

**MEMORANDUM OF UNDERSTANDING BY AND BETWEEN COUNTY OF YOLO AND
DAVIS JOINT UNIFIED SCHOOL DISTRICT FOR FISCAL YEAR 2020/21-2021/22**

I. PARTIES.

This Memorandum of Understanding (“MOU”) is entered into by and between the County of Yolo, a political subdivision of the State of California, (“County” or “HHSA”) and Davis Joint Unified School District (“District”), collectively referred to as the Parties (“the Parties”).

II. PURPOSE.

A. The purpose of this MOU is to formalize a partnership that will allow the County to provide on-site behavioral health services to enrolled District students.

B. The purpose of this MOU is to formally establish an integrative and reciprocal County and District referral, engagement, and collaborative service delivery structure for existing students and students referred by the County who are enrolled within the District.

III. TERM.

A. This MOU shall become effective upon the date of execution by both Parties, and the initial term shall be March 1, 2021 through June 30, 2022.

B. Upon mutual written agreement of the Parties, this MOU may be extended upon the same terms and conditions for up to two (2) additional twelve (12) month periods.

IV. MUTUAL OBJECTIVES.

A. The Parties have collaboratively determined that the provision of behavioral health services through a community-based behavioral health services provider(s) (“Contractor” or “Contractors”) would improve the mental health and overall well-being of District students.

B. The Parties agree to coordinate behavioral health services in a client-centered, culturally- and linguistically-competent manner to improve the health and well-being of District students. As part of the program, the County will contract with a Contractor(s) who will offer school-based behavioral health services for students (with a sensitivity to providing services in the threshold languages of Yolo County of Spanish and Russian), and will include all contractor services as set forth in this MOU.

V. CONTRACTOR SERVICES.

A. The Parties shall collaborate to select community-based behavioral health services provider(s) [“Contractor(s)”] to provide the following services:

- 1.** Behavioral health services will be provided to students at school sites during regular school hours, as is appropriate to the needs of the children and youth being served. Specifics to be negotiated and agreed upon by the District, County, and Contractor(s) in writing.

B. Contractor services for District students (collectively “services”) shall be as follows:

- 1.** Behavioral Health Services

- a.** Tier-based services that align with the Multi-Tiered Systems of Support (MTSS) model:

- a. Tier 1 (Universal Prevention): Schoolwide outreach and educational efforts for students, families, and school staff that promote awareness regarding mental health issues, to reduce stigma around mental health, and increase family and staff ability to respond appropriately to student needs.
- b. Tier 2 (Secondary Prevention/Strategic Intervention): Short-term interventions provided to students individually and/or in small group settings designed to decrease mental health symptoms and build protective factors. Services will also include expedited linkages to appropriate longer term and/or more intensive behavioral health services for those in need, in order to prevent mental health issues from becoming severe and disabling.
- c. Tier 3 (Intensive Intervention): Intensive, individualized support for students identified as having significant behavioral health challenges that interfere with social and/or educational functioning. These services will include intensive behavioral health interventions, referrals to long-term behavioral health programs, and intensive care coordination that is delivered within the context of a multidisciplinary team.

VI. DISTRICT RESPONSIBILITIES.

- A. Participate in the review of the Request for Proposal and the County's selection process for soliciting a program and hiring a Contractor.
- B. Participate in establishing metrics to be used in evaluating program performance.
- C. Attend ongoing collaborative implementation and program meetings with the purpose of providing ongoing program evaluation and guidance.
- D. Provide space on District campuses for the provision of behavioral health services by Contractor(s).
- E. Ensure that the District is consistently represented in the Steering Committee, Project Implementation Workgroup, and Partnership Regional Committees of the Yolo County-School Partnership.

