

AGREEMENT FOR LICENSED SOFTWARE, SERVICES, AND MAINTENANCE

County of Nevada, California

This AGREEMENT is made by and between the **County of Nevada**, a political subdivision of the State of California (herein "County"), and **Kings View Corporation** (herein "Contractor"), wherein Contractor agrees to provide the software and services commonly known as Cerner Community Behavioral Health Solutions Software System. As described in the Schedules comprising this Agreement, Contractor will successfully maintain Cerner Community Behavioral Health Solutions Software System consisting of all system modules and capabilities necessary to meet the County's requirements.

This AGREEMENT, including the following Schedules, constitutes the entire understanding and agreement between the Parties. This AGREEMENT may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

- Schedule A: General Terms and Conditions**
- Schedule B: Software Sub-License Agreement**
- Schedule C: Software Maintenance Agreement**
Appendix C-1: Schedule of Support, Hosting, and Maintenance Services
- Schedule E: Schedule of Charges and Payments**
- Schedule F: HIPAA Provisions for Business Associates**
- Schedule G: Disaster Recovery Plan**

CONTRACTOR:



Leon M. Hoover
CEO

Dated: 6/9/2014

COUNTY OF NEVADA:

Honorable Dan Miller
Chair, Board of Supervisors

Dated: _____

Attest: _____
Julie Patterson Hunter
Clerk of the Board

SCHEDULE A: GENERAL TERMS AND CONDITIONS

1.0 Definitions

- 1.1 *Agreement*: This Agreement, all schedules, appendices and exhibits thereto, and any and all subsequent duly executed amendments thereto.
- 1.2 *Authorized Representative*: The person or persons authorized by County to work with Contractor to implement changes to the Software, submit Software issues to Contractor to resolve, and authorize the Contractor to make changes to the list of Users who can use the Software.
- 1.3 *Compliance Update*: A change made to the Software to reflect a mandated change in the applicable law.
- 1.4 *Computer System*: The desktop hardware and software components and programs that are used by County in conjunction with the Software, but do not include the Hosting Servers.
- 1.5 *Confidential Information*: Copyrights, Trade Secrets, Technical Information, Technology, and any and all other confidential and/or proprietary information provided by one Person ("Discloser") to another Person ("Recipient") pursuant to this Agreement or otherwise, relating to, among other items, the research, development, products, processes, business plans, customers, finances, suppliers, and personnel data of or related to the business of Discloser, including, without limitation, the Software and all Documentation. Confidential Information shall also include all "non-public personal information" as defined in Title V of the Gramm-Leach-Bliley Act (15 U.S. C. Section 6801, et seq.) and the implementing regulations thereunder (collectively, the "GLB Act"), as the same may be amended from time to time. Confidential Information does not include any information: (1) Recipient knew before Discloser provided it; (2) which has become publicly known through no wrongful act of Recipient; (3) which Recipient developed independently, as evidenced by appropriate documentation; or, (4) of which Recipient becomes aware from any third Person not bound by non-disclosure obligations to Discloser and with the lawful right to disclose such information to Recipient. Notwithstanding the foregoing, specific information will not be deemed to be within the foregoing exceptions merely because it is contained within more general information otherwise subject to such exceptions.
- 1.6 *Copyrights*: Copyrighted and copyrightable materials, whether or not registered, published, or containing a copyright notice, in any and all media, and further including, without limitation, any and all moral rights and corresponding rights under international agreements and conventions, all Derivatives thereof, and any and all applications for registrations, registrations, and/or renewals of any of the foregoing.
- 1.7 *Customization*: Any improvement, derivation, extension or other change to the Software made by Contractor at the request of the County, including any that result from the joint efforts or collaboration of Contractor and County. Contractor may, from time to time, incorporate Customizations into the Software as "Enhancements."
- 1.8 *Data*: All data entered or used by County in order to use the Software, including but not limited to user account data and the data for which the Software is designed to store, manipulate, analyze and report in performing its functional requirements.
- 1.9 *Database Software*: Relational database management systems (RDMS), such as Microsoft SQL Server, Oracle, or similar Third-Party Software that is utilized by the Software to store COUNTY data on a disk sub-system as part of the operation of the Software.
- 1.10 *Defective Work*: Work that (i) is unsatisfactory, faulty, or deficient, (ii) does not conform to the Statement of Work, (iii) does not meet the requirements of any inspection, test, or

approval referred to in the Acceptance Criteria, or (iv) does not meet or exceed the requirements specified in this Agreement.

