

**AGREEMENT FOR SPECIAL SERVICES
BETWEEN
KINGS VIEW PROFESSIONAL SERVICES
AND
MERCED COUNTY**

CONTRACT NO. _____

THIS AGREEMENT, is made and entered into by and between the County of Merced, a political subdivision of the State of California, (hereinafter referred to as "County"), and Kings View Professional Services, located at 7170 N. Financial Drive, Fresno, CA (hereinafter referred to as "Contractor").

WHEREAS, County, on behalf of its Behavioral Health and Recovery Services (BHRS) department, desires to contract with Contractor for special services which consist of computerized behavioral health management information services and support; and

WHEREAS, Contractor is specially trained, experienced, and competent to perform such services in connection with behavioral health support services; and

WHEREAS, the parties desire to set forth herein the terms and conditions under which said services shall be furnished.

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

1. SCOPE OF SERVICES

Contractor shall provide BHRS behavioral health management information services and support services in accordance with the terms and conditions stated herein, and any specifically referenced attachments hereto. Contractor's services include, but are not limited to those defined in Exhibit C.

The following exhibits are specifically incorporated by reference, attached hereto, and made a part hereof, except when in conflict with this Agreement or modified herein:

- Exhibit A - Mental Health Services Additional Terms and Conditions
- Exhibit B - Budget/Rates
- Exhibit C - Scope of Work
- Exhibit E - HIPAA Business Associate Addendum
- Exhibit G - Disclosure of Ownership

2. TERM

The term of this Agreement shall commence on the 1st day of July 2021, and

continue until the 30th day of June 2024, unless sooner terminated in accordance with the sections entitled "TERMINATION FOR CONVENIENCE", "TERMINATION FOR CAUSE", or "CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING", as set forth elsewhere in this Agreement.

3. COMPENSATION

County agrees to pay Contractor a Total Contract Price of Three Million Four Hundred Fifty-Five Thousand Six Hundred Seventy-Five Dollars and No Cents (\$3,455,675.00) for all of Contractor's services to be provided herein, as are more specifically set forth under Section 1, "SCOPE OF SERVICES". The Total Contract Price shall include all of County's compensation to Contractor, including reimbursement for all expenses incurred by Contractor in the performance of this Agreement. No other fees or expenses of any kind shall be paid to Contractor in addition to the Total Contract Price. In no event shall the total services to be provided hereunder exceed the Total Contract Price. This fee may be subject to withholding for State of California income tax.

Any and/or all payments made under this Agreement shall be paid by check, payable to the order of the Contractor and be mailed or delivered to Contractor at:

Name:	Kings View Professional Services
Address:	7170 N. Financial Drive, Suite 110
City/State/Zip:	Fresno, CA 93720

Contractor may request that County mail the check to Contractor, to such other address as Contractor may from time to time designate to County. Such request must be made in writing in accordance with the procedures as outlined under Section 7, "NOTICES".

4. PRICING CONDITIONS

County agrees to pay Contractor for all services required herein as prescribed, fixed at the submitted pricing, which shall include reimbursement for all expenses incurred. No other expenses shall be paid to Contractor without formal approval of the County's Board of Supervisors or its authorized agent. In no event shall the total services to be performed hereunder exceed \$993,734.00 for FY 21/22, \$1,247,588.00 for FY 22/23 and \$1,214,353.00 for FY 23/24.

County shall not be responsible for any charges or expenses incurred by Contractor, his/her agents, employees or independent Contractors, other than those listed herein, in connection with the performance of services hereunder unless authorized in advance in writing by County.

5. TERMS OF PAYMENT

Payment shall be only for full and complete satisfactory performance of the services required to be provided herein and as set forth under Section 1, "SCOPE OF SERVICES." Payment shall be made in the following manner:

Contractor shall submit monthly-itemized invoices, or alternate documentation as deemed appropriate in advance by County, for services it has provided and for the amount owed under this Agreement. In addition to the invoices submitted by the Contractor for payment, Contractor must complete and submit to the County, Form W-9, "A Request for Taxpayer Identification Number and Certification". www.irs.gov/pub/irs-pdf/fw9.pdf. Both invoices and the W-9 form shall be forwarded to the County at the County address indicated under Section 7, "NOTICES" of this Agreement.

Each invoice or approved alternate documentation must:

- A. Detail by task the service performed by Contractor.
- B. Detail the labor cost (number of hours) attributed to each task.
- C. Show the cumulative cost for all tasks performed to date.
- D. Provide any additional information and data requested by County as deemed necessary by County to properly evaluate or process Contractors claim.

Upon approval by County, the fee due hereunder shall be paid to Contractor within thirty (30) days following receipt of a proper invoice.

6. NO PAYMENT FOR SERVICE PROVIDED FOLLOWING EXPIRATION / TERMINATION OF AGREEMENT

Contractor shall have no claim against County for payment of any kind whatsoever for any services provided by Contractor which were provided after the expiration or termination of this Agreement.

7. NOTICES

All notices, requests, demands or other communications under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes as follows:

- A. Personal Delivery. When personally delivered to the recipient, notice is effective upon delivery.
- B. First Class Mail. When mailed first class to the last address of the recipient

known to the party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.

- C. Certified Mail. When mailed by certified mail, return receipt requested, notice is effective upon receipt, if delivery is confirmed by a return receipt.
- D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messengers, or overnight delivery service.

Information for notice to the parties to this Agreement at the time of endorsement of this Agreement is as follows:

County of Merced c/o
Behavioral Health and Recovery Services
Attn: Managed Care
P.O. Box 2087
Merced, CA 95344

Contractor
Kings View Professional Services
7170 N. Financial Drive, Suite 110
Fresno, CA 93720
(559) 256-0100

Any party may change its address by giving the other party notice of the change in any manner permitted by this Agreement.

8. CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING

The compensation paid to Contractor pursuant to this Agreement is based on County's continued appropriation of funding for the purpose of this Agreement, as well as the receipt of local, county, state and/or federal funding for this purpose. The parties acknowledge that the nature of government finance is unpredictable, and that the rights and obligations set forth in this Agreement are therefore contingent upon the receipt and/or appropriation of the necessary funds. In the event that funding is terminated, in whole or in part, for any reason, at any time, this Agreement and all obligations of the County arising from this Agreement shall be immediately discharged. County agrees to inform Contractor no later than ten (10) calendar days after the County determines, in its sole judgment, that funding will be terminated and the final date for which funding will be available. Under these circumstances, all billing or other claims for compensation or reimbursement by Contractor arising out of performance of this Agreement must be submitted to County prior to the final date for which funding is available. In the alternative, County and Contractor may agree, in such circumstance, to a suspension or modification of either party's rights and obligations under this Agreement. Such a modification, if the parties agree thereto, may permit a restoration of previous

contract terms in the event funding is reinstated. Also in the alternative, if funding is provided to the County in the form of promises to pay at a later date, whether referred to as "government warrants", "IOU's", or by any other name, the County may, in its sole discretion, provide similar promises to pay to the Contractor, which the Contractor hereby agrees to accept as sufficient payment until cash funding becomes available.

9. TERMINATION FOR CONVENIENCE

This Agreement, notwithstanding anything to the contrary herein above or hereinafter set forth, may be terminated by County at any time without cause or legal excuse by providing the other party with thirty (30) calendar days written notice of such termination.

Upon effective date of termination, County shall have no further liability to Contractor except for payment for actual services incurred during the performance hereunder. Such liability is limited to the time specified in said notice and for services not previously reimbursed by County. Such liability is further limited to the extent such costs are actual, necessary, reasonable, and verifiable costs and have been incurred by Contractor prior to, and in connection with, discontinuing the work hereunder.

10. TERMINATION FOR CAUSE

The County may terminate this Agreement and be relieved of making any payments to Contractor and all duties to Contractor should the Contractor fail to perform any material duty or obligation of the Agreement. Notice shall be given as otherwise provided herein. In the event of such termination the County may proceed with the work in any manner deemed proper by the County. All costs to the County shall be deducted from any sum otherwise due the Contractor and the balance, if any, shall be paid to the Contractor upon demand. Such remedy is in addition to such other remedies as may be available to the County provided by law.