VII. HHSA RESPONSIBILITIES.

- A. Prepare and release the Request for Proposal and the Contractor selection process soliciting a Contractor(s).
- B. Develop contract with selected Contractor(s) and handle all aspects of claims processing related to the Services. Contract shall include County being fully responsible for all compensation or other payments due to the Contractor and ensuring Contractor appropriately performs the Services set forth in this MOU.
- C. Establish metrics to be used in evaluating program performance. District will assist with the evaluation process to gauge the quality of Services provided and assessment of need as identified by students, staff and faculty. Any executed Contracts shall require Contractor(s) to keep count of students served, number of appointments and types of services provided.
- D. Inform and educate District regarding county and community-based services.
- E. Create a pipeline for County to District and District to County supports and resources.
- F. Create referral structures to assist eligible families to connect to County services such as Medi-Cal, CalWORKs, and/or other programs to support students and their families.

G. Attend ongoing collaborative implementation and program meetings with the purpose of providing ongoing program evaluation and guidance.

H. Ensure that the County is consistently represented in the Steering Committee, Project Implementation Workgroup, and Partnership Regional Committees of the Yolo County-School Partnership.

X. REPORTS.

A. District requests County and/or Contractor(s) collects the following information.

1. Quantitative Data

- a.** Number of students served
- b.** Services disaggregated by presenting issues and demographics – age, gender, ethnicity, insurance coverage, zip code.
- c.** Service Utilization
- d.** Referrals made to county-based supports

XI. STUDENT PATIENT RECORDS.

Student Patient Records will be prepared and maintained by the District, County, and Contractor(s) in compliance with all applicable Federal and State law, rules, and regulations, including, but not limited to, the Family Educational Rights and Privacy Act (FERPA) and related duties to protect personally identifiable information (PII) in education records from unauthorized disclosure, as further detailed below.

XII. OTHER RECORDS.

Both Parties shall retain and make available for review by the other and its designees all records, documents, and general correspondence relating to this MOU and the Services required hereunder for a period of not less than ten (10) years after receipt of final payment or until all pending audits and proceedings are completed, whichever is later. Both Parties shall make such records available for inspection and copying by the other and its designees at any reasonable time. Notice shall be provided to the other party at least thirty (30) calendar days prior to any destruction of these records following the ten (10) years. Upon such notification, the other Party shall either agree to the destruction or authorize the records to be forwarded for further retention.

XIII. CONFIDENTIALITY.

A. County understands and acknowledges that it, the Contractor, or their employees or contractors may have access to private and confidential information in the District's or its students' possession, custody or control, including but not limited to private information regarding students, parents, guardians, faculty, employees, staff, alumni, donors, or other personnel data or information and other District related trade secrets, business plans, and other proprietary information ("Confidential Information"). County and Contractor will not disclose, copy, or modify any Confidential Information without the prior written consent of the District or unless otherwise required by law. County and Contractor will promptly notify the District if it becomes aware of any possible unauthorized disclosure or use of the Confidential Information. The provisions of this section shall survive the termination or expiration of this MOU.

B. Each Party shall comply with, and require its officers, agents, employees, participants, and volunteers to comply with, all applicable laws and regulations regarding the confidentiality of patient information.

C. Each Party shall comply with, and shall ensure that its officers, agents, employees, participants, and volunteers comply with, the applicable Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the HIPAA Omnibus Rule, 45 CFR Parts 160 and 164, and its implementing regulations, and the privacy and security requirements of Exhibit A to this MOU.

D. Medical and health related records are "education records" subject to the Family Educational Rights and Privacy Act of 1974 (FERPA), Title 20 United States Code, section 1232g and Title 34 Code of Federal Regulations Part 99. The Parties agree that they will each maintain the confidentiality of all student records in accordance with FERPA.

E. Each Party shall comply with, and require its officers, agents, employees, participants, and volunteers to comply with, any additional applicable regulations pertaining to confidentiality that the Federal, State or the County shall so specify that do not conflict with State or Federal regulations.