- 1.11 *Deliverables*: Those components, milestones, and/or materials, including, without limitation, the Software, Documentation, Maintenance Modifications, and Enhancements to be completed by one Party and delivered or otherwise provided to the other Party in accordance with the terms of this Agreement and/or an effective Maintenance Agreement. Deliverables can mean either Deliverables required from Contractor ("Contractor Deliverables") or Deliverables required from County ("County Deliverables").
- 1.12 *Derivatives*: Any and all adaptations, enhancements, improvements, modifications, revisions, extensions or translations, whether to Intellectual Property or otherwise.
- 1.13 *Documentation*: Standard user publications relating to use of the Licensed Software, such as reference, installation, administrative, maintenance, and programmer manuals, provided by Contractor to County, all of which are made available to County by Contractor by either hard copy or electronic delivery.
- 1.14 *End User*: Any employee(s), affiliate(s), agent(s), or representative(s) of the County, or any other person under the direction or control of the County that uses the Software to perform certain functions or tasks as required by the County.
- 1.15 *Enhancement*: A change or addition, other than maintenance modifications, to Software and related Documentation, including, without limitation, all new releases, that improve functions, add new functions, or significantly improve performance by changes in system design or coding; *provided, however*, that Enhancements do not include any New Product.
- 1.16 *Error*: Either (a) any error or defect resulting from an incorrect functioning of Software caused by the Software's failure to meet Specifications therefor; or, (b) any error or defect resulting from an incorrect or incomplete statement in Documentation caused by the failure of the Software and/or the Documentation to meet the Specifications therefor.
- 1.17 *Error Correction (may also be referred to as "Patch")*: Either (a) a temporary repair or replacement or other modification or addition that, when made or added to the Software, corrects an Error, or (b) a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect of an Error on the County. Temporary repair may be made permanent and released in Subsequent Releases of the Software.
- 1.18 *Explanatory Documentation*: Documents that describe the escrow contents and explain how to compile and load the software program in the event that the escrow materials are released to the County.
- 1.19 *Hardware*: The Computer System components and equipment, other than the Licensed Software and Third-Party Software.
- 1.20 *Hosting Services Agreement*: That certain Hosting Services Agreement, between Contractor and Hosting Vendor, providing for the Hosting Servers that store the Hosted Software and Data for County's access.
- 1.21 *Hosting Servers*: Those servers controlled and managed by Contractor for hosting the Hosted Software and which may be accessed by County for purposes of utilizing the Hosted Software.
- 1.22 *Hosted Software*: A fully operational, stable and up to date Version of the Software that Contractor will make accessible to County via the Internet and that is installed on the Hosting Servers.
- 1.23 *Intellectual Property*: Trade Secrets, Copyrights, Derivatives, Documentation, Patents, Software, Technical Information, Technology, and any and all proprietary rights relating to any of the foregoing.

- 1.24 *Licensed Software:* The proprietary computer software program(s) identified in the Software License and all related materials, Documentation, all corrections, patches or updates thereto, and other written information received by County from Contractor, whether in machine-readable or printed form.
- 1.25 *Maintenance Release:* A Subsequent Release of the Licensed Software that includes Error Corrections and/or Updates.
- 1.26 *New Product:* Any change or addition to Software and/or related Documentation that: (1) has a value or utility separate from the use of the Software and Documentation; (2) as a practical matter, may be priced and offered separately from the Software and Documentation; and, (3) is not made available to Contractor's licensees generally without separate charge.
- 1.27 *Object Code:* Machine readable compiled form of Licensed Software provided by Contractor.
- 1.28 *Party:* Either Contractor or County, and "Parties" means both of the same.
- 1.29 *Patents:* All patentable materials, letters patent, and utility models, including, without limitation, all reissues, continuations, continuations-in-part, renewals, Derivatives, and extensions of any of the foregoing and all applications therefor (and patents which may issue on all such applications).
- Professional Services:* Any Installation, Customization, Training, Consulting, Support Service(s), and other similar service(s) performed by Contractor under the terms of this Agreement.
- 1.30 *Programs:* The Software, as written by the Contractor and approved Third Party Vendors, integrated by Contractor and delivered to the County, in the form of executable code providing fully compatible communication with the Contractor's licensed software engine, to operate on the Hardware for purposes of accomplishing the functional capabilities as set forth in this Agreement.
- 1.31 *Release:* Means a version of the Software denoted by the number to the left of the decimal point (as compared to a change in the number to the right of the decimal point). For example, 4.x and 4.1 are the same Release; 4.x and 5.x are two different Releases. Releases include major Enhancements and the incorporation of any Version developed after the Release immediately preceding the most current Release.
- 1.32 *Seat:* A unique physical device, such as a terminal, microcomputer, or similar computing device that is part of the Computer System at which an End User has access to some or all of the Software or Third-Party Software.
- 1.33 *Site:* A single physical location and single database for which the Software is licensed. The number of Sites for which County is licensed to use the Software shall be specified in the applicable Schedule.
- 1.34 *Software:* The software program(s) identified on Schedule C Appendix C-1, including Error Corrections, Compliance Updates, and new Versions and Releases of such program(s) that may be provided under this Agreement. The term "Software" excludes any Third-Party Software.
- 1.35 *Specifications:* The functional, operational, and performance characteristics of the Licensed Software as described in Contractor's current published Documentation.
- 1.36 *Subsequent Release:* A release of the Licensed Software for use in a particular operating environment which supersedes the Licensed Software. A Subsequent Release is offered and expressly designated by Contractor as a replacement to a specified Licensed Software product. A Subsequent Release will be supported by Contractor in accordance with the terms of this Agreement. Multiple Subsequent Releases may be supported by Contractor at any given time.