11. MODIFICATION OF THE AGREEMENT

Notwithstanding any of the provisions of this Agreement, the parties may agree to amend this Agreement. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

12. INSURANCE

A. Prior to the commencement of work, and as a precondition to this Agreement, Contractor shall purchase and maintain the following types of

insurance for the stated minimum limits indicated during the term of this Agreement. Contractor shall provide a certificate of insurance and endorsements on each policy as required in this Section. Each certificate of insurance shall specify if Contractor has a self-insured retention (SIR), and if so, Contractor shall be required to provide the entire policy of insurance with which it has an SIR and/or deductible. All deductibles and SIRs shall be fully disclosed in the Certificates of Insurance and are subject to the express written permission of the County Risk Manager.

1. Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 annual aggregate covering products and completed operations, bodily injury, personal injury and property damage. The County and its officers, employees and agents shall be endorsed to above policy as additional insured, using ISO form CG2026 or an alternate form that is at least as broad as form CG2026, as to any liability arising from the performance of this Agreement.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage, or alternatively split limits of \$500,000 per person and \$1,000,000 per accident for bodily injury with \$250,000 per accident for property damage.
3. Workers Compensation: Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the County.
4. Professional Liability (Errors and Omissions): \$1,000,000 limit per occurrence and \$5,000,000 annual aggregate limit covering Contractor's wrongful acts, errors and omissions. Any aggregate limit for professional liability must be separate and in addition to any CGL aggregate limit. Claims – made coverage requires Contractor to maintain a minimum of three (3) years extended reporting period or tail coverage.
5. Technology Professional Liability Errors and Omissions Insurance appropriate to the Contractor's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these

obligations.

The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the Contractor. If not covered under the Contractor's liability policy, such "property" coverage of the Agency may be endorsed onto the Contractor's Cyber Liability Policy as covered property as follows:

Cyber Liability coverage not less than \$2,000,000 per occurrence, and sufficient to cover, the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency that will be in the care, custody, or control of Contractor.

B. INSURANCE CONDITIONS

1. Insurance is to be primary and non-contributory with any insurance of the County and placed with admitted insurers rated by A.M. Best Co. as A: VII or higher. Lower rated, or approved but not admitted insurers, or any other requirement changes (such as limits) are subject to the prior approval of the County Risk Manager.
2. Each of the above-required policies shall be endorsed to provide the County with thirty (30) days prior written notice of cancellation. The County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of Contractor to furnish insurance during the term of this Agreement.
3. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.
4. If the Contractor uses subcontractors or others to perform work under this Agreement, such subcontractors or other persons shall be Named Insured or Additionally Insured to the Contractor's required insurance coverage, or required by the Contractor to comply with equivalent insurance and conditions of this Section.

13. INDEMNIFICATION

Contractor has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract or otherwise. This duty shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of Contractor.

Contractor's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of the Contractor, its agents, sub-Contractors, and employees. The duty shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim or allegation of liability against County. Contractor will on request and at its expense defend any action suit or proceeding arising hereunder. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

14. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that Contractor is an independent Contractor in the performance of the work duties and obligations devolving upon Contractor under this Agreement. County shall neither have, nor exercise any control or direction over the methods by which Contractor shall perform the assigned work and functions. The contractual interest of County is to assure that the services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner.

It is agreed that no employer-employee relationship is created and Contractor shall hold County harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes; any contributions or premiums imposed or required by workers' compensation; any unemployment insurance; any social security income tax; and any other obligations from statutes or codes applying to Contractor, or its subcontractors and employees, if any.

It is mutually agreed and understood that Contractor, its subcontractors and employees, if any, shall have no claim under this Agreement or otherwise against the County for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

Contractor shall insure that all its personnel and employees, subcontractors and their employees, and any other individuals used to perform the contracted services are aware and expressly agree that County is not responsible for any benefits, coverage or payment for their efforts.

15. RECORDS, INFORMATION AND REPORTS

Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement. To the extent permitted by law, County shall have free access at all proper times or until the expiration of ten (10) years after the furnishing of services to such records, the last date of service, or termination of contract, or for minors, until one (1) years after the age of 18 but no less than ten (10) years from the final date of services and the right to examine and audit the same and to make transcripts therefrom, and to inspect all data, documents, proceedings, and activities pertaining to this Agreement.

To the extent permitted by law, Contractor shall furnish County such periodic reports as County may request pertaining to the work or services undertaken pursuant to this Agreement. The costs and obligations incurred or to be incurred in connection therewith shall be borne by the Contractor.

16. OWNERSHIP OF DOCUMENTS

To the extent permitted by law, all technical data, evaluations, plans, specifications, reports, documents, or other work products developed by Contractor hereunder are the exclusive property of County and upon request of County shall be delivered to County upon completion of the services authorized hereunder. In the event of termination, all finished or unfinished documents and other materials, if any, at the option of County, and to the extent permitted by law, shall become the property of the County. Contractor may retain copies thereof for its files and internal use.

Any publication of information directly derived from work performed or data obtained in connection with services rendered under this Agreement must be first approved by County.

17. QUALITY OF SERVICE

Contractor shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and/or other items and services furnished under this Agreement.

Contractor shall, without additional compensation, correct or revise any errors or

deficiencies immediately upon discovery in its reports, drawings, specifications, designs, and/or other related items or services.

18. PERSONAL SATISFACTION AS A CONDITION PRECEDENT

The obligations of County as provided in this Agreement are expressly conditioned upon Contractor's compliance with the provisions of this Agreement to the personal satisfaction of the County. County shall determine compliance in good faith as a reasonable person would under the circumstances.

19. ENTIRE AGREEMENT

This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other contracts, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

20. COUNTY NOT OBLIGATED TO THIRD PARTIES

County shall not be obligated or liable hereunder to any party other than Contractor.

21. LAWS, LICENSES, PERMITS AND REGULATIONS

Contractor and County agree to comply with all State laws and regulations that pertain to construction, health and safety, labor, minimum wage, fair employment practice, equal opportunity, and all other matters applicable to Contractor and County, their sub-grantees, Contractors, or subcontractor, and their work.

Contractor shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Merced and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by County.

22. LIMITED AFFECT OF WAIVER OR PAYMENT

In no event shall the making, by County, of any payment to Contractor constitute, or be construed as, a waiver by County of any breach of covenant, or any default which may then exist, on the part of Contractor. The making of any such payment by County while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or as relieving Contractor from its full responsibility under this Agreement.

No waiver by either party of any default, breach or condition precedent shall be valid unless made in writing and signed by the parties hereto. No oral waiver of any default, breach or condition precedent shall be binding on any of the parties hereto. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder.

23. PERSONNEL

Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

24. APPLICABLE LAW; VENUE

All parties agree that this Agreement and all documents issued or executed pursuant to this Agreement as well as the rights and obligations of the parties hereunder are subject to and governed by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance. No interpretation of any provision of this Agreement shall be binding upon County unless agreed in writing by County and counsel for County.

Notwithstanding any other provision of this Agreement, any disputes concerning any question of fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall be tried in Merced County, unless the parties agree otherwise or are otherwise required by law.

25. BREACH OF CONTRACT

Upon breach of this Agreement by Contractor, County shall have all remedies available to it both in equity and/or at law.

26. REMEDY FOR BREACH AND RIGHT TO CURE

Notwithstanding anything else in this Agreement to the contrary, if Contractor fails to perform any obligation of this Agreement, the County may itself perform, or cause the performance of, such agreement or obligation. In that event, Contractor will, on demand, fully reimburse County for all such expenditures. Alternatively, County, at its option, may deduct from any funds owed to Contractor the amount necessary to cover any expenditures under this provision. This is in addition to any other remedies available to the County by law or as otherwise stated in this Agreement.

27. SUCCESSORS IN INTEREST

All the terms, covenants, and conditions of this Agreement shall be binding and in full force and effect upon any successors in interest and assigns of the parties hereto. This paragraph shall not be deemed as a waiver of any of the conditions against assignment set forth herein.

28. CONFLICT OF INTEREST

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. Contractor shall ensure that no conflict of interest exists between its officers, employees, or subcontractors, and the County. Contractor shall ensure that no County officer or employee in a position that enables them to influence this Agreement will have any direct or indirect financial interest resulting from this Agreement. Contractor shall ensure that no County employee shall have any relationship to the Contractor or officer or employee of the Contractor, nor that any such person will be employed by Contractor in the performance of this Agreement without immediate divulgence of such fact to the County.

29. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

Contractor and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and shall not unlawfully discriminate, deny family care leave, harass, or allow harassment against any employee, applicant for employment, employee or agent of County, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. Contractor shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of County employees and agents, and recipients of services are free from such discrimination and harassment.

Contractor represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and ensure a workplace free of sexual harassment pursuant to Government Code 12950 and regulations and guidelines issued pursuant thereto.

Contractor agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

Contractor shall include this nondiscrimination provision in all subcontracts related to this Agreement and when applicable give notice of these obligations to labor organizations with which they have Agreements.

30. CAPTIONS

The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect it.

31. SUBCONTRACTS - ASSIGNMENT

Contractor shall not subcontract or assign this Agreement, or any part thereof, or interest therein, directly or indirectly, voluntarily or involuntarily, to any person without obtaining the prior written consent by County. Contractor remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. Contractor shall be held responsible by County for the performance of any subcontractor whether approved by County or not.

Contractor hereby assigns to the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from the purchase of goods, materials, or services by the Contractor for sale to the County pursuant to this Agreement.

32. SEVERABILITY

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them, will not be affected. Compensation due to Contractor from the County may, however, be adjusted in proportion to the benefit received despite the removal of the effected provision.

33. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts, each of which shall be deemed a duplicate original. The Agreement shall be deemed executed when it has been signed by both parties.

34. COVID-19 REQUIREMENTS

Contractor, at Contractor's sole expense, shall follow all State and local laws, rules, regulations, guidelines, and orders related to the COVID-19 pandemic in the performance of its work under this Agreement. This shall include, but not be limited to, creating a COVID-19 worksite-specific prevention plan prior to conducting Contractor's business/activity Contractor is encouraged to frequently reference www.covid19.ca.gov for information on State requirements for operation of specified businesses/activities.

Signature page to follow

COUNTY OF MERCED

KINGS VIEW PROFESSIONAL SERVICES

By _____
Daron McDaniel, Chairman
Board of Supervisors

By  _____
Michael Kosareff
Chief Financial Officer

Date

 _____
Date

APPROVED AS TO LEGAL FORM
MERCED COUNTY COUNSEL

MERCED COUNTY
BEHAVIORAL HEALTH AND
RECOVERY SERVICES

By _____
Charles L. Bruce
Deputy

By _____
Genevieve G. Valentine, LMFT
Director

Date

Date

Exhibit A – Mental Health Services Additional Terms and Conditions

1. CONFIDENTIALITY

Contractor and its employees, agents, or subcontractors shall comply with applicable laws and regulations, including but not limited to California Welfare & Institutions (W&I) Code Section 5328; 42 C.F.R. Part 2 and 45 C.F.R. Parts 160 and 164, and to the HITECH Act in 42 C.F.R., Chapter 156, regarding the confidentiality of patient information. Contractor shall not use identifying information for any purpose other than carrying out the Contractor's obligation under this contract.

Contractor shall not disclose, except as otherwise specifically permitted by the contract or authorized by the client/patient, any such identifying information to anyone other than the County without prior written authorization from the County or in accordance with State and Federal laws.

For the purposes of the above paragraphs, identifying information will include, but not be limited to: name, identifying number, symbol, or other identifying particular assigned the individual.

The Contractor agrees to comply with the provisions of Public Law 104-191 known as The Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the HIPAA Business Associate addendum attached to this Agreement and incorporated by this reference as if fully set forth herein. Any conflict between the terms and conditions of this Agreement and the Business Associate Addendum incorporated are to be read so that the more legally stringent terms and obligation(s) of the Contractor shall control and be given effect.

County shall annually monitor Contractor for compliance and adherence to Contractor's policies and procedures by requesting Contractor to attest to the completion of training of its staff and providers with annual copies of any policies and procedures.

2. COMPLIANCE AND ETHICS

Contractor agrees to establish ethical standards for all staff employed by Contractor. These standards shall include compliance with state and federal regulations for safeguarding client information. Contractor agrees to orientate and train staff to enforce established ethical standards.

Contractor agrees to establish written policies and procedures that ensure organizational and individual compliance.

If Contractor is unable to establish policies and procedures relating to ethics and compliance, Contractor will notify County in writing that it intends to abide by the Merced County Behavioral Health and Recovery Services' Compliance and Integrated

Ethics Plan (CIEP).

County shall annually monitor Contractor for compliance and adherence to its policies and procedures by requesting Contractor to attest to the completion of training of its staff and providers with annual copies of any policies and procedures.

3. CULTURAL COMPETENCY

“Cultural Competence” means a set of congruent practice skills, behaviors, attitudes and policies in a system, agency or among those persons providing services that enables that system, agency, or those persons providing services to work effectively in a cross-cultural situations. Contractor shall have a written policy and procedure that ensure organizational and individual compliance by its staff and providers.

County shall annually monitor Contractor for compliance and adherence to its policies and procedures by requesting Contractor to attest to the completion of training of its staff and providers with annual copies of any policies and procedures.

4. EXCLUDED INDIVIDUALS AND ENTITIES

Employees of Contractor who, because of convictions or because of current or past failures to comply with state and federal program requirements, become designated as ineligible persons or are identified for exclusion from involvement in state and federal programs, shall be removed from responsibility or participation in or involvement with all aspects of this federally funded program, until such time as the person or entity is no longer identified on the exclusion lists.

Contractor shall be responsible to perform ongoing exclusion reviews of current employees to ensure that Contractor does not hire or contract with any individual or entity under sanction or exclusion by the state and federal government. As an outcome of ongoing exclusion reviews, Contractor agrees to provide to County written certification under penalty of perjury that no current employee, subcontractor, entity or agent is excluded from participation of Medicaid or Medi-Cal programs per 42 CFR 455.436 and W&I Code Section 14043.61. Detailed reporting shall be made available to County upon demand. Failure to comply shall lead to contract termination.

Contractor shall be responsible to ensure and attest to that all providers or any person with a 5 percent or more direct or indirect ownership in the provider under this Agreement have undergone a criminal background check per 42 CFR 455.434 and other applicable State requirements based on the category of the provider.

The County shall not reimburse for past, present or future services rendered by individuals that were under employment by Contractor and have been excluded from federal and state participation.

5. MONITORING

County will monitor ongoing program compliance through facility visits, consumer record review and financial record review. County Contract Monitors will visit facilities announced or unannounced.

6. NOTIFICATION OF UNUSUAL OCCURRENCE

Contractor shall notify County Compliance Manager and appropriate state agency of any unusual occurrences or physical incidents (i.e., abuse, injury and death) that may affect County’s clients within five (5) days of occurrence and, at the request of County and appropriate state agency, provide a copy of all investigation reports concerning incidents, as well as the appropriate disposition and corrective action taken to resolve the incident.

County Alicia Tacata
Compliance Manager P.O. Box 2087 Merced, CA 95344 Alicia.Tacata@Countyofmerced.com (209) 381-6818

7. STANDARDS OF PRACTICE

Standards of practice of Contractor shall be determined by the professional standards of Contractor’s trade or field of expertise and all applicable provisions of law and other rules and regulations of any and all governmental authorities relating to provision of services as defined in this Agreement.

8. COMPENSATION AND LIABILITY FOR DAMAGES UPON TERMINATION

Neither party shall be relieved of liability to the other for damages sustained by either party by virtue of any breach of this Agreement, regardless of whether this Agreement was terminated for cause or for convenience. County may withhold any payments not yet made to Contractor for purpose of setoff until such time as the exact amount of damages due to County from Contractor is determined and established in writing, signed by both parties.

9. STAFFING, TRAINING AND SUPERVISION

Contractor shall train and maintain appropriate supervision of all persons providing services under this Agreement with particular emphasis on the supervision of para-

professionals, interns, students, and clinical volunteers in accordance with Contractor's clinical supervision policy.

Contractor shall be responsible for the training of all appropriate staff on applicable State manuals and/or training materials and State and County policies and procedures as well as on any other matters that County may reasonably require.

10. QUALITY MANAGEMENT/UTILIZATION REVIEW

Contractor shall be in full compliance with County's Quality Management Plan. County shall have access to, and conduct audits and reviews of, records, policies and procedures incident reports, and related activities it deems necessary to support County's Quality Management functions.