XIV. AUDITS.

The Parties agree to comply with any applicable Federal or State audit requirements including participation in Biennial Drug and Alcohol Awareness Prevention Program Assessment (DAAPP) as required.

XV. CULTURAL AND LINGUISTIC COMPETENCY

A. Cultural and linguistic competence is defined as a set of congruent practice behaviors, attitudes, and policies that come together in a system, agency, or among consumer providers and professionals which enable that system, agency, or those professional and consumer providers to work effectively in cross-cultural situations.

B. The Parties recognize that cultural and linguistic competence is a goal toward which professionals, agencies, and systems should strive. Becoming culturally competent is a developmental process and incorporates at all levels the importance of culture, the assessment of cross-cultural differences, the expansion of cultural knowledge, and the adaptation of services to meet culturally unique needs. Providing services in a culturally and linguistically competent manner is fundamental in any effort to ensure success of high quality and cost-effective services. Offering services in a manner that fails to achieve its intended result due to cultural and linguistic barriers is not cost effective.

C. The Parties shall collaborate to assess the demographic make-up and population trends of its service area to identify the cultural and linguistic needs of the eligible beneficiary population. Such studies are critical to designing and planning for providing appropriate and effective services.

D. The Parties shall collaborate to ensure County and/or Contractor(s) deliver cultural competency trainings on an annual basis to all staff engaged in providing the services contemplated by this MOU. This training shall address the ethnic, cultural, and language needs of District

students and other clients. Trainings can be provided by County on a space available basis or obtained by provider from an independent source(s).

E. The Parties shall implement practices and protocols that are inclusive and responsive to the needs of diverse cultural populations, including Lesbian, Gay, Bisexual, Transgender and Queer/Questioning (LGBTQ) individuals, families and communities.

F. The Parties shall adopt the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care to improve health care quality and advance health equity. Refer to <http://minorityhealth.hhs.gov> (US Department of Health and Human Services Office of Minority Health)

XVI. INDEMNIFICATION.

A. To the furthest extent permitted by law, County shall indemnify and assume the defense and hold harmless the District and its trustees, officers, agents, students and employees from any liability, damages, costs, or expenses of any kind whatsoever, including attorneys' fees, which may arise by reason of the acts, omission, or negligence of the County, the Contractor, or their officers, agents, or employees.

B. To the furthest extent permitted by law, the District shall indemnify and assume the defense and hold harmless the County and its officers, agents, and employees from any liability, damages, costs, or expenses of any kind whatsoever, including attorneys' fees, which may arise by reason of the acts, omission or negligence of the District or its officers, agents, or employees.

C. It is the intent of the Parties where negligence or responsibility for any harm to person(s) or property is determined to have been shared, the principles of comparative negligence shall be followed and each Party shall bear the proportionate cost of any liability, damages, costs, or expenses attributable to that Party.

D. Each Party agrees to notify the other Party of any claims, administrative actions, or civil actions determined to be within the scope of this MOU within ten (10) calendar days of such determination. The Parties further agree to cooperate in the defense of any such actions. Nothing in this MOU shall establish a standard of care for or create any legal right for any person not a party to this MOU.

E. The provisions of this Section shall survive the expiration or termination of this MOU.

XVII. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE.

During the term of this MOU, each Party, at its sole cost and expense, shall carry insurance, or self-insure its activities in connection with this MOU and obtain, keep in force and maintain, insurance or equivalent program of self-insurance for professional liability, general liability, worker's compensation as required under California state law and business automobile liability adequate to cover its potential liabilities hereunder. Upon a Party's request, the other party shall supply a certificate, or certificates, of insurance or self-insurance evidencing coverage.

XVIII. TERMINATION.

A. Any Party may terminate this MOU for any reason with at least thirty (30) days prior written notice to the other Party. When required by law, this MOU may be immediately suspended by any Party upon notice to the other party; any such suspension shall not extend the term of this MOU.