- 1.37 *Support Services:* Those services provided by Contractor as described in Schedule C: Software Maintenance Agreement.
- 1.38 *System:* The Licensed Software and associated interfaces furnished by Contractor for the Client and the Equipment on which such software operates, the combination of which shall satisfy the requirements set forth in the Specifications.
- 1.39 *Third Party Software:* Software utilized in tandem with the Licensed Software, and necessary to enable the Licensed Software to perform the Specifications, supplied by Contractor with the Licensed Software or acquired directly by County on the advice of Contractor.
- 1.40 *Trademarks –* trademarks, service marks, logos, trade names, and/or domain names including, without limitation, any and all common law and/or statutory rights therein and any and all applications to register and/or registrations therefor, anywhere within or outside of the Territory.
- 1.41 *Update:* A revision of the Software released by Contractor to its end user customers receiving maintenance and support services from Contractor. "Update" does not include any New Product or added features for which Contractor generally imposes a separate charge.
- 1.42 *Upgrade:* Either an enhancement to the Licensed Software code to add new features or functions to the Licensed Software or software programming revisions containing corrections to Error Corrections that have been reported by users or discovered by the Contractor. Upgrades include revisions that are made to the Software to conform to a newer version of the operating system software.
- 1.43 *Users:* People who, in accordance with the terms of this Agreement, are authorized by County's Authorized Representatives to access the Software for purposes of performing data entry, analysis, or reporting, or for providing technical support.
- 1.44 *Version:* A new version of the Software that includes minor Enhancements, Error Corrections, and/or Compliance Updates, which is indicated by a different number to the right of the decimal point (e.g., "4.1" and "4.2" represent different Versions of Release "4").
- 1.45 *Warranty Period:* Commencing on the Software Acceptance Date and continuing during the Term, including any renewals or extension, all Errors shall be corrected by the Contractor without charge to the County.
- 1.46 *Work or Project:* The implementation, assembly, installation, optimization, and integration as required by this Agreement, whether completed or partially completed, including all labor, materials, and services provided, or to be provided by Contractor to fulfill Contractor's obligations hereunder. The Work, therefore, constitutes all of the requirements for providing the Programs and all services under this Agreement to the County.

2.0 Notices

This Agreement shall be managed and administered on behalf of the respective parties by the individuals identified below. All invoices shall be submitted to and approved by the County's representative so identified. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed to said party and shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

Contractor:
Kings View Corporation

Contact Person:
Bill Dollar
Chief Information Officer

559-256-7625

bdollar@kingsview.org

County of Nevada:
950 Maidu Avenue
Nevada City, California 95959
Contact Person:
Nicole Ebrahimi-Nuyken, LMFT
AOD Program Manager

530-470-2418

Nicole.Ebrahimi-Nuyken@co.nevada.ca.us

3.0 Standard of Performance

Contractor represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Contractor shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor is engaged. All products of whatsoever nature which Contractor delivers to County pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession. Permits and/or licenses shall be obtained and maintained by Contractor without additional compensation. Contractor's personnel, when on the County's premises, shall comply with the County's regulations regarding security, safety and professional conduct, including but not limited to Nevada County Security Policy (NCSP) 102 regarding data security.

4.0 Contractor as Independent

In providing services hereunder, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

5.0 Indemnification

5.1 General

Contractor shall defend, indemnify and save harmless the County, its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, judgments damages, losses or expenses (including, without limitation, defense costs and attorney fees of litigation) arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof, including, but not limited to, any act or omission to act on the part of the Contractor or his agents or employees or other independent contractors directly responsible to him; except those liabilities, claims, demands, judgments damages, losses or expenses to the extent resulting from the negligence or willful misconduct of the County. With respect to any and all liabilities, claims, demands, judgments damages, losses or expenses arising from the joint or concurrent negligence of Contractor and the County, each party shall assume responsibility in proportion to the degree of its respective fault as determined by a court of competent jurisdiction. Contractor's obligation to indemnify County is contingent upon the County giving prompt notice to Contractor of any claims, permitting Contractor to defend, compromise, or settle any claim, and cooperate with the defense of any such claim. Contractor shall notify the County immediately in the event of any accident or injury arising out of or in connection with this Agreement.

5.2 County's Use of Software Hosted by Contractor

Contractor hereby acknowledges that it has entered into and obtained all necessary agreements, licenses, permissions and authority with Cerner Corporation and any other third party software provider to enable and allow County to access and utilize the Software made part of this Agreement, including but not limited the "Cerner Community

Behavioral Health Software" and all related Pass-Through Software Modules, as more fully described in Appendix C-1 of Schedule C, and Table E-2 of Schedule E. In amplification of the general indemnification provisions set forth above, Contractor shall defend, indemnify and save harmless the County, its officers, officials, employees, agents and volunteers from an any all liabilities, claims, demands, judgments, damages, losses or expenses, (including without limitation, defense costs and attorney fees of litigation) arising out of the County's use of said Software in accordance with the terms of this Agreement.