Contractor and County, to the extent feasible, shall include their respective Quality Management staff in each other's Quality Management activities. Such activities shall include, but not be limited to, Quality Improvement Councils, chart audits, program compliance reviews, and Medi-Cal certifications.

County's Quality Assurance Plan: The County or its agent will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected may be reported to the Managed Care/Quality Improvement Unit. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

11. PATIENT RIGHTS AND PROBLEM RESOLUTION PROCESS

Contractor shall comply with all relevant rules, regulations, statutes, and County policies and procedures related to individuals' rights to a complaint process and timely compliant resolution.

Contractor shall comply with the Mental Health Plans (MHPs) Medi-Cal beneficiary and/or Mental Health Services Act problem resolution process. This does not preclude Contractor's commitment to resolve problems or complaints by Medi-Cal beneficiaries at the informal level as simply and quickly as possible. Nothing in this Agreement shall prevent Medi-Cal beneficiaries from utilizing the MHPs and other rights and processes regarding complaints and grievances, which are guaranteed by statute.

Provision of this Agreement shall not be construed to replace or conflict with the duties

of County's Patients' Rights Advocate as described in Section 5520 of the W & I Code.

12. CREDENTIALING

If Contractor is performing Medi-Cal billable services under this Agreement, Contractor must follow County's credentialing and re-credentialing process for Contractors applicable staff and subcontractors.

This process is required to be completed prior to reimbursement for Medi-Cal eligible services. The Contractor is responsible to notify the County of all treating providers, applicable administration, and subcontracted providers performing under this Agreement and assisting in the credentialing process as needed. Once initial credentialing is completed, a re-credentialing process will occur no less than every three (3) years.

13. INSPECTION

Each Contractor/Consultant shall comply with the requirement that the subcontractor make all of its premises, physical facilities, equipment, books, records, documents, contracts, computers, or other electronic systems pertaining to Medi-Cal enrollees, Medi-Cal-related activities, services and activities furnished under the terms of the subcontract, or determinations of amounts payable available at any time for inspection, examination or copying by the Department, CMS, HHS Inspector General, the United States Comptroller General, their designees, and other authorized federal and state agencies. (42 C.F.R. §438.3(h).) This audit right will exist for 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later. (42 C.F.R. § 438.230(c)(3)(iii).)

The Department, CMS, or the HHS Inspector General may inspect, evaluate, and audit the subcontractor at any time if there is a reasonable possibility of fraud or similar risk, then. (42 C.F.R. § 438.230(c)(3)(iv).)

14. COMPLIANCE

The Contractor, and its subcontractors to the extent that the subcontractors are delegated responsibility by the Contractor for coverage of services and payment of claims under this Agreement, shall implement and maintain arrangements or procedures that are designed to detect and prevent fraud, waste, and abuse per 42 CFR §438.608.

If Contractor is unable to establish policies and procedures relating to compliance, Contractor will notify County in writing that it intends to abide by the Merced County Behavioral Health and Recovery Services' Compliance Plan.

15. WHISTLEBLOWERS

Contractor shall have policy and/or procedures to receive and investigate information from whistleblowers relating to the integrity of the Contractor or network providers receiving Federal funds under 42 CFR, Part 438.

16. CHILD ABUSE REPORTING

Contractor shall establish a procedure acceptable to the County to ensure that all employees, volunteers, consultants, sub-contractors or agents performing service under this contract report child abuse or neglect to a county welfare department as defined in California Penal Code, Section 11165.9.

17. ADULT ABUSE REPORTING

Contractor shall establish a procedure acceptable to the County to ensure that all employees, volunteers, consultants, sub-contractors or agents performing service under this contract report adult abuse or neglect to a county welfare department as defined in California Penal Code, Section 11165.9.

Exhibit B- Budget

Budget July 1, 2021 through June 30, 2022

Service	Budget Amount
Electronic Health Record System (EHRS)	\$ 355,500
Health Information Dashboard	\$ 135,700
Quality Improvement Services	\$ 139,034
Credible Software as a services (Saas)	\$ 26,820
Physician Treatment Authorization Review	\$ 200,000
Go Live Credible EHRS (2 Payments)***	\$ 136,680
Total Budget	\$ 993,734

*** Go Live Milestone 1- Due July 1, 2021	\$68,340
Go Live Milestone 2- Due January 1, 2022	\$68,340
Go Live Milestone 3- Due July 1, 2022	\$68,340

Budget July 1, 2022 through June 30, 2023

Service	Budget Amount
Electronic Health Record System (EHRS)	\$ 355,500
Health Information Dashboard	\$ 135,700
Quality Improvement Services	\$ 139,034
Credible Software	\$ 324,014
Physician Treatment Authorization Review	\$ 225,000
Go Live Credible EHRS (1 Payments)***	\$ 68,340
Total Budget	\$ 1,247,588

Budget July 1, 2023 through June 30, 2024

Service	Budget Amount
Electronic Health Record System (EHRS)	\$ 355,500
Health Information Dashboard	\$ 135,700
Quality Improvement Services	\$ 139,034
Credible Software	\$ 334,119
Physician Treatment Authorization Review	\$ 250,000
Total Budget	\$ 1,214,353

Exhibit C-Scope of Work

A. Electronic Health Record System (EHRS) support

1. Contractor supports the following:

Cerner Software products currently in use or planned by County.

- Client Data System
 - Scheduling System
 - Assessment and Treatment Planning System (ATP)
 - Doctor's Home Page and E-prescribing System
 - Cost Accounting System
2. Contractor will provide consultative services to County concerning current design for client data, scheduler, ATP and progress notes, when requested by County, as needed.
 3. Contractor will maintain a Live, Train and Test version of EHRS on software vendor's hosted servers.
 4. Contractor will advise on and oversee load EHRS promotions:
 - a. Write and provide County, to the best of Contractor's abilities, a thorough risk-benefit analysis for all EHRS promotions based on supplied documentation from EHRS software to include:
 - Summary of the purpose(s)
 - List of known and potential risks
 - List of known and potential benefits
 - Reporting implications
 - Identify any additional report functionality
 - b. Test EHRS promotions and work out known bugs.
 - c. Activate promotions only with County's authorization and in accordance with EHRS Software policy and procedures. County will provide Contractor with list of County staff allowed to authorize installation of promotions.
 - d. County is aware that failure to load all EHRS promotions, in sequence and as supplied by EHRS, could affect Contractor's ability to meet scope of services.
 5. Contractor will provide assistance with EHRS customization, including workflow redesign, keying guides, design and development of management forms, training materials and other assistance as it relates to various purchased modules of

EHRIS, as needed and requested by County.

6. Contractor will provide the following forms of documentation:
 - a. Develop manuals for Account Receivables A/R and State Reporting delineating Contractor and County tasks and responsibilities.
 - b. Provide risk/benefit analysis of Credible Promotions.
 - c. Provide County with Contractor Status Report overall operations of County's EHRIS Software as mutually agreed. Report format, content and frequency will be determined and modified, as needed, by mutual agreement.
 - d. Document County's system schema as it relates to Contractor's provision of services and at the discretion of County's Information Technology management.
 - e. Consultation and assistance with Special Projects (audits, state reviews, other ad hoc requests) as needed by County including the following:
 - Data/Reports
 - Participate in meetings/calls
7. Status Reporting
 - a. Meet quarterly, at mutually agreed time, with County to identify problems/issues and agree to solutions.
 - b. Complete Contractor status report.
8. Contractor will use all reasonable efforts to work with Credible Software, and County, to adhere to California compliance requirements as set forth by California Department of Health Care Services (DHCS).
9. Contractor will work jointly with County to obtain certification of compliance with all applicable Medicare, Medi-Cal and HIPAA billing requirements and regulations.
10. Contractor will maintain management forms and related data tables for State reporting, billing and security.
11. Contractor will provide specialized reporting as required by County/State as a result of mandatory audit/reporting requirements. Contractor will provide customized reporting formats, forms, and update data tables, as required for County's operation, and Contractor will generate reports for County as requested.
12. Contractor will use all reasonable efforts to see that all local, state and federal requirements are met within the timelines set by those agencies.

13. Contractor and County will mutually agree upon an activity deadline calendar for defining the roles, responsibilities and processes for each party.
14. Contractor will provide support as Lead for County's continued implementation strategies of various modules of the Cerner (EHRS).