B. Should any Party fail to substantially perform its obligations in accordance with this MOU, the other Party may notify the defaulting party of such default in writing and provide not less than ten (10) days to cure the default. Such notice shall describe the default and shall not be deemed a forfeiture or termination of this MOU. If such default is not cured within said ten (10) day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this MOU upon not less than fifteen (5) days advance written notice.

C. This MOU is subject to the County, the State of California and the United States appropriating and approving sufficient funds for the activities required of the County pursuant to this MOU. If the County's adopted budget and/or its receipts from the State of California and the United States do not contain sufficient funds for this MOU, the County may terminate this MOU by giving ten (10) days advance written notice thereof to District, in which event the County shall have no obligation to contribute to the Program any further funds or provide other consideration.

D. If any party terminates this MOU for any reason, the County shall return to the District any unexpended funds within thirty (30) days of the termination date.

XX. NOTICES.

Any notice required to be given by the terms of this MOU shall be deemed to have been given when the same is personally delivered or sent by first class mail, postage prepaid, addressed to the respective Parties as follows:

To District: Davis Joint Unified School District
Attn: John A. Bowes, Ed.D., Superintendent
526 B Street
Davis, CA 95616

To County: County of Yolo Health and Human Services Agency
Attn: Karen Larsen
137 N. Cottonwood St., Suite 2500
Woodland, CA 95695

XXI. APPLICABLE LAWS.

This MOU will be governed and construed in accordance with the laws of the State of California. In the performance of the services required by this MOU. The Parties shall comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives, and laws. This MOU is also subject to any additional restrictions or conditions that may be imposed upon the County by the Federal or State government.

XXII. LICENSURE.

The Parties shall secure and maintain throughout the term of this MOU all licenses, permits, qualifications and approvals of whatsoever nature that are legally required to perform the services required in this MOU. County shall ensure that any Contractor(s) that receives funding or performs the requirements pursuant to this MOU, also secures and maintains all licenses, permits, qualifications and approvals of whatsoever nature that are legally required to perform any services contemplated by this MOU. County will require Contractor(s) to inform District if unlicensed

employees, agents, contractors, or interns are providing direct service in any capacity. Contractor(s) will provide verification of supervision to unlicensed employees, agents, contractors, or interns.

XXIII. NON-DISCRIMINATION IN SERVICES BENEFITS AND ACCESS.

The Parties shall ensure, and County will require any Contractor(s) to ensure, services pursuant to this MOU are provided without discrimination based on color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability in accordance with all applicable Federal, State and County laws and regulations and any administrative directives established by the County Board of Supervisors or the County Administrative Officer. For the purpose of this MOU, distinctions on the grounds of color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability include but are not limited to the following: denying a participant any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this MOU; subjecting a participant to segregation or separate treatment in any way in the enjoyment or any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; and the assignment of times or places for the provision of services. County will fully cooperate, and will ensure Contractor will fully cooperate with District and comply with all applicable laws and District policies and requirements related to investigations of allegations of discrimination, harassment, and retaliation, including County and Contractor producing their directors, trustees, officers, agents, employees, and contractors for investigative interviews as deemed necessary by District.

XXIV. STATUS OF THE PARTIES.

The relationship between the Parties is that of independent contractors only. Nothing contained in this MOU will be deemed or construed to create any partnership, joint venture or other relationship between them, nor will any of their respective employees be construed or deemed to be agents, employees or representatives of the other.

XXV. ASSIGNMENT AND SUBCONTRACTS.

A. Excepting the contracts with the Contractor(s) contemplated by this MOU, no performance of this MOU or any portion thereof may be assigned or subcontracted without the express mutual consent of the Parties.

B. In the event that the Parties agree to assign or subcontract any portion of this MOU, the Parties further agree to include with all subcontractors in their subcontract the same requirements and provisions of this MOU including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by the Parties must agree to be bound to the Parties in the same manner and to the same extent as the Parties are bound to each other under this MOU. Any subcontractors must further agree to include these same provisions with any sub-subcontractor. The Parties shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in this MOU prior to commencement of any work proof of same must be provided to the Parties.