6.0 Intellectual Property

- 6.1** County acknowledges that pursuant to this Agreement, Contractor through a separate Business Agreement with Cerner Corporation maintains all rights, and interest in and to the Software, the Documentation, and other information relating thereto, including all patents, trademarks, copyrights, trade secrets and other Intellectual Property rights. No rights, other than those set forth in this Agreement, are transferred to County
- 6.2** The Software Products are protected by both United States copyright law and international copyright treaty provisions. Cerner retains sole and exclusive ownership of all right, title and interest in and to the Cerner Community Behavioral Health Software products and all Intellectual Property rights relating thereto.
- 6.3** It is expressly understood by COUNTY and CONTRACTOR that Cerner will retain the sole and exclusive ownership and intellectual property rights to any customized modifications or enhancements of the Cerner Community Behavioral Health Software products or any original software products created by Cerner for COUNTY or CONTRACTOR. Any such work will not be considered "work for hire" within the meaning of copyright law, even if county or contractor pays Cerner to develop the enhancement or software product.
- 6.4** Except as authorized by this Agreement, COUNTY will not itself, or through any parent, subsidiary, affiliate, agent or other third party: (1) sell, lease, license, sub-license, market, or distribute the Cerner Community Behavioral Health Software products anywhere in the world; (2) de-compile, disassemble, or reverse engineer the software products, in whole or in part; (3) write or develop any derivative work based upon the Cerner Community Behavioral Health Software products, Documentation or any Company Information; or (4) provide, disclose, divulge or make available to, or permit use of the Cerner Community Behavioral Health Software products by any third party, except as permitted by this Agreement or with Cerner's prior written consent.
- 6.5** Notwithstanding any language contained herein to the contrary, Contractor warrants that the Software does not infringe upon or violate any patent, copyright, trade secret, contract right, or any other proprietary right of any third party within the United States. Except as otherwise provided, Contractor, at its own expense, will defend, indemnify and hold County harmless from any claim made or threatened or any suit or proceeding brought against County insofar as it is based on an allegation that the Software furnished by Contractor under this Agreement infringes any copyright or patent in existence on the date the Software was initially provided to County, but only if County does all of the following:
- a. Notifies Contractor of that action in writing within a reasonable period of time (such that Contractor suffers no prejudice to its rights);
 - b. Gives Contractor the right to control and direct the defense and settlement of that action;
 - c. Makes no compromise, settlement, or admission of liability; and
 - d. Provides reasonable assistance and cooperates in the defense of that action at Contractor's reasonable expense.

- 6.6** Subject to the limitations set forth in this Agreement, Contractor shall pay any resulting damages, costs and expenses finally awarded to a third party, including, but not limited to, reasonable legal fees, incurred as a result of the Software's infringement of a copyright or patent right. Contractor will have no responsibility for the settlement of any claim, suit, or proceeding made by County without Contractor's prior written approval.
- 6.7** If the Software is held to infringe, and the use of the Software is enjoined, Contractor, at its expense, will do one of the following:
- a. Procure for County the right to continue using the infringing or potentially infringing Software;
 - b. Replace the infringing or potentially infringing Software with non-infringing software; or
 - c. Modify the infringing or potentially infringing Software so that it becomes non-infringing.
 - d. If none of the foregoing remedies are commercially feasible, Contractor will return to County the prorated Annual Version Rights fees paid by COUNTY to Contractor as set forth in Table E-2 under this agreement, and upon such a return, any licenses granted to County for the Software shall terminate immediately.

7.0 Insurance

During the performance of this Agreement, Contractor shall maintain in full force and effect the following insurance coverages:

- 7.1** Commercial General Liability Insurance: (County Resolution No. 90674) Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:
- a. Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount of \$1,000,000.
 - b. An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from Seller's product(s) and/or the services provided under this contract;
 - c. A provision that said insurance shall be primary and other insurance maintained by the County shall be excess only and not contributing with Contractor's insurance; and
 - d. A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium). Upon receipt of such notice, County will provide Contractor in writing a notice that Contractor has until the effective date of termination, change in coverage protection, or reduction in coverage limits to secure new insurance coverage as required herein, and that Contractor's failure to do so will constitute default under the terms of this Agreement.
- 7.2** Data Processing Errors and Omissions Insurance: Contractor shall maintain either a professional liability or errors & omissions policy in an amount of no less than \$1,000,000, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.
- 7.3** Cyber Liability Insurance: Without limiting any of the obligations or liabilities of Contractor, Contractor shall carry and maintain, at its own expense including any applicable deductibles or retentions, as long as respective, applicable statute(s) of limitation or repose are in effect relating to the specific purposes of this Agreement, Cyber Liability insurance with limits of not less than \$2,000,000 for each occurrence and an annual aggregate of \$4,000,000 covering claims involving privacy violations, information theft,

damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.

7.4 Automobile Liability Insurance: (County Resolution No. 90676) For each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- a. Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount of \$1,000,000.
- b. An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided under this Agreement;
- c. A provision that said insurance shall be primary and other insurance maintained by the Buyer shall be excess only and not contributing with Seller's insurance; and,
- d. A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium). Upon receipt of such notice, County will provide Contractor in writing a notice that Contractor has until the effective date of termination, change in coverage protection, or reduction in coverage limits to secure new insurance coverage as required herein, and that Contractor's failure to do so will constitute default under the terms of this Agreement.

7.5 Worker's Compensation: (County Resolution No. 90674) Before commencing to utilize employees in providing Services under this Agreement, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor. CONTRACTOR shall maintain said policy or self insurance as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to the County.

7.6 Miscellaneous Insurance Provisions: (County Resolution No. 90675) All policies of insurance required by this Agreement shall remain in full force and effect throughout the life of this Agreement and shall be payable on a "per occurrence" basis unless the County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Agreement or any extensions hereof, then Contractor shall carry prior acts coverage.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Agreement. Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Agreement shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Agreement, or both.

8.0 Ownership of Data

8.1 County is and shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion, except for computer software which shall be owned or licensed as provided in this Agreement. Contractor shall not release any materials under this section without prior written approval of County.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as provided in this Agreement or except as determined at the sole discretion of the County. County shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or part, any reports, data, documents or other similar materials prepared under this Agreement, except for the Software and other Intellectual Property, which shall be subject to the ownership and other restrictions set forth in this Agreement.

