or time worked, whichever is greater. The designated minimum for American Sign Language is the requested duration, established minimums (2 hours) or time worked, whichever is greater. Services performed in excess of the defined minimum will be billed in 15-minute increments thereafter.
- b. Scheduled business hours are 8:00 a.m. – 5:00 a.m. CST, Monday through Friday. Premiums are charged, in addition to the standard rate, for request that are outside scheduled business hours, on federal holidays or for spoken language requests placed less than 24 hours in advance and ASL requests not placed 48 hours in advance of the requested start time.
- c. Services not cancelled with 24 hours’ minimum cancellation notice will result in the designed minimum being charged.
- d. Mileage is billed at the current IRS rate and parking is reimbursed at cost, if applicable. All other expense requires prior client approval.
- e. Core Spoken Languages: Arabic, Cantonese, French, Haitian Creole, Japanese, Korean, Mandarin, Polish, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.
- f. Common Spoken Languages: Bengali, Burmese, Dari, Farsi, Gujarati, Hebrew, Hindi, Italian, Kinyarwanda, Nepali, Punjabi, Ukrainian, Urdu, Somali, Swahili, and Turkish. Language of limited diffusion or rare/endangered languages can be quoted upon request

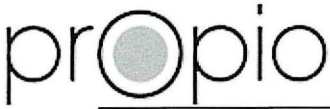
**6. VIRTUAL SERVICES.**

Clients may schedule requests with most commercially available platforms (i.e., Teams, Zoom, etc.). The terms and conditions as outlined in Section 4, Onsite/In-Person Consecutive Services will apply to virtual requests. Links to access the virtual encounter, including passwords and pertinent access directions. should be provided when requesting services. Failure to provide the necessary access information prior to the encounter does not impact the minimum cancellation notice or subsequent charges.

**Written Document Translation Services:**

Written Document Translation			
English (United States)	Spanish	\$0.12	Per word
English (United States)	Arabic	\$0.14	Per word
English (United States)	German	\$0.25	Per word
English (United States)	Spanish (Mexico)	\$0.14	Per word
English (United States)	Spanish (United States)	\$0.14	Per word
English (United States)	Spanish (Puerto Rico)	\$0.14	Per word
English (United States)	Persian (Iran)	\$0.19	Per word
English (United States)	French (Canada)	\$0.26	Per word
English (United States)	French (France)	\$0.25	Per word
English (United States)	Hindi	\$0.15	Per word
English (United States)	Hmong	\$0.23	Per word
English (United States)	Haitian (Creole)	\$0.27	Per word
English (United States)	Italian	\$0.20	Per word
English (United States)	Japanese	\$0.26	Per word
English (United States)	Karen	\$0.27	Per word
English (United States)	Korean	\$0.19	Per word
English (United States)	Nepali	\$0.21	Per word
English (United States)	Polish	\$0.18	Per word
English (United States)	Portuguese (Brazil)	\$0.15	Per word
English (United States)	Portuguese (Portugal)	\$0.17	Per word
English (United States)	Russian	\$0.15	Per word
English (United States)	Somali	\$0.22	Per word





English (United States)	Swahili	\$0.21	Per word
English (United States)	Tagalog	\$0.24	Per word
English (United States)	Ukrainian	\$0.17	Per word
English (United States)	Vietnamese	\$0.15	Per word
English (United States)	Chinese (Simplified, PRC)	\$0.16	Per word
English (United States)	Chinese (Traditional, Taiwan)	\$0.18	Per word
Minimum Project Fee		\$75.00	Per language per project
Desktop Publishing/Formatting		\$55.00	Per hour (if applicable)
Rush Processing		15%	% Of increase to the total invoice
Translation Into English		15%	% Of increase to per word rate
<b>Translation Memory Discounts (TTM)</b>			
Exact Match & Repetitions		70%	Discount
Fuzzy Match Discounts		60%	Discount with 99-95% matches
		50%	Discount with 94-85% matches
		30%	Discount with 84-75% matches

**7. WRITTEN TRANSLATION SERVICES**

Client agrees standard turnaround time for translation projects with fewer than 6,000 words is three (3) to five (5) business days from project approval, based on the size and complexity of the project. A dedicated Project Manager will communicate the expected delivery date for each project as part of the cost estimate or quote. Rush processing fees require written approval in advance.