C. The Parties shall maintain insurance as required by this MOU to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event a party fails ("failing party") to obtain or maintain completed operations coverage as required by this MOU, the other Party at its sole discretion may purchase the coverage required and the cost will be paid by the failing party.

XXVI. WAIVER OF BREACH.

Waiver of breach of any provision of this MOU will not be deemed a waiver of any other breach of the same or different provision.

XXVII. SEVERABILITY.

The invalidity or unenforceability of any term or provision in this MOU will in no way affect the validity or enforceability of any other term or provision of this MOU as a whole, unless the effect of such severance would be to alter substantially the agreement or the obligations of the Parties, in which case this MOU may be immediately terminated.

XXVIII. PUBLIC RECORDS ACT.

Upon its execution, this MOU (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

XXIX. COVENANTS AND CONDITIONS.

Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both.

XXX. CONFLICT OF INTEREST.

A. Both Parties shall comply with the applicable laws and regulations of the State of California and County regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission.

B. Both Parties certify, to the extent of the knowledge of the undersigned and without search as of the Effective Date, that it presently has no interest, which would conflict in any manner or degree with the performance of obligations and responsibilities hereunder. Both Parties further certify, to the extent of the knowledge of the undersigned and without search as of the Effective Date, that in the performance of this MOU no person providing services under this MOU presently has any such interest. This certification shall remain in force until performance is completed of the Services required under this MOU. Nothing in this Agreement shall be construed as limiting the rights to contract with other persons or entities on a limited or general basis.

C. Both Parties agree that if any fact comes to its attention that raises any question as to the applicability of any conflict of interest law or regulation they will promptly inform the other party and reasonably provide all information needed for resolution of the question.

XXXI. THIRD PARTY RIGHTS.

Except where specifically stated otherwise in this document, the promises in this document benefit the Parties only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this MOU, nor do the parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

XXXII. AMENDMENT.

This MOU may be amended only by written instrument signed by the duly authorized representatives of the Parties.

XXXIII. INTEGRATION.

This MOU represents the entire and integrated agreement between the Parties, superseding all prior negotiations, representations, or agreements, either written or oral and shall include Exhibit A, attached hereto and incorporated herein by this reference. In the event of any conflict between any of the provisions of this MOU (including Exhibit A), the provision that requires the highest level of performance shall prevail.

XXXIV. VENUE.

This MOU shall be deemed to be executed within the State of California and construed in accordance with and governed by laws of the State of California. Any action or proceeding arising out of this MOU shall be filed and resolved in a California State Court located in Yolo County, California.


XXXV. REPRESENTATION OF AUTHORITY.

The undersigned hereby represent and warrant that they are authorized by the respective parties to execute this MOU.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU on the date last written below by affixing their signature hereafter.

DAVIS JOINT UNIFIED SCHOOL DISTRICT

COUNTY OF YOLO



John A. Bowes, Ed.D., Superintendent *JBW*
Davis Joint Unified School District

Karen Larsen, Director
Health and Human Services Agency

Date: March 4, 2021

Date: _____, 2021

Approved as to Form:
Philip J. Pogledich, County Counsel

By: _____
Hope P. Welton, Senior Deputy

EXHIBIT A - HIPAA COMPLIANCE

BUSINESS ASSOCIATE & QUALIFIED SERVICE & ORGANIZATION AGREEMENT ADDENDUM

- I. The County and Contractor intend to protect the privacy and provide for the security of protected health information in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the HIPAA Omnibus Rule, Title 45 of the Code of Federal Regulations ("C.F.R.") Parts 160 and 164, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations"), the Federal Confidentiality of Substance Abuse Disorder Patient Records laws and regulations, Title 42 of the United States Code section 290dd-2 and 42 CFR Part 2 ("Part 2 Regulations"), and any other applicable laws.
- II. Contractor has reviewed the Yolo County Health and Human Services Agency (HHS) Behavioral Health Compliance Plan available to the Contractor at website https://www.yolocounty.org/health-human-services/mental-health/behavioral-health-quality-management/-folder-3841#docan1597_10556_7495.
- III. In order to be in compliance with the aforementioned laws and regulations, Contractor and County hereby enter into this Business Associate & Qualified Service Organization Agreement Addendum with is attached to and incorporated into the Agreement.