8.2 Medical Records

Ownership and Access: All records contained in the patient files maintained by COUNTY shall be the property of COUNTY, and CONTRACTOR shall not remove these records upon termination of this Agreement, except pursuant to a specific request in writing with respect to and from a person treated by a Provider during the term of the Agreement, unless otherwise agreed to by COUNTY. Any working copies of client records generated by CONTRACTOR will be maintained CONTRACTOR throughout the term of the Agreement. At such time as the Agreement may be terminated, all working copies of client records will be securely delivered to COUNTY in a commercially recognized and useable format and as directed by COUNTY. In the event of a claim or challenge by a patient or any regulatory authority, COUNTY shall cooperate with CONTRACTOR by making the patient files in COUNTY Behavioral Health's possession available for copying or inspection (to the extent allowable by the rules regarding confidentiality of medical records). CONTRACTOR shall similarly cooperate with COUNTY and make available working copies of client records in the event of such a claim or challenge.

9.0 Assignment and Subcontracting

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Agreement are personal to the County and Contractor. They may not be transferred, subcontracted, or assigned without the prior written consent of both parties.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this Agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which COUNTY may elect to suspend payments hereunder, or terminate this Agreement, or both.

10.0 Confidential Information

10.1 The parties hereby acknowledge that their personnel may gain access to information that the other party or Cerner, deems to be confidential and/or proprietary information and which has commercial value in its business and is not in the public domain. "Confidential Information" shall include any all proprietary business information of the disclosing party, whether COUNTY, CONTRACTOR or Cerner, that does not constitute a Trade Secret (as hereafter defined), including any proprietary business information of which the receiving party becomes aware as a result of its access to and presence at the other party's facilities. "Trade Secret" means, without limitation, any and all technical and non-

technical data related to designs, programs, research, software file structures, flow charts, business rules embedded within Cerner Community Behavioral Health Software products, drawings, techniques, standards, Source Code and Object Code of the Cerner Community Behavioral Health Software products, the documentation, inventions, finances, actual or potential counties and suppliers, research, development, marketing, and existing and future products and employees of the disclosing party and its affiliates. "Company Information" means, collectively, the Confidential Information and Trade Secrets. Company Information also includes information that has been disclosed to any party by a third party which such party is obligated to treat as confidential by law, and all software tools, methodologies, documentation, business plans, product plans, and all related technical materials and enhancements and modifications thereto, provided CONTRACTOR or Cerner has clearly marked each such document as Confidential Company Information.

- 10.2** Obligations. COUNTY and CONTRACTOR will each use the same care to prevent disclosing to third parties the Company Information of the other or of Cerner as it employs to avoid disclosure, publication, or dissemination of its own information of the same nature, but in no event less than a reasonable standard of care. Furthermore, except as contemplated by this Agreement or as required by state and federal law, including but not limited to California Public Records Act or to maintain compliance with any and all federal or state grant requirements, neither party will: (i) make any use of the other party's Company Information; (ii) acquire any right in or assert any lien against the other party's Company Information; (iii) disclose any Company Information to a third party except as permitted by this Agreement or with the written permission of the other party or (iv) refuse to promptly return, provide a copy of, or destroy the other party's Company Information upon request of the other party.
- a. Exclusions. Notwithstanding the foregoing, this section shall not apply to any information that the receiving party can demonstrate: (i) was in the public domain at the time of disclosure to it; (ii) was published or otherwise became a part of the public domain, after disclosure to the receiving party, through no fault of its own; (iii) was in the possession of the receiving party at the time of disclosure to it from a third party who had a lawful right to such information and disclosed such information without a breach of duty owed to the disclosing party; or (iv) was independently developed by the receiving party without reference to the Company Information of the disclosing party. Further, either party may disclose the other party's Company Information to the extent required by law or by order of a court or governmental agency. However, the recipient of such Company Information must give the disclosing party prompt notice of any such request for information and of receiving parties intent to disclose such information. If the disclosing party disagrees with receiving party's decision to release documents, disclosing party shall be solely responsible, at no cost to COUNTY, for taking all legal actions necessary to prevent such disclosure and shall defend, indemnify and hold County harmless for withholding the disclosing party's documents.
- b. Report of Unauthorized Use or Disclosure of Confidential Information.
- i. Each party will immediately report to the other any use or disclosure of Confidential Information of the other that is not permitted by this Agreement or other written agreement of the parties.
 - ii. COUNTY will not allow any person other than an Authorized User (a COUNTY staff member to whom COUNTY has permitted access to or use of the Cerner Community Behavioral Health Software) or Cerner Community Behavioral Health Software or CONTRACTOR staff access to the Cerner Community Behavioral Health Software Products or to use Confidential Information until that person has executed a written agreement with Cerner holding that person to the same requirements as this part and COUNTY has been notified by Cerner that this Agreement has been executed and that the Person has permission to access and use the Cerner Community Behavioral Health Software Company

Information to support COUNTY. Authorized Users are members of COUNTY'S Workforce to whom COUNTY has assigned passwords or otherwise permitted access to or use of the Cerner Community Behavioral Health Software Products, and who have signified their agreement to terms and conditions of use of the Cerner Community Behavioral Health Software Products that are consistent with this Agreement, including provisions for the protection of Cerner Community Behavioral Health Software Intellectual Property Rights and Confidential Information. Workforce means directors, officers, employees, volunteers, trainees, and other persons whose conduct in the performance of work is under the direct control of COUNTY. Workforce does not include contractors other than CONTRACTOR who perform services that would otherwise be performed by Cerner or CONTRACTOR, unless such contractor has signed an agreement with Cerner for the protection of Cerner's Intellectual Property rights.