Monthly Revenue Cycle Support for Funding Sources:

1. Contractor will provide all month-end processes for the completion of A/R and Medi-Cal Billing Processes at Contractor's EHRS office, and provide support and assistance to County staff for Month-end A/R and Billing Processes for all requirements set forth by DHCS.
2. Contractor will provide training and support to program staff for program processes required in the month-end process.
3. Contractor will use all reasonable efforts to have its system comply with all State billing and statistical reporting requirements for timely, accurate and complete processing of electronic claims or files. County will be the sole party responsible for ensuring timeliness, accuracy and the complete entry of data by County staff necessary for Contractor to submit electronic claims or files.
4. Contractor will perform data review to ensure HIPAA compliance for electronic submittal to State, Medicare or other third-party payer in preparation for Contractor electronic data submission. County will upload after Contractor review. Contractor will provide support to address issues when County posts electronic Explanation of Benefits (EOB) electronic files from State, Medicare or other third-party payer in accordance with Cerner Software policy and procedures.
5. Contractor will maintain call log identifying consequential issues referred for help and provide management with trend report. Routine questions will not be tracked. Contractor will provide County upon request a copy of County's support requests.
6. Contractor will assist and monitor EOB (HIPAA 835) denials and report to County management monthly with status updates.
7. When Contractor makes changes to existing information systems software that results in a need for consultation or training of county employees, the associated costs will be paid by the Contractor.
8. County had opted to submit 837P files and download 835 files. County and Contractor will develop procedures and policies to ensure both parties know when files are created or posted to County's Cerner application.

County Staff Support

1. Contractor will maintain a help desk as support to County staff relative to behavioral health software in order to attend to user inquiries and problems. Help desk support shall be available to County staff Monday through Friday from 8:00 a.m. until 5:00 p.m., excluding County holidays. County will designate staff members who will be authorized to access help desk support on behalf of County staff.
2. County staff will be provided with access to Contractor's shared documents seven (7) days a week, twenty-four (24) hours a day.
3. Contractor will provide remote support as needed via cell messaging and email after normal business hours, including all holidays.
4. Contractor will provide County staff with forty-eight (48) hours advance notice when planned system maintenance time by software hosting facility is required. County is aware that some planned system maintenance or network upgrades could result in extended downtimes depending on systems being upgraded.

State Reporting

1. Contractor will perform data review to ensure data from County's software meets requirements for electronic submission to State.
2. Contractor will edit, create, and submit following electronic files on behalf of County:
 - a. California Outcomes Measurement System (CalOMS)
 - b. Client and Service Information (CSI)
 - c. Child and Adolescent Needs and Strengths (CANS)
 - d. Pediatric Symptom Checklist (PSC 35)
 - e. Adult Outcome Report – TBD
3. In the event new electronic reporting requirements are requested by State, during term of agreement, Contractor will review feasibility of submission and develop process to upload to appropriate agency. County agrees any additional fees will be included as an amendment to current agreement.
4. Network Adequacy Certification Tool (NACT) County will be solely responsible for the gathering of required documents. Contractor will upload and/or assist County as mutually agreed to meet reporting requirements.

B. Health Information Analytics / Dashboards

Basic Dashboards Included:

1. Contractor supports (as defined in this scope of work) the following dashboards and analytic tools associated with the areas of interest to County:
 - Productivity
 - Case Assignments
 - PHQ9/GAD7 or similar outcome measure
 - Timeliness of Service – First Contact
 - CANS50
 - Claims – Pay Source
 - Client Demographics
 - Appointment Type
 - MHSA Highlights
 - 180 Day Report
 - Security Audit Report

County may request additional analytic dashboards, which are a part of our library and similarly priced from Contractor in place of listed dashboards. Additional fee may apply for unique dashboards specific to County or local providers not applicable to other sites based on scope and complexity of dashboard.

2. Contractor will provide consultative services to County concerning dashboards, design, functionality, and any specific customizations.
3. Contractor will provide consultative services to County developing custom dashboards, which may not be part of Contractor's current library. Any custom dashboards created become a part of Contractor's library of dashboards available to all customers.
4. Contractor will monitor and maintain dashboards utilized by County.
5. Contractor will modify and enhance dashboards as needed to incorporate new functionality or meet State and Federal requirements as mutually agreed to by Contractor and County prior to any upgrade. County maintains the right not to include the proposed changes or functionality into their dashboards.
6. Contractor will refresh all dashboards periodically, as mutually agreed by Contractor and County.
7. Contractor will monitor and maintain Tableau server licenses for County and provide access to Tableau reader utilized by dashboard applications.
8. Contractor will provide quarterly reports to County related to data trends and

anomalies of dashboards.

9. Contractor will provide training and support to County program staff for using various dashboards and analytic tools developed for County.
10. Contractor will develop and support additional dashboards as requested by County for additional fees based on complexity of dashboard and data extraction methodologies.
11. Contractor will develop temporary dashboards for Performance Improvement Projects (PIPs). Dashboards, which County wishes to be permanent, will be subject to item 10.

C. Quality Improvement (QI) Services

Contractor will work with County to assist with quality performance in the areas of clinical care and consumer service through the County's Quality Management Program.

Contractor will be available for assisting County with following services:

1. Outcomes Measurement and Reporting
 - a. Measurement assist with selection of effectiveness tools such as but not limited to Patient Health Questionnaire (PHQ9), Burns Anxiety and Depression, Child and Adolescent Needs and Strengths (CANS), Level of care Utilization System (LOCUS), etc.
 - b. Develop extracts and reporting to assist County's compliance and performance monitoring functions.
 - c. Develop Specific, Measurable, Achievable, Relevant, and Time-Bound (SMART) goals.
2. Assist in development of client satisfaction tools for measurement with effectiveness, accessibility, efficiency, and overall satisfaction of services.
3. Utilization Review/ Management (UR)
 - a. Assist with implementation of audit tool.
 - b. Consultation around reviews or train staff on the review process.
 - c. Data analysis and reporting of results for assisting County's compliance and performance improvement.
 - d. Medi-Cal documentation trainings for clinicians and case managers.

4. Performance Improvement Projects (PIPs) Consultation
 - a. Assist with identifying clinical and non-clinical PIPs.
 - b. Develop project charters for management of roles and responsibilities and timelines.
 - c. Work with multi-disciplinary teams to define scope and interventions.
 - d. Assist with development of the data collection and reporting (baseline data and performance data)
5. At County's request, assist/review QI policy and procedures.

D. Credible Electronic Health Record System

Credible Electronic Health Record System (EHRS) shall provide, but not be limited to, the following:

- 310 Named Users, up to 200 Concurrent users
- Clinician Homepage
- Doctors Homepage
- Client Demographics/Services/Billing
- Real Time Eligibility
- Clinical Documentation and Progress Notes
- Assessments and Treatment Planning
- Inpatient
- Mobile
- Client Portal
- Compliance and Audit Management
- Messaging/Alerts/Texting
- State Reporting
- eRx with Controlled Substances
- eLabs
- Electronic Medication Administration (eMAR)
- Health Information Exchange Functionality (HIE)

Credible Implementation

- Project Management
- Training
- System Configuration
- Data Conversion and Validation
- Weekly calls/webinars

- System Acceptance
- Go-Live Support

Implementation start date and timeline to be mutually agreed upon between County and Contractor.

E. Credible Electronic Health Record System-Software as a Service (Saas)

- Core monthly user fees – 310 named users / 200 concurrent maximum
- Monthly e-prescribing with Electronic Prescribing of Controlled Substances (EPCS)
- Monthly eLabs
- Monthly client engagement (messaging/texting)
- Monthly inpatient
- Monthly mobile
- Diagnostic and Statistical Manual of Mental Disorders (DSM–5)
- Monthly Real-Time Eligibility
- Hosting secured/redundant/24-7 access

First Monthly Fee due June 1, 2022, 30 days prior to July 1, 2022 go-live Credible EHRS.

F. Physician Review Treatment Authorization Request Services

Contractor shall provide physician advisor reviews and first level appeal reviews for inpatient psychiatric Treatment Authorization Requests (TARs) received from County when County Licensed Practitioners of the Healing Arts (LPHA) staff question that medical necessity has been met and documented per California Code of Regulations (CCR), Title IX, Section 1820.205 (Medical necessity criteria for reimbursement of psychiatric inpatient hospital services), Section 1820.220 (Mental Health Plan (MHP)) payment authorization by a point of authorization), Code of Federal Regulations, Section 438.210 (coverage and authorization of services), and DHCS standards.