RECITALS

- A. The purpose of this Business Associate Agreement Addendum ("this Addendum") to comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the HIPAA Omnibus Rule, 45 CFR Parts 160 and 164, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable privacy and security laws, including the Federal Confidentiality of Substance Abuse Disorder Patient Records laws and regulations, 42 USC section 290dd-2 and 42 CFR Part 2.
- B. Definitions. All terms and phrases used, but not otherwise defined in this Addendum, shall have the same meaning as those terms are defined in 45 CFR Parts 160 and 164 and 42 CFR Part 2.
 - (a) Business Associate. "Business Associate" shall mean the party with whom the County of Yolo ("the County") is contracting or Contractor, as referenced above. If applicable, Business Associate may also be a Qualified Service Organization (QSO) as defined by 42 CFR Part 2 sections 2.11 and 2.12.
 - (b) Underlying Agreement. "Underlying Agreement" shall mean the Agreement between the County and the Business Associate, to which this Addendum is attached and incorporated.
 - (c) Covered Entity. "Covered Entity" shall mean the covered components of the County of Yolo hybrid entity which are subject to the standards for privacy and security of 45 CFR, Parts 160 and 164. If applicable, Covered Entity may also be a "federally assisted Part 2 program" as defined by 42 CFR Part 2 sections 2.11 and 2.12.

(d) Protected Health Information. "Protected Health Information" shall have the same meaning as defined in 45 CFR Parts 160 and 164.

(e) Patient Identifying Information. "Patient identifying information" shall have the same meaning as defined in 42 CFR Part 2 section 2.11.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter addressed, the parties agree as follows:

1. Permitted Uses and Disclosures by Business Associate.

Pursuant to the Underlying Agreement Contractor will provide the services delineated in Exhibit A, Scope of Services of the Underlying Agreement as specifically requested by the County that may involve the use and disclosure of protected health information (PHI) or Electronic Protected Health Information (EPHI) related to the treatment and care of clients.

Except as otherwise specified herein, Contractor will be given access to the County's Electronic Health Record and Practice Management System (AVATAR). Such access will be granted to specific individuals by named user accounts/logons and user roles, upon completion of the County's AVATAR Practitioner ID enrollment process. Contractor agrees to abide by all County policies and procedures regarding AVATAR. Contractor may only access Avatar and make use of it in order to perform its obligations under the Underlying Agreement between the parties.

As otherwise limited in this Addendum and the Underlying Agreement, Business Associate may use or disclose PHI and EPHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the law if done by Covered Entity and the use or disclosure of PHI and EPHI is limited to the minimum amount necessary for Business Associate to perform its obligations pursuant to the Underling Agreement.

2. Obligations and Activities of Business Associate.

Business Associate shall:

(a) Not use or disclose PHI or EPHI, other than as permitted or required by this Addendum or as required by law.

(b) Use appropriate safeguards and comply with 45 CFR Part 164 with respect to EPHI, to prevent use or disclosure of PHI or EPHI other than as provided for by this Addendum and the Underlying Agreement.

(c) If a pattern of activity or practice of an agent, including a subcontractor, constitutes a material breach or violation of the requirements of this Addendum and/or the Underlying Agreement, cure the breach or end the violation, as applicable, and if such steps are unsuccessful, terminate the subcontract or other agreement.