- iii. COUNTY understands that Cerner's Proprietary Rights and Non-Disclosure Agreements prohibit any person other than CONTRACTOR, Cerner Community Behavioral Health Software staff and Authorized Users from retaining possession of Cerner's confidential or trade secret Company Information. COUNTY will immediately notify CONTRACTOR and Cerner if COUNTY BH Director has actual knowledge aware that any person other than an Authorized User or Cerner or CONTRACTOR staff has in their possession Cerner Company Information.
- iv. Period of Limitation. The covenants of confidentiality set forth herein: (i) will apply upon commencement of this Agreement to any Confidential Information disclosed to the receiving party, and expressly designated in writing as Confidential Company Information, and (ii) will continue and must be maintained until termination of the Agreement, and in addition, with respect to Trade Secret, at any and all times after termination of the relationship between the parties hereto, during which such Trade Secrets retain their status as such under applicable law.
- v. Third Party Vendors. It is understood that COUNTY may wish to create linkages between the Cerner Community Behavioral Health Software Products and other software applications or databases. COUNTY acknowledges that the file structures and business rules of the Cerner Community Behavioral Health Software Products and the documentation are the Intellectual Property of Cerner. COUNTY will not give third party vendors other than CONTRACTOR access to this Company Information without the written permission of Cerner. Cerner will give that permission if the third party vendor enters a written Proprietary Rights, Non-Disclosure, and Non-Compete agreement with Cerner.

11.0 Warranty

Contractor warrants the Software to operate in all material respects as specified in the Contractor-provided documentation. If Contractor makes or has made claims in response to specifications listed in a County solicitation, then the Contractor warrants the Software to operate in all material respects as claimed in response to the solicitation. Contractor warrants that the Software does not contain any disabling devices that would allow Contractor to terminate operation of the Software. Contractor further warrants that, to the best of its knowledge, the Software does not contain any malicious code or components such as viruses, malware or spyware. Contractor warrants as follows for all customization made by Contractor for the County: (1) All Customizations will continue to be supported by Contractor under its maintenance agreement as defined in Schedule C; (2) All Customizations will be preserved and will remain functional in any future software versions, revisions, or updates provided by Contractor; (3) All future software versions, revision, or updates provided by Contractor will not cause the County to incur any additional cost as a result of the Customizations. These provisions shall apply for as long as the County is covered by the Contractor's maintenance agreement.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OF CONDITIONS, EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM THE COURSE OF DEALING OR USAGE OF TRADE. CONTRACTOR DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE WILL OPERATE ERROR-FREE OR UNINTERRUPTED AND THAT ALL PROGRAM ERRORS IN THE SOFTWARE CAN BE FOUND IN ORDER TO BE CORRECTED. NOR DOES CONTRACTOR MAKE ANY WARRANTIES REGARDING THE ACCURACY, RELIABILITY OR CURRENCY OF ANY INFORMATION CONTENT.

CONTRACTOR'S LIABILITY AND RESPONSIBILITY FOR ANY AND ALL CLAIMS, DAMAGES OR LOSSES ARISING FROM USE OF THE SOFTWARE BY COUNTY SHALL BE ABSOLUTELY LIMITED TO THE INSURANCE OCCURRENCE LIMIT OF \$1 MILLION. THIS LIMITATION OF CONTRACTOR'S LIABILITY SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE. THE STATED EXPRESS WARRANTIES ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART OF CONTRACTOR ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE, AND/OR PERFORMANCE OF THE SOFTWARE.

Unless otherwise stated in the applicable Schedule, Contractor shall not be liable for, and County hereby assumes the risk of and shall indemnify and hold harmless Contractor against, any claim, injury, loss, damage, or expense (including attorneys' fees), either direct or indirect, incurred, made, or suffered by County in connection with or in any way arising out of the furnishing, performance, or use of services provided by any third party contracted by County to perform services in connection with the Software.

12.0 Compliance with Laws

- 12.1** In providing Services hereunder, Contractor agrees to comply with all applicable laws and regulations, including but not limited to those relating to nondiscrimination and civil rights. Contractor agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. Contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.
- 12.2** Fraud and Abuse: Neither party shall engage in any activities which are prohibited by or are in violation of the rules, regulations, policies, contracts or law pertaining to any third party and/or governmental payer program, or which are prohibited by rules of professional conduct ("Governmental Rules and Regulations"), including but not limited to the following:
- a. Knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment;
 - b. Knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to any benefit or payment;
 - c. Failing to disclose knowledge by a claimant of the occurrence or any event affecting the initial or continued right to any benefit or payment of the Provider's own behalf or on behalf of another, with intent to fraudulently secure such benefit or payment; or
 - d. Knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in case or in kind or offering to pay or receive such remuneration.
 - e. In the event of any changes in law or regulations implementing or interpreting any federal or state law relating to the subject matter of fraud and abuse or to payment-for-patient referral, including the laws reference above, the parties shall

use all reasonable efforts to revise this Agreement to conform and comply with such changes. In the event that parties cannot revise this Agreement in a manner which will conform and comply with such changes and preserve to the extent possible the intent of the parties in entering this Agreement, then either party may terminate the Agreement in accordance with the termination provisions set forth in this Agreement.

13.0 Prior Nevada County Employment (County Resolution No. 03-353)

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by COUNTY, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

14.0 Conflict of Interest

Contractor covenants that Contractor 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 services required to be performed under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by Contractor. This covenant shall not prohibit Contractor from offering the same or similar Software and Services to other entities.