Contractor shall provide such reviews in accordance with the following guidelines.

1. Procedure

- a. County shall provide an encrypted electronic copy of the TAR audit tool” to be completed by a County LPHA when a County LPHA is not able to authorize reimbursement due to questionable medical necessity documentation. In the event County is not able to submit an electronic copy, a hard copy of the TAR shall be submitted to Contractor.
- b. All adverse decisions regarding provider requests for payment authorization based on medical necessity criteria or emergency medical condition shall

be reviewed and approved by a physician, per Title IX, Section 1777(f)(1).

- c. Per CCR Title IX regulations, County must make all adverse decisions regarding provider requests for payment authorization based on medical necessity criteria or emergency medical conditions within fourteen (14) days of receipt of TAR from provider. County shall provide TAR and audit tool to Contractor as expeditiously as possible following receipt of TAR from provider. Contractor shall review and return TAR, signed by physician, to County within five (5) business days of receiving TAR from County. In the event that five (5) business days extends the review period past fourteen (14) days of receipt of TAR, Contractor shall attempt to complete the review so the fourteen (14) day timeline can be met.

2. Documentation Requirements for Determination of Approval or Denial

In determining whether a TAR shall be approved or denied, for both acute inpatient psychiatric services and administrative day services, Contractor shall consider the following:

- a. Documentation must establish an included diagnosis provided in CCR Title IX, Section 1820.205(a)(1)(A) through (R). Diagnosis must be supported by symptoms and behaviors.
- b. Documentation must establish that the hospitalized individual could not have been safely treated at a lower level of care.
- c. Documentation must establish that, as the result of a covered diagnosis, acute psychiatric hospitalization was required for one of the reasons provided in CCR Title IX, Sections 1820.205(a)(2)(B)1.a through 1820.205(a)(2)(B)1.d, 1820.205(a)(2)(B)2.a. through 1820.205(a)(2)(B)2.c.
- d. Documentation for hospitalized individuals meeting the criteria for danger to self, danger to others, or danger to property must include the individual's intent or a specific plan.
- e. Documentation for hospitalized individuals meeting criteria for grave disability must indicate whether the individual is able to utilize food, clothing, and shelter that is provided.
- f. Documentation must establish that, as a direct result of a covered diagnosis, the hospitalized individual has symptoms or behaviors that present a severe risk to the individual's health.
- g. Documentation must establish that additional evaluation was needed that could not have been provided at a lower level of care.

- h. Documentation must establish that the hospitalized individual required medication that could not have been provided at a lower level of care.
- i. Documentation must reflect daily symptoms and behaviors.
- j. Documentation must be legible.

3. Timelines

- a. In the event a provider disagrees with an adverse decision and submits a first level appeal to County, County shall provide Contractor with the appeal within ninety (90) days of receipt from provider. Contractor shall review and provide a decision within sixty (60) days of receipt of appeal from County. A physician other than the one completing the initial Physician Advisor review shall make a first level appeal decision.
- b. Contractor shall complete a physician advisor review, on average, within two (2) hours per TAR. Documentation shall be provided supporting the decision to approve or deny payment authorization for a day of service based on medical necessity criteria or emergency medical condition.
- c. Contractor shall complete first level appeals, on average, within one (1) hour per TAR. Documentation shall be provided supporting the decision to approve or deny the appeal.

4. Performance Measures

- a. One hundred percent (100%) of all physician advisor TAR reviews shall be returned to County within five (5) business days of receipt unless County has requested an expedited review with a specific period for review and return.
- b. One hundred percent (100%) of all first level appeals shall be returned to County within forty-five (45) days of receipt.
- c. Ninety percent (90%) of all Physician Advisor TAR reviews shall be completed within two (2) hours.
- d. Ninety percent (90%) of all first level appeals shall be completed within one (1) hour.
- e. The chart and signed decision letter must be returned within seventy-two (72) hours of signature, or by the fourteen (14) day deadline for TAR submission to Medi-Cal, whichever is sooner.
- f. Contractor shall meet with Department staff at minimum once per quarter,

either in person or via telephone, not to exceed sixteen (16) hours annually.

- g. Contractor shall meet with Department staff for training on specific subject matters on an as-needed basis during the term of this agreement.

Exhibit E – HIPAA Business Associate Addendum

This Health Insurance Portability Accountability Act (hereafter referred to as “HIPAA”) Business Associate Addendum supplements and is made a part of the parties underlying Agreement by and between the County and the Contractor (referred to hereafter as “Business Associate”).

I. Recitals – STANDARD RISK

1. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (“HIPAA”) and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations.”).
2. The County of Merced (“County”) wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information (“PHI”).
3. “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health and dental care to an individual, or the past, present, or future payment for the provision of health and dental care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall have the meaning given to such term under HIPAA and HIPAA regulations, as the same may be amended from time to time.
4. “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI, or confidential data that is essential to the ongoing operation of the Business Associate’s organization and intended for internal use; or interference with system operations in an information system.
5. As set forth in this Agreement, “Contractor,” here and after, is the Business Associate of County that provides services, arranges, performs or assists in the performance of functions or activities on behalf of County and creates, receives, maintains, transmits, uses or discloses PHI.
6. County and Business Associate desire to protect the privacy and provide for the security of PHI created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, in compliance with HIPAA and HIPAA regulations and other applicable laws.
7. The purpose of the Addendum is to satisfy certain standards and requirements of HIPAA and the HIPAA regulations.

8. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms in the HIPAA regulations.

II. In exchanging information pursuant to this Agreement, the parties agree as follows:

1. Permitted Uses and Disclosures of PHI by Business Associate

A. **Permitted Uses and Disclosures.** Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of County, provided that such use or disclosure would not violate the HIPAA regulations, if done by County.

B. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Addendum, Business Associate may:

1) **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will 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 the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

2) **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to County. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of County with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of County.

2. Responsibilities of Business Associate

Business Associate agrees:

A. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.

B. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of County; and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall develop and maintain

a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of section C, Security, below. Business Associate will provide County with its current and updated policies.

C. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI, and provide data security procedures for the use of County at the end of the contract period. These steps shall include, at a minimum:

- 1) Complying with all of the data system security precautions listed in this Agreement or in an Exhibit incorporated into this Agreement; and
- 2) Complying with the safeguard provisions in the County Information Security Policies or requirements set forth in State or Federal guidelines applicable. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of this Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with County.

D. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.

E. **Business Associate's Agents.** To ensure that any agents, including subcontractors, to whom Business Associate provides PHI received from or created or received by Business Associate on behalf of County, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including implementation of reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI; and to incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or subaward to such agents or subcontractors.

F. **Availability of Information to County and Individuals.** To provide access as County may require, and in the time and manner designated by County (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to County (or, as directed by County), to an Individual, in accordance with 45 CFR Section §164.524. Designated Record Set means the

group of records maintained for County that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for County health plans; or those records used to make decisions about individuals on behalf of County. Business Associate shall use the forms and processes developed by County for this purpose and shall respond to requests for access to records transmitted by County within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

- G. **Amendment of PHI.** To make any amendment(s) to PHI that County directs or agrees to pursuant to 45 CFR Section §164.526, in the time and manner designated by County.
- H. **Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from County, or created or received by Business Associate on behalf of County, available to County or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by County or by the Secretary, for purposes of determining County compliance with the HIPAA regulations.
- I. **Documentation of Disclosures.** To document and make available to County or (at the direction of County to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with 45 CFR §164.528.
- J. **Notification of Breach.** During the term of this Agreement:
- 1) **Discovery of Breach.** To notify County **immediately by telephone call plus email or fax** upon the discovery of breach of security of PHI in computerized form if the PHI was, or is reasonably believed to have been, acquired by an unauthorized person, or **within 24 hours by email or fax** of any suspected security incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the County Compliance Manager. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notification shall be provided using the "Privacy Incident Reporting Form" located at the following web address:

<https://www.dhcs.ca.gov/formsandpubs/laws/priv/Documents/Privacy-Incident-Report-PIR.pdf>
- Business Associate shall take:
- i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and

- ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- 2) **Investigation of Breach.** To immediately investigate such security incident, breach, or unauthorized use or disclosure of PHI or confidential data. Within 24 hours of the discovery, to notify the County Compliance Manager of:
- i. What data elements were involved and the extent of the data involved in the breach,
 - ii. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data,
 - iii. A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized, and
 - iv. A description of the probable causes of the improper use or disclosure;
- 3) **Written Report.** To provide a written report of the investigation to the County Compliance Manager within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.
- 4) **Notification of Individuals.** To notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and to pay any costs of such notifications, as well as any costs associated with the breach. The County Compliance Manager shall approve the time, manner and content of any such notifications.
- 5) **County Contact Information.** To direct communications to the above referenced County staff, the Contractor shall initiate contact as indicated herein County reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Agreement or Addendum.