(d) Report, as soon as reasonably practicable, and in no event less than 24 hours for security incidents, as defined in 45 CFR §164.304, and 1 hour for breaches of unsecured PHI as defined by Section 164.402 and 164.410 of the HIPAA Regulations, to the County's Privacy Officer, the County's Security Officer, and to the HHSA Behavioral Health Compliance Officer HHSA.BHCompliance@yolocounty.org.

This report will include at least the following information:

- (i) the nature of the non-permitted or violating use or disclosure or Security Incident; and
- (ii) the PHI and EPHI used or disclosed.

This report does not relieve Business Associate of his/her/their continuing obligations under the underlying Agreement or any State or Federal reporting requirements.

(e) Ensure that any agent, including a subcontractor, to whom it provides PHI or EPHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Addendum and the Underlying Agreement to Business Associate with respect to such information.

(f) Provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to PHI and EPHI information in a designated record set, to Covered Entity or, as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR section 164.524.

(g) Make any amendment(s) to PHI and EPHI in a designated record set that the Covered Entity directs or agrees to make pursuant to 45 CFR section 164.526 at the request of Covered Entity or an individual, and in the time and manner designated by Covered Entity.

(h) Make internal practices, books, and records, including policies and procedures and PHI and EPHI, relating to the use and disclosure of PHI and EPHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary (i.e., the Secretary of Health and Human Services [HHS], or to any officer or employee of HHS to the authority involved has been delegated), in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the law.

(i) Document disclosures of PHI and EPHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures in accordance with 45 CFR section 164.528.

(j) Provide to Covered Entity or an individual, in the time and manner designated by Covered Entity, information collected of disclosures of PHI and EPHI, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures in accordance with 45 CFR section 164.528.

(k) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and EPHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity, as required by law. In addition, Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI or EPHI agrees to implement reasonable and appropriate safeguards to protect it.

(l) Ensure that all employees of Business Associate that handle or access PHI or EPHI undergo annual training regarding the safeguarding of PHI and EPHI.

(m) To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of Title 45, Code of Federal Regulations, Part 164, comply

with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.

(n) Business Associate will ensure that any agent, including a subcontractor, to whom it provides PHI or EPHI agrees in a written contract to implement and use administrative, physical and technical safeguards that reasonably protect the integrity and availability of the electronic protected health information.

Business Associates must enter into the written contract before any use or disclosure of PHI or EPHI by such agent or subcontractor. The written contract must identify Yolo County as a direct and intended third party beneficiary, with the right to enforce any breach of the contract concerning the use or disclosure of electronic protected health information. Business Associate will provide a copy of the written contract to the County upon request. The Business Associate Agreement or written contract will include notification of a breach of unsecured PHI as referenced in section 2d., above.

(o) Business Associate will comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under HIPAA, the HITECH Act, HIPAA Regulations, and other applicable privacy and security laws.

(p) To the extent that in performing its services for or on behalf of Covered Entity, Business Associate uses, discloses, maintains, or transmits PHI or EPHI that is patient identifying information protected by 42 USC section 290dd-2 and 42 CFR Part 2 ("Part 2 Regulations") Business Associate acknowledges and agrees that:

(i) that it is a QSO as defined by 42 CFR Part 2 sections 2.11 and 2.12;

(ii) in receiving, storing, processing or otherwise dealing with any such patient records, Business Associate is fully bound by the Part 2 Regulations and Business Associate shall comply in full with those requirements, including the prohibition against redisclosure;

(iii) Business Associate will resist, in judicial proceedings or otherwise, any efforts to obtain access to patient records, except as permitted by the Part 2 regulations; and

(iv) any unauthorized disclosure/redisclosure or use of information under the Part 2 regulations is a federal criminal offense.

3. Obligations of Covered Entity.

Covered Entity shall:

(a) notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR section 164.520, to the extent that such limitation(s) may affect Business Associate's use or disclosure of PHI and EPHI.

(b) notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI and EPHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI and EPHI.