15.0 Responsibilities of County

County shall provide all information reasonably necessary to Contractor in performing the Services provided herein. Contractor shall not be responsible for any delays caused by County's failure to provide information or failure to perform obligations.

16.0 Technology Life Expectancy

County understands, acknowledges, and agrees that the technology upon which the Hardware, Software, and Third-Party Software is based changes rapidly. County further acknowledges that Contractor will continue to improve the functionality and features of the Software to improve legal compliance, accuracy, functionality, and usability. As a result, Contractor does not represent or warrant that the Hardware, Software, and/or Third-Party Software provided to County under this Agreement or that the Computer System recommended by Contractor will function for an indefinite period of time. Rather, Contractor and County may, from time to time, analyze the functionality of the Hardware, Software, Third-Party Software, and Computer System in response to changes to determine whether upgrades are advised. Contractor shall, for the duration of the maintenance period covered by this Agreement, and at no additional cost to County, maintain the Software to be compatible with Microsoft-supported operating systems and databases. County upgrades may include, without limitation, the installation of a new Release, additional disk storage and memory, and workstation and/or server upgrades. County upgrades may also include the installation and/or removal of Third-Party Software. County is solely responsible for all costs associated with such future resources and upgrades,

17.0 Term

- 17.1** The Term of this Agreement shall commence on July 1, 2016 and shall continue until June 30, 2019 unless terminated earlier in accordance with Sections 18.0 and 19.0, as set forth below.
- 17.2** Renegotiation Option: In view of the fact that it is unknown how long the products and services will be employed by County and that County will require ongoing maintenance and support of the products for as long as the system is operational, therefore after completion of the initial term of the contract including any extensions and renewals, County and Contractor may renegotiate the contract upon mutual agreement of the parties.

18.0 Termination by County

- 18.1** County may, by written notice to Contractor, terminate this Agreement in whole or in part at any time, whether for County's convenience or because of the failure of Contractor to fulfill the obligations hereunder. Upon receipt of such notice, Contractor shall immediately discontinue all services affected (unless the notice directs that the Disentanglement provision herein shall be invoked), and shall deliver to County all data, estimates, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by Contractor in performing services under this Agreement, whether completed or in process.
- 18.2** For Convenience: County may, by written notice stating the extent and effective date, terminate this Agreement in whole or in part at any time. Upon receipt of such notice, Contractor shall promptly cease work and notify County as to the status of its performance. Notwithstanding any other payment provision of this Agreement, County shall pay Contractor for services performed to the date of termination, to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall Contractor be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. Contractor shall furnish to County such information as is necessary to determine the mutually agreeable reasonable value of the services rendered by Contractor. The foregoing is cumulative and shall not affect any right or remedy which County may have in law or equity.
- 18.3** For Cause: Should Contractor default in the performance of this Agreement or materially breach any of its provisions, the County may elect to immediately suspend payments or terminate the contract, or both, without notice.

19.0 Termination by Contractor

- 19.1** For Nonpayment: Should County fail to pay Contractor all or any part of the payment set forth in Schedule E. Contractor may, at Contractor's option, terminate this Agreement if such failure is not remedied by County within thirty (30) days of written notice to County of such late payment.
- 19.2** For Cause: Should County default in the performance of this Agreement or materially breach any of its provisions, Contractor, at Contractor's sole option, may terminate this Agreement upon thirty (30) days written notice
- 19.3** Effect of Termination: As more fully set forth in Disentanglement Provision at Section 20.0 Contractor shall cooperate with County to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County to ensure that any and all of County's data maintained in the software sub-licensed to the County by Contractor is extracted in a commercially recognized format acceptable to County prior to the termination date, and that said data is securely transmitted to County.

20.0 Disentanglement

If directed by County, Contractor shall cooperate with County and County's other vendors and contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County to accomplish a complete transition of the services as set forth in this Agreement being terminated to County or to any replacement provider designated by County, without any interruption or adverse impact on those services or any other services provided by third parties. Contractor shall fully cooperate with County and any new service provider and otherwise promptly take all steps, including but not limited to providing to County or any new service provider all requested information or documentation required to assist County in effecting a complete transition to the new service provider. Contractor shall provide all information or documentation regarding the services to be transitioned, including but not limited to data conversion tables, client files, interface specifications, and training materials. Contractor shall provide for the prompt and orderly conclusion of all work required under the Agreement, as County may direct, including completion or partial completion of projects, documentation of work in process, and other measures to assure an orderly transition to County or the County's designee. All Contractor work done as part of the Disentanglement shall be performed by Contractor and will be reimbursed by the County at no more than Contractor's costs, up to the total amount of this Agreement. Contractor shall not receive any additional or different compensation for the work otherwise required by the Agreement. Contractor's obligation to provide the Services shall not cease until the earlier of the following: a) the Disentanglement is completed to the County's reasonable satisfaction, or b) twelve (12) months after the expiration of the then-current Term of the Agreement.

21.0 Return, Transfer and Removal of Data and other Assets

21.1 Upon termination of this Agreement, Contractor shall return to County all County-furnished assets in Contractor's possession.

21.2 Upon termination of this Agreement, Contractor shall ensure that any and all of County's data maintained by Contractor is extracted in a commercially recognized format acceptable to County prior to the termination date or the completion of the Disentanglement period, whichever is later, and that said data is securely transmitted or delivered to County or County's designee.