County Alicia Tacata
Compliance Manager P.O. Box 2087 Merced, CA 95344 Alicia.Tacata@Countyofmerced.com (209) 381-6818

K. **Employee Training and Discipline.** To train and use reasonable measures to ensure compliance with the requirements of this Addendum by employees who assist in the performance of functions or activities on behalf of County under this Agreement and use or disclose PHI; and discipline such employees who intentionally violate any provisions of this Addendum, including by termination of employment. In complying with the provisions of this section K, Business Associate shall observe the following requirements:

- 1) Business Associate shall provide information privacy and security training, at least annually, at its own expense, to all its employees who assist in the performance of functions or activities on behalf of County under this Agreement and use or disclose PHI.
- 2) Business Associate shall require each employee who receives information privacy and security training to sign a certification, indicating the employee's name and the date on which the training was completed.
- 3) Business Associate shall retain each employee's written certifications for County inspection for a period of three years following contract termination.

3. Obligations of County

County agrees to:

- A. **Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that County produces in accordance with 45 CFR §164.520, as well as any changes to such notice.
- B. **Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.
- C. **Notification of Restrictions.** Notify the Business Associate of any restriction to the use or disclosure of PHI that County has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. **Notification of Patient Confidential Communications.** Notify the Business Associate of any patient (or patient's representative) preferences (or changes to) regarding method of or how to communicate with the patient.
- E. **Requests Conflicting with HIPAA Rules.** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by County.

4. Audits, Inspection and Enforcement

From time to time, County may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the County Compliance Manager in writing. The fact that County inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does County:

- A. Failure to detect; or
- B. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of County enforcement rights under this Agreement and this Addendum.

5. Termination

- A. **Termination for Cause.** Upon County knowledge of a material breach of this Addendum by Business Associate, County shall:
 - 1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by County;
 - 2) Immediately terminate this Agreement if Business Associate has breached a material term of this Addendum and cure is not possible; or
 - 3) If neither cure nor termination is feasible, report the violation to the Secretary of the U.S. Department of Health and Human Services.
- B. **Judicial or Administrative Proceedings.** Business Associate will notify County if it is named as a defendant in a criminal proceeding for a violation of HIPAA. County may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. County may terminate this Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.
- C. **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, Business Associate shall return or destroy all PHI received from County (or created or received by Business Associate on behalf of County that Business Associate still maintains in any form, and shall retain no copies of such PHI or, if return or destruction is not feasible, shall continue to extend the protections of this Addendum to such information, and shall limit further use of such PHI to those

purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

6. Miscellaneous Provisions

- A. **Disclaimer.** County makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- B. **Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon County request, Business Associate agrees to promptly enter into negotiations with County concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA regulations or other applicable laws. County May Terminate This Agreement Upon Thirty (30) Days Written Notice In The Event:
- 1) Business Associate does not promptly enter into negotiations to amend this Addendum when requested by County pursuant to this Section, or
 - 2) Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that County in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to County at no cost to County to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against County, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- D. **No Third-Party Beneficiaries.** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer,

upon any person other than County or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

- E. **Interpretation.** The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.
- F. **Regulatory References.** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.
- G. **Survival.** The respective rights and obligations of Business Associate under Section 6.C of this Addendum shall survive the termination or expiration of this Agreement.
- H. **No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

7. Business Associate Data Security Requirements

A. Personnel Controls

- 1) **Employee Training.** All workforce members who assist in the performance of functions or activities on behalf of County, or access or disclose County PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- 2) **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- 3) **Confidentiality Statement.** All persons that will be working with County PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to County PHI or PI. The statement must be renewed annually. The

Contractor shall retain each person's written confidentiality statement for County inspection for a period of six (6) years following contract termination.

- 4) **Background Check.** Before a member of the workforce may access County PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

B. **Technical Security Controls**

- 1) **Workstation/Laptop encryption.** All workstations and laptops that process and/or store County PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the County Information Security Office.
- 2) **Server Security.** Servers containing unencrypted County PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- 3) **Minimum Necessary.** Only the minimum necessary amount of County PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- 4) **Removable media devices.** All electronic files that contain County PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- 5) **Antivirus software.** All workstations, laptops and other systems that process and/or store County PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- 6) **Patch Management.** All workstations, laptops and other systems that process and/or store County PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- 7) **User IDs and Password Controls.** All users must be issued a unique username for accessing County PHI or PI. Username must be promptly

disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- i. Upper case letters (A-Z)
 - ii. Lower case letters (a-z)
 - iii. Arabic numerals (0-9)
 - iv. Non-alphanumeric characters (punctuation symbols)
- 8) **Data Destruction.** When no longer needed, all County PHI or PI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PHI or PI cannot be retrieved.
- 9) **System Timeout.** The system providing access to County PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- 10) **Warning Banners.** All systems providing access to County PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- 11) **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for County PHI or PI, or which alters County PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If County PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- 12) **Access Controls.** The system providing access to County PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.
- 13) **Transmission encryption.** All data transmissions of County PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.

- 14) **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting County PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

C. **Audit Controls**

- 1) **System Security Review.** All systems processing and/or storing County PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- 2) **Log Reviews.** All systems processing and/or storing County PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
- 3) **Change Control.** All systems processing and/or storing County PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

D. **Business Continuity / Disaster Recovery Controls**

- 1) **Emergency Mode Operation Plan.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic County PHI or PI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.
- 2) **Data Backup Plan.** Contractor must have established documented procedures to backup County PHI to maintain retrievable exact copies of County PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore County PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of County data.

E. **Paper Document Controls**

- 1) **Supervision of Data.** County PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. County PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

- 2) **Escorting Visitors.** Visitors to areas where County PHI or PI is contained shall be escorted and County PHI or PI shall be kept out of sight while visitors are in the area.
- 3) **Confidential Destruction.** County PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- 4) **Removal of Data.** County PHI or PI must not be removed from the premises of the Contractor except with express written permission of County.
- 5) **Faxing.** Faxes containing County PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- 6) **Mailing.** Mailings of County PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of County PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of County to use another method is obtained.

Exhibit G
Disclosure of Ownership & Controlling Interest Statement

The County of Merced Department of Behavioral Health and Recovery Services is required to collect Disclosure of Ownership & Controlling Interest Statements, and management information from providers that are credentialed or otherwise enrolled to participate in the Medicaid program and/or Medi-Cal service delivery system. This requirement is pursuant to the County's Mental Health Plan (MHP) with the California Department of Health Care Services (DHCS), federal regulations set forth in 42 CFR Part §455.101, and §455.104-106, Medicaid Managed Specialty Supports and Services Concurrent 1915(b)(c) Waiver Programs, and the Social Security Act, Sections 1128(a), 1128(b)(1)(2), and (3).

Required information includes:

- 1) the identity of all owners and others with a controlling interest of 5% or greater;
- 2) certain business transactions as described in 42 CFR §455.105;
- 3) the identity of managers and others in a position of influence or authority; and
- 4) criminal convictions, sanctions, exclusions, debarment or termination information for the provider, owners or managers.

The information required includes, but is not limited to, name, address, date of birth, social security number (SSN) and tax identification (TIN).

Completion and submission of this Statement is a condition of participating as a credentialed or enrolled provider in the DMH Network for services to members under Medicaid Managed Specialty Supports and Services Concurrent 1915(b)(c) Waiver Program. Failure to submit the requested information may result in disenrollment in the MHP Provider Network or denial of claims.

This statement should be submitted at any of the following times:

- Upon the submission of an application;
- Prior to an execution of an agreement / contract;
- During re-credentialing or re-contracting;
- Within 35 days after any change in ownership of the provider entity.
- Upon request by MHP.
- A Statement must be provided to the MHP within 35 days of a request for information by the US Department of Health and Human Services (HHS) or DHCS.