(c) notify Business Associate of any restriction to the use or disclosure of PHI and EPHI that Covered Entity has agreed to in accordance with 45 CFR section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI and EPHI.

(d) not request Business Associate to use or disclose PHI and EPHI in any manner that would not be permissible under the law if done by Covered Entity. Consultant may use or disclose the CANS PHI for data aggregation or management and administrative activities of Business Associate as necessary to fulfill the terms of the main agreement and in accordance with and as permitted by with HIPAA, the HITECH Act, HIPAA Regulations, and other applicable privacy and security laws.

4. Term and Termination.

The provisions of this Addendum shall supersede the provisions of the Underlying Agreement insofar as they relate to the term and termination of the Underlying Agreement.

(a) Term. The provisions of this Addendum shall be effective as of the Effective Date of the Underlying Agreement and shall terminate when all of the PHI and EPHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy, protections are extended to such information, in accordance with the termination provisions in this Addendum.

(b) Termination for Cause. Upon County of Yolo's knowledge of a material breach by Business Associate of the provisions of this Addendum, County of Yolo may terminate this Addendum and the Underlying Agreement immediately upon written notice.

(c) Effect of Termination.

(i) Except as provided in paragraph (ii) of this provision, upon termination of this Addendum and the Underlying Agreement, for any reason, Business Associate shall return, in a confidential manner, all PHI and EPHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI and EPHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of said PHI and EPHI. Business Associate shall not destroy any PHI or EPHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity without the express written approval of Covered Entity.

(ii) In the event that Business Associate determines that returning the PHI and EPHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make its return infeasible. Upon the agreement of Covered Entity that return is infeasible, Business Associate shall extend the protections of this Addendum to such PHI and EPHI and limit further uses and disclosures to those purposes that make the return infeasible, for so long as Business Associate maintains such PHI and EPHI, or until Covered Entity authorizes its destruction.

5. Miscellaneous Terms:

(a) Mutual Representation and Warranty. Each party represents and warrants to the other party that all of its employees, agents, representatives and members of its work force, whose services may be used to fulfill obligations under the Underlying Agreement, are or will be appropriately

informed of the terms of this Addendum and are under legal obligation to fully comply with all provisions of this Addendum.

(b) Survival. The respective rights and obligations of Business Associate under the provision of this Addendum shall survive the termination, expiration, or cancellation of the Underlying Agreement, regardless of reason.

(c) No Third-Party Beneficiaries. Nothing express or implied in the Underlying Agreement or this Addendum is intended to confer, nor will anything herein confer, upon any person other than the parties hereto any rights, remedies, obligations, or liabilities whatsoever.

(d) Notices. Any notices required or permitted to be sent pursuant to this Addendum will be in writing and will be sent, Certified Mail, Return Receipt Requested, or by a recognized international courier. Notices will be sent to the addresses set forth above in the Terms and Conditions Exhibit of the Underlying Agreement, or to such other address as a party may designate by notice pursuant hereto. Notices will be effective upon the date when delivery is either effected or refused.

(e) Amendment. The Parties agree to take such action as is necessary to amend this Addendum and the Underlying Agreement from time to time as is necessary for Covered Entity to comply with HIPAA, the HITECH Act, HIPAA Regulations, Part 2 Regulations, and other applicable privacy and security laws.

(f) Interpretation. Any ambiguity in this Addendum and the Underlying Agreement shall be resolved to permit Covered Entity to comply with of HIPAA, the HITECH Act, HIPAA Regulations, Part 2 Regulations, and other applicable privacy and security laws.

(g) Binding Effect. This Agreement shall be binding upon the parties hereto, and their respective legal representatives, trustees, receivers, successors and permitted assigns.

(h) Severability. Should any provision of this Agreement be found unenforceable, it shall be deemed severable and the balance of the Agreement shall continue in full force and effect as if the unenforceable provision had never been made a part hereof.