Client shall have a thirty (30) day inspection period following the delivery of completed work to report any issues or concerns. Client acknowledges that translation sometimes involves preferential choices where more than one word or phrase might be used to say the same thing (e.g., “large” and “big”). Propio will correct errors or omissions reported during the inspection period at no cost to Client and will make preferential changes at Client’s expense and Propio’s discretion. A separate invoice will be issued for any preferential changes upon the completion of those changes. Changes requested after the inspection period shall be considered a new project and are subject to a new project quote.

Client agrees to use Propio’s secure online portal, Vu, for receiving Translation Services—including, but not limited to, uploading source/native documents, receiving and approving quotes, communication regarding projects, and receiving completed projects.

Propio agrees to provide training regarding the use of Vu and will assign a dedicated translation Project Manager to Client to manage Client’s translation projects and to assist clients, as needed.

Translation Memory (TM) discounted rates apply to qualifying documents submitted in editable source format in languages compatible with TM application. Discounts are available for exact matches, repetitions, and fuzzy matches as outlined in the rate table.

**8. DOCUMENT TRANSLATION BILLING**

Translation Services are invoiced upon delivery of the completed work to the Client. Invoices are delivered via email in .pdf format and contain the following information: invoice date, invoice number, “bill to” address, person/department who ordered the service, PO number (if applicable), description of services rendered, quantity, rate, and total amount due. For translation of documents, the “quantity” is set to “1” for each document translated and the “rate” displays the total amount due for that document, based on the approved price quotation. Detailed information regarding per word fees and translation memory discounts applied is available within the project quotation. For hourly services, such as desktop publishing or layout work, the “quantity” will be the number of hours billed and the “rate” will display the hourly rate. For per item fees, such as translation certifications, the quantity will be set based on the number of items received. Terms are Net 30 from invoice date.

- a. For projects quoted at \$30,000.00 USD or more, Propio requires a 50% down payment prior to the commencement of work. The remaining balance shall be invoiced upon delivery of the completed work to the client.
- b. Advance payments, periodic payments, and/or other unique terms and conditions may be included for some projects, based on size of project, length of project, and other factors. Such requirements, if any, will be stated in the project quote. Acceptance of the project quote shall be deemed acceptance of those terms and conditions as a supplement to the terms and conditions of this Agreement.
- c. Client reserves the right to cancel a project at any time prior to completion. To cancel a project, Client must contact the Propio Project Manager assigned to the project using the Vu messaging system or email. Cancellation shall be considered received upon written confirmation by the Project Manager or four (4) business hours after the cancellation notice is sent, whichever occurs first. When a project is cancelled prior to completion, Client shall be responsible to pay for work completed prior to cancellation. In the unusual circumstance where Propio was required to incur expenses applicable to the entire project prior to cancellation and cannot recover unused funds from the vendor at issue, Client shall be responsible for the entire expense paid.
- d. The client agrees that performing an internal review does not affect the invoicing process. The project is considered delivered once Propio makes translated documents available in Vu and notifies the requester.
- e. Past due invoice(s) may result in Client's account being placed on credit hold and services discontinued until the account is brought back to current status.

**9. Non-Discrimination.** The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. The Contractor shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual’s race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.



Other services can be scoped and bid upon request.





## Attachment C

### BUSINESS ASSOCIATES AGREEMENT

**THIS BUSINESS ASSOCIATE AGREEMENT** (this "**Agreement**") is made as of the date set forth below, by and between City of North Port, Florida ("**Covered Entity**") and Propio, LS, LLC ("**Business Associate**"), each individually a "**Party**" and together the "**Parties.**"

A. **Purpose.** The purpose of this Agreement is to comply with the Business Associate requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and implementing regulations, 45 C.F.R. parts 142 and 160-164, as may be amended, including the Privacy Rule, the Security Rule and the Breach Notification Rule (together, the "Rules"). Unless otherwise defined in this Agreement, capitalized terms have the meanings given in the above-referenced HIPAA statute and regulations.

B. **Relationship.** Covered Entity is a Covered Entity, as defined in the Rules. Covered Entity and Business Associate have entered into a relationship under which Business Associate may receive, use, obtain, access or create Protected Health Information ("PHI") from or on behalf of Covered Entity in the course of providing language services (the "Services") for Covered Entity. As provided in the Rules, PHI shall include, when applicable, Electronic Protected Health Information ("E PHI"). Business Associate acknowledges that it has direct compliance obligations under the Rules and is bound to comply with all requirements of the Rules made applicable to business associates pursuant to the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), Pub. L. No. 111-5, Title XIII.