MHP maintains policies and practices that protect the confidentiality of personal information, including Social Security numbers, obtained from its providers and associates in the course of its regular business functions. MHP is committed to protecting information about its providers and associates, especially the confidential nature of their personal information.

All Disclosure of Ownership & Controlling Interest Statements can be submitted to:

County of Merced, Behavioral Health and Recovery Services
Contract Monitoring Unit
PO BOX 2087
Merced, CA 95344

INSTRUCTIONS FOR COMPLETING DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT

A full and accurate disclosure of ownership and financial interest is required. Failure to submit requested information may result in a refusal by the Merced County Department of Mental Health and Alcohol and Drug Services (MHP) to enter into an agreement or contract with any such institution or in termination of existing agreements.

General Instructions

Please answer all questions as of the current date. If the yes block for any item is checked, list requested additional information under the Remarks section on page 2, referencing the item number to be continued. If additional space is needed use an attached sheet. Return the original and second and third copies to the State agency; retain the first copy for your files. This form is to be completed annually. Any substantial delay in completing the form should be reported to the State survey agency.

Detailed Instructions

These instructions are designed to clarify certain questions on the form. Instructions are listed in question order for easy reference. No instructions have been given for questions considered self-explanatory. IT IS ESSENTIAL THAT ALL APPLICABLE QUESTIONS BE ANSWERED ACCURATELY AND THAT ALL INFORMATION BE CURRENT.

Item I - Under identifying information specify in what capacity the entity is doing business as (DBA), example, trade name or corporation.

Item II - Answer the following questions by checking "Yes" or "No." If any of the questions are answered "Yes", list names and addresses of individuals or corporations under Remarks on page 2. Identify each item number to be continued.

Item III - List the names of all individuals and organizations having direct or indirect ownership interests, or controlling interest separately or in combination amounting to an ownership interest of 5 percent or more in the disclosing entity. Direct ownership interest is defined as the possession of stock, equity in capital or any interest in the profits of the disclosing entity. A disclosing entity is defined as a Medicare provider or supplier, or other entity that furnishes services or arranges for furnishing services under Medicaid or the Maternal and Child Health program, or health related services under the social services program. Indirect ownership interest is defined as ownership interest in an entity that has direct or indirect ownership interest in the disclosing entity. The amount of indirect ownership in the disclosing entity that is held by any other entity is determined by multiplying the percentage of ownership interest at each level. An indirect ownership interest must be reported if it equates to an ownership interest of 5 percent or more in the disclosing entity. Example: if A owns 10 percent of the stock in a corporation that owns 80 percent of the stock of the disclosing entity, A's interest equates to an 8 percent indirect ownership and must be reported.

Controlling interest is defined as the operational direction or management of a disclosing entity which may be maintained by any or all of the following devices: the ability or authority, expressed or reserved, to amend or change the corporate identity (i.e., joint venture agreement, unincorporated business status) of the disclosing entity; the ability or authority to nominate or name members of the Board of Directors or Trustees of the disclosing entity; the ability or authority, expressed or reserved, to amend or change the by-laws, constitution, or other operating or management direction of the disclosing entity; the right to control any or all of the assets or other property of the disclosing entity upon the sale or dissolution of that entity; the ability or authority, expressed or reserved, to control the sale of any or all of the assets, to encumber such assets by way of mortgage or other indebtedness, to dissolve the entity, or to arrange for the sale or transfer of the disclosing entity to new ownership or control.

Items IV – VII - Changes in Provider Status

Change in provider status is defined as any change in management control. Examples of such changes would include: a change in Medical or Nursing Director, a new Administrator, contracting the operation of the facility to a management corporation, a change in the composition of the owning partnership which under applicable State law is not considered a change in ownership, or the hiring or dismissing of any employees with 5 percent or more financial interest in the facility or in an owning corporation, or any change of ownership. For Items IV – VII, if the yes box is checked, list additional information requested under Remarks. Clearly identify which item is being continued.

Item IV - (a & b) If there has been a change in ownership within the last year or if you anticipate a change, indicate the date in the appropriate space.

Item V - A management company is defined as any organization that operates and manages a business on behalf of the owner of that business, with the owner retaining ultimate legal responsibility for operation of the facility. If the answer is "yes", list name of the management firm and employer identification number (EIN), or the name of the leasing organization.

Item VI - If the answer is yes, identify which has changed (Administrator, Medical Director, or Director of Nursing) and the date the change was made. Be sure to include name of the new Administrator, Director of Nursing or Medical Director, as appropriate.

Item VII - A chain affiliate is any free-standing health care facility that is either owned, controlled, or operated under lease or contract by an organization consisting of two or more free-standing health care facilities organized within or across State lines which is under the ownership or through any other device, control and direction of a common party. Chain affiliates include such facilities whether public, private, charitable or proprietary. They also include subsidiary organizations and holding corporations. Provider-based facilities, such as hospital-based home health agencies, are not considered to be chain affiliates.

DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT

I. Identifying Information

(a) Name of Entity	D/B/A	Provider No.	Telephone No.
Street Address	City, County, State		Zip Code

II. Answer the following questions by checking "Yes" or "No." If any of the questions are answered "Yes," list names and addresses of individuals or corporations under Remarks on page 2. Identify each item number to be continued.

(a) Are there any individuals or organizations having a direct or indirect ownership or control interest of 5 percent or more in the institution, organizations, or agency that have been convicted of a criminal offense?

┘ Yes No

(b) Are there any directors, officers, agents, or managing employees of the institution, agency or organization who have ever been convicted of a criminal offense?

┘ Yes No

(c) Are there any individuals currently employed by the institution, agency, or organization in a managerial, accounting, auditing, or similar capacity who were employed by the institution's, organization's, or agency's fiscal intermediary or carrier within the previous 12 months?

┘ Yes No

III. (a) List names, addresses for individuals, or the EIN for organizations having direct or indirect ownership or a controlling interest in the entity. (See instructions for definition of ownership and controlling interest.) List any additional names and addresses under "Remarks" on page 2. If more than one individual is reported and any of these persons are related to each other, this must be reported under Remarks.

Name	Address	EIN

(b) Type of Entity: Sole Proprietorship Partnership Corporation
 Unincorporated Associations Other (Specify)

(c) If the disclosing entity is a corporation, list names, addresses of the Directors, and EINs for corporations under Remarks.

Check appropriate box for each of the following questions:

(d) Are any owners of the disclosing entity also owners of other Medicare/Medicaid facilities? (Example: sole proprietor, partnership or members of Board of Directors.) If yes, list names, addresses of individuals and provider numbers.

┘ Yes
 No

Name	Address	Provider Number

IV. (a) Has there been a change in ownership or control within the last year?

If yes, give date _____

Yes No

(b) Do you anticipate any change of ownership or control with the year?

If yes, when? _____

Yes No

(c) Do you anticipate filing for bankruptcy within the year?

If yes, when? _____

Yes No

V. Is this facility operated by a management company, or leased in whole or part by another organization?

If yes, give date of change in operations? _____

Yes No

VI. Has there been a change in Administrator, Director of Nursing, or Medical Director with the last year?

Yes No

VII. (a) Is this facility chain affiliated? If yes, list name, address of Corporation, and EIN)

Name

EIN #

Yes No

Address

VII. (b) If the answer to Question VII.(a) is No, was the facility ever affiliated with a chain? (If yes, list Name, Address of Corporation, and EIN)

Name

EIN #

Yes No

Address

WHOEVER KNOWINGLY AND WILLFULLY MAKES OR CAUSES TO BE MADE A FALSE STATEMENT OR REPRESENTATION OF THIS STATEMENT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS. IN ADDITION, KNOWINGLY AND WILLFULLY FAILING TO FULLY AND ACCURATELY DISCLOSE THE INFORMATION REQUESTED MAY RESULT IN DENIAL OF A REQUEST TO PARTICIPATE OR WHERE THE ENTITY ALREADY PARTICIPATES, A TERMINATION OF ITS AGREEMENT OR CONTRACT WITH THE STATE AGENCY OR THE SECRETARY, AS APPROPRIATE.

Name of Authorized Representative (Typed)

Title

Signature

Date

Submit form to: Merced County Behavioral Health and Recovery Services

Contracts Monitoring Unit

PO BOX 2087

Merced, CA 95344

Remarks