Accordingly, in consideration of the receipt of good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Permitted Uses and Disclosures.** Business Associate may use and/or disclose PHI only as permitted or required by this Agreement or as otherwise Required by Law. Business Associate may disclose PHI to, and permit the use of PHI by, its employees, contractors, agents, or other representatives only to the extent directly related to and necessary for the performance of the Services. Disclosure of PHI to and use of PHI by subcontractors and agents is also subject to Section 5 below. When requesting PHI from Covered Entity, Business Associate will request the minimum PHI necessary to perform the Services. Business Associate will not use or disclose PHI in a manner (i) inconsistent with Covered Entity's obligations or Business Associate's obligations under the Rules, or (ii) that would violate the Rules if disclosed or used in such a manner by Covered Entity. Notwithstanding the foregoing, Business Associate may use or disclose PHI as provided in Section 7 below.

2. **Covered Entity's Obligations Under the Privacy Rule.** To the extent that Business Associate is to carry out one or more of the Covered Entity's obligations under the Privacy Rule, Business Associate agrees to comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.

3. **Safeguards for the Protection of PHI.** Business Associate will implement and maintain commercially appropriate security safeguards to ensure that PHI obtained from or on behalf of Covered Entity is not used or disclosed by Business Associate in violation of this Agreement and otherwise comply with the Security Rule with respect to EPHI, as applicable. Such safeguards shall be designed to protect the confidentiality and integrity of such PHI obtained, accessed or created from or on behalf of Covered Entity. Security measures maintained by Business Associate shall include administrative, physical, and technical security safeguards as necessary to protect such PHI, including such safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, all in accordance with the Rules.

4. **Reporting and Mitigating the Effect of Unauthorized Uses and Disclosures.**

4.1 If Business Associate has knowledge of any use or disclosure of PHI not provided for by this Agreement or of any security incident, then Business Associate will notify Covered Entity within three (3) business days in accordance with Section 11.4 below, or as shall hereafter be specified by written notice from the Covered Entity. Any such notice shall be deemed given when so delivered to or received at the proper address. Business Associate will establish and implement procedures and other reasonable mitigation efforts for mitigating, to the greatest extent possible, any harmful effects arising from any improper use and/or disclosure of PHI.

4.2 Business Associate will comply with Section 13402 of the HITECH Act and implementing regulations, 45 CFR Part 164, Subpart D, as may be amended. Business Associate shall report to Covered Entity any potential Breach of Unsecured PHI, as defined in the Breach Notification Rule, within three (3) business days of discovery, and shall provide all information regarding such potential Breach necessary to meet Covered Entity's notification obligations under the Breach Notification Rule; provided, however, that if Business Associate is also an agent of Covered Entity then Business Associate shall report to Covered Entity any incident that may give rise to a reportable breach within one (1) business day of discovery of such incident.

5. **Subcontractors and Agents – Use and Disclosure of PHI.** Business Associate will require any subcontractor or agent that is authorized to receive, use, or have access to PHI obtained from or created by Business Associate on behalf of the Covered Entity, to execute a business associate agreement with terms at least as restrictive as such restrictions, conditions and requirements regarding the use and/or disclosure of PHI and safeguarding of PHI that apply to Business Associate under this Agreement.

6. **Individual Rights.** Under the Privacy Rule, the Individual whose PHI is used or maintained has specific rights regarding the PHI. Accordingly, Business Associate will comply with the following Individual rights requirements as applicable to PHI used or maintained by Business Associate:





6.1 Right of Access. Business Associate agrees to provide access to PHI contained in a Designated Record Set, at the request of Covered Entity and in the reasonable time and manner designated by Covered Entity, to Covered Entity or, as directed, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.

6.2 Right of Amendment. Business Associate agrees to make any amendment(s) to PHI contained in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

6.3 Right to Accounting of Disclosures. Business Associate agrees to document such disclosures of PHI as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and to forward a copy of such documentation of each such disclosure to Covered Entity no later than ten (10) business days following Covered Entity's request for such documentation. Business Associate agrees to provide to Covered Entity or an Individual, in the reasonable time and manner designated by Covered Entity, such further information as may be reasonably requested by Covered Entity in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. To the extent Business Associate makes any disclosures on behalf of Covered Entity through an electronic health record as defined in Section 13400 of the HITECH Act, Business Associate agrees to document all such disclosures of EPHI as required under the HITECH Act and any implementing regulations, and to provide an accounting of disclosures directly to an Individual upon request by such Individual. Business Associate's obligation to document disclosures made through an electronic health record and provide an accounting of such disclosures directly to Individuals upon request shall be effective as of the date by which business associates are required to comply with Section 13405(c) of the HITECH Act or such later date specified by the Secretary of HHS.

## 7. Use and Disclosure for Business Associate's Purposes.

7.1 Use. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

7.2 Disclosure. Business Associate may disclose PHI for the proper management and administration of Business Associate, or to carry out the legal responsibilities of Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will remain confidential and be 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 PHI has been breached.

8. Access to Records. Business Associate will make its internal practices, books, records, and policies and procedures relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, available to HHS, the Office for Civil Rights ("OCR"), or their agents for purposes of monitoring compliance with HIPAA and the HITECH Act.

## 9. Term and Termination.

9.1 Term. This Agreement will become effective on the Effective Date. Unless terminated sooner pursuant to this Section 9, this Agreement shall remain in effect for the duration of all Services provided by Business Associate and for so long as Business Associate shall remain in possession of any PHI received from, or created or received by Business Associate on behalf of Covered Entity, unless Covered Entity has agreed in accordance with Section 9.3 that it is infeasible to return or destroy all PHI. 9.2 Termination by Covered Entity for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate with respect to the Privacy Rule, Covered Entity shall provide Business Associate an opportunity to cure the breach or end the violation. Covered Entity may terminate this Agreement if Business Associate does not cure the breach or end the violation within the time period specified by Covered Entity. Covered Entity may immediately terminate this Agreement if Business Associate has breached a material term of this Agreement with respect to the Privacy Rule and cure is not possible. If Covered Entity determines that Business Associate has violated a material term of the Agreement with respect to the Security Rule, Covered Entity may immediately terminate this Agreement without providing Business Associate an opportunity to cure the breach.

9.3 Effect of Termination. Upon termination of this Agreement, Business Associate will recover any PHI relating to the Agreement in the possession of its subcontractors or agents. Business Associate will return to Covered Entity or destroy all such PHI plus all other PHI relating to the Agreement in its possession, and will retain no copies. If Business Associate believes that it is not feasible to recover, return or destroy the PHI as described above, Business Associate shall notify Covered Entity in writing. The notification shall include: (i) a statement that Business Associate has determined that it is infeasible to recover, return or destroy the PHI in its possession or in the possession of its subcontractors or agents, and (ii) the specific reasons for such determination. If Covered Entity agrees in its sole discretion that Business Associate cannot feasibly recover, return or destroy the PHI, Business Associate will ensure that any and all protections, requirements and restrictions contained in this Agreement will be extended to any PHI retained after the termination of the Agreement, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the PHI infeasible.

10. "INDEMNITY: TO THE EXTENT PERMITTED BY FLORIDA LAW, THE CONSULTANT ASSUMES ALL LIABILITY FOR, AND RELEASES AND AGREES TO DEFEND, INDEMNIFY, PROTECT, AND HOLD HARMLESS THE CITY, ITS COMMISSIONERS, OFFICERS, AGENTS, AND EMPLOYEES, FROM ALL LIABILITIES, FINES, CLAIMS, ASSESSMENTS, SUITS, JUDGMENTS, DAMAGES, LOSSES AND COSTS, INCLUDING CONSEQUENTIAL, SPECIAL, INDIRECT, AND PUNITIVE DAMAGES, (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES AND COURT COSTS, WHETHER SUCH FEES AND COSTS ARE INCURRED IN NEGOTIATIONS, AT THE TRIAL LEVEL OR ON APPEAL, OR IN THE COLLECTION OF ATTORNEYS' FEES), ARISING OUT OF ANY ACTS, ACTIONS, BREACHES, NEGLIGENCE OR OMISSIONS OF THE CONSULTANT, OR CONSULTANT'S OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, SUB-CONSULTANTS, AND OTHER PERSONS EMPLOYED OR UTILIZED BY THE CONSULTANT IN THE PERFORMANCE OF, OR THE FAILURE TO PERFORM, THE AGREEMENT. THE AGREEMENT DOES NOT CONSTITUTE A WAIVER OF SOVEREIGN IMMUNITY OR CONSENT BY THE CITY OR ITS SUBDIVISIONS TO SUIT BY THIRD PARTIES.

THE CITY MUST PROVIDE ALL AVAILABLE INFORMATION AND ASSISTANCE THAT THE CONSULTANT MAY REASONABLY REQUIRE REGARDING ANY CLAIM. IN THE EVENT OF A CLAIM, THE CITY MUST PROMPTLY NOTIFY THE CONSULTANT IN WRITING BY PREPAID CERTIFIED MAIL (RETURN RECEIPT REQUESTED) OR BY DELIVERY THROUGH ANY NATIONALLY RECOGNIZED COURIER SERVICE (SUCH AS FEDERAL EXPRESS OR UPS) WHICH PROVIDES EVIDENCE OF DELIVERY, AT THE ADDRESS PROVIDED FOR RECEIPT OF NOTICES IN THIS AGREEMENT.

THIS AGREEMENT FOR INDEMNIFICATION SURVIVES TERMINATION OR COMPLETION OF THE AGREEMENT. THE INSURANCE COVERAGE AND LIMITS REQUIRED IN THIS CONTRACT MAY OR MAY NOT BE ADEQUATE TO PROTECT THE CITY AND SUCH INSURANCE COVERAGE WILL NOT BE DEEMED A LIMITATION ON THE CONSULTANT'S LIABILITY UNDER THE INDEMNITY PROVIDED IN THIS SECTION. IN ANY PROCEEDINGS BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THIS INDEMNITY PROVISION, THE PREVAILING PARTY SHALL BE REIMBURSED ALL COSTS, EXPENSES AND REASONABLE ATTORNEY FEES THROUGH ALL PROCEEDINGS (AT BOTH TRIAL AND APPELLATE LEVELS).

NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO AFFECT THE RIGHTS, PRIVILEGES, AND IMMUNITIES OF THE CITY AS SET FORTH IN FLORIDA STATUTES SECTION





11. Miscellaneous.

11.1 Survival. The respective rights and obligations of the Parties under Sections 8 (Access to Records), 9.3 (Effect of Termination), 10 (Indemnification) and 11 (Miscellaneous) will survive termination of the Agreement indefinitely.

11.2 Amendments; Waiver. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. It may not be modified, nor will any provision be waived or amended, except in a writing duly signed by authorized representatives of the Parties or as specified in Section 12 below. A waiver with respect to one event will not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

11.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors and permitted assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

11.4 Notices. Any notice to be given under this Agreement to a Party shall be made via commercial courier or hand delivery to such Party at its address given below. Any such notice shall be deemed given when so delivered to or received at the proper address.

If to Business Associate, to:

Propio LS. LLC  
10801 Mastin St. Suite 580 Overland Park, KS  
66210  
Attn: Compliance Officer compliance@propio-  
ls.com

If to Covered Entity, to:

CITY OF NORTH PORT, FLORIDA  
Address: 4970 City Hall Blvd.  
North Port, Florida 34286  
Attn: A. JEROME FLETCHER II, ICMA-CM, MPA  
CITY MANAGER

With a copy to:

City of North Port, Florida  
Attn: City Attorney  
4970 City Hall Blvd.  
North Port, Florida 34286

11.5 Venue. Any action or proceeding seeking to enforce any provision, or based on any right arising out of, this Agreement, shall be brought against any of the Parties in the courts of the State of Kansas, County of Johnson and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue therein. Process in any action or proceeding referred to in the preceding sentence may be served on any Party anywhere.

12. Compliance with HIPAA and the HITECH Act. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA, the Rules, and the HITECH Act. To the extent HIPAA, the Rules, and the HITECH Act are revised, this Agreement shall be deemed automatically amended to the extent necessary to comply with such revisions, upon notice to Business Associate from the Covered Entity.

13. Independent Contractors. Except if otherwise agreed to in writing in a separate agreement between Business Associate and Covered Entity for services that give rise to this Agreement, the relationship between Business Associate and Covered Entity is an independent contractor relationship. None of the provisions of this Agreement shall be construed to create an agency, partnership, employer/employee, master/servant or joint venture relationship between the parties.

[Signatures on Following Page]



IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed in its name and on its behalf as of the first date upon which Services were or are provided by Business Associate on behalf of Covered Entity (the "Effective Date").

**COVERED ENTITY:**

City of North Port, Florida  
By: \_\_\_\_\_

Print Name: JEROME FLETCHER II,

ICMA-CM, MPA

CITY MANAGER

**BUSINESS ASSOCIATE:**

Propio LS, LLC  
By: \_\_\_\_\_ *Christopher Lesse*

Print Name: ~~Marco Assis~~ Christopher Lesse

Title: ~~CEO~~ CFO

Date: 2/28/23

Title: \_\_\_\_\_

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

**ATTEST**

\_\_\_\_\_  
HEATHER FAUST, MMC  
CITY CLERK

**APPROVED AS TO FORM AND CORRECTNESS**

\_\_\_\_\_  
AMBER L. SLAYTON, B.C.S.  
CITY ATTORNEY