22.0 Source Code Escrow

Contractor shall add the County to the list of customers that are reflected on its multi-party escrow agreement. Contractor, on behalf of its customers, has entered into an escrow agreement, and deposited its source code for the Software and relevant explanatory documentation. Such deposit shall be updated from time to time by Contractor such that what is on deposit with the Escrow Agent reflects Enhancements, Customizations and other modifications to the Software licensed to the County. Should certain events reflected in the escrow agreement occur, then the County may demand the release, and upon such demand receive the source code and accompanying documentation from the Escrow Agent. In the event the source code is released to the County, the County shall have the right to use the source code to provide technical improvements and enhancements to the Software, but shall not have the right to sell, assign or transfer the right to use the Software to another party. Contractor's obligations and the County's rights under the escrow arrangement shall cease to exist upon termination or expiration of this Agreement.

23.0 Informal Dispute Resolution

The parties acknowledge their desire for a long-term and mutually beneficial business relationship, and to that end, agree to attempt to resolve any disagreements or disputes promptly and in good faith, and to make themselves available for business discussions intended to facilitate the resolution of such disagreements of dispute.

If the parties are unable to arrive at a mutually satisfactory solution through good faith business discussions, they may first engage in mediation using a mutually agreed upon mediation or Alternative Dispute Resolution Services. The parties shall share the costs of mediation equally.

24.0 Compliance with Public Records Law

All information County receives from Contractor, whether received in connection with Contractor's proposal or in connection with any services performed by Contractor, will be disclosed upon receipt of a request for disclosure pursuant to the California Public Records Act; provided, however, that if any information is set apart and clearly marked "Confidential Information" pursuant to Section 10, above, when it is provided to County, County shall give notice of Contractor of any request for disclosure of such information. Contractor shall then have five (5) days from the date it receives such notice to enter into an agreement with the County, satisfactory to the County Counsel, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by County in any legal action to compel the disclosure of such information under the California Public Records Act. Contractor shall have sole responsibility for defense of the actual "Confidential" designation of such information.

Contractor and County understand and agree that any failure by Contractor to respond to the notice provided by County and/or to enter into an agreement with County, in accordance with the provisions above, shall constitute a complete waiver by Contractor of any rights regarding the information designated "Confidential" by Contractor, and County shall disclose such information pursuant to applicable procedures required by the Public Records Act.

25.0 Books of Record and Audit Provision

Contractor shall maintain complete records relating to this Agreement for a period of seven (7) years from the completion of Services hereunder. Said records shall be maintained in sufficient detail to establish the accuracy of charges for services provided and corresponding calculations of any sales tax payable.

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) days notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charge of five percent (5%) or more of the total Contract amount.

26.0 Taxes

With the exception of sales or use taxes which may be levied by the State of California for software or related materials, County shall not be responsible for paying any taxes on Contractor's behalf, and should County be required to do so by state, federal, or local taxing agencies, Contractor agrees to promptly reimburse County for the full value of such paid taxes plus interest and penalty, if any. Similarly, Contractor shall not be responsible for paying any taxes on County's behalf, and should Contractor be required to do so by state, federal, or local taxing agencies, County agrees to promptly reimburse Contractor for the full value of such paid taxes plus interest and penalty, if any (The fees set forth in Schedule E do not include any amounts for sales taxes, as it is anticipated that all software and related materials will be provided by Contractor by electronic delivery.)

27.0 Jurisdiction and Venue

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

28.0 Drug-Free Work Place: CONTRACTOR shall provide a drug-free work place and shall comply with the requirements of the Drug-Free Work Place Act of 1990 (Government Code section 8350 et seq.).

29.0 Cultural Competence: CONTRACTOR and COUNTY shall use a set of professional skills, behaviors, attitudes, and policies in their system that enable the system, or those participating in the system, to work effectively in the meeting of cross-cultural needs of patients.

30.0 Authority

All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Contractor is obligated, which breach would have a material effect hereon.

31.0 Expert Witness

If requested by County, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Agreement.

32.0 Section Headings

The headings of the several sections of this Schedule A and other Sections which comprise this Agreement, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

33.0 Severability

If any one or more of the provisions of this Agreement shall for any reason be held to be invalid or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

34.0 Amendment and Waivers

Any term or provision of this Agreement may be amended upon mutual written agreement by the parties and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a writing signed by the Party to be bound thereby. The waiver by a Party of any breach hereof or default hereunder shall not be deemed to constitute a waiver of any other breach or default. The failure of any Party to enforce any provision hereof shall not be construed as or constitute a waiver of the right of such Party thereafter to enforce such provision.

35.0 Force Majeure

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile action, or catastrophic natural event. Should there be such an occurrence that impacts the ability of either party to perform their responsibilities under this Agreement, the nonperforming party shall give immediate written notice to the other party to explain the cause and probable duration of any such nonperformance.

36.0 Publicity

County authorizes Contractor to use County's name in its list of customers. The parties agree that either party or both may issue a mutually acceptable news release regarding County's use of the applicable Software and Support Services. Each party's approval of such news release will not be unreasonably withheld or delayed. Once a press release has been issued, Contractor may publicly refer to County (by name only) as being a customer of Contractor, and only in relation to this Agreement except as otherwise authorized by County.

SCHEDULE B—SOFTWARE SUB-LICENSE AGREEMENT

1.0 Agreement to Sub-License

Contractor hereby warrants that it has entered into a separate business agreement with Cerner Corporation that authorizes Contractor to sub-license to County the software made part of this software sub-license agreement..

This Agreement provides for the sub-license of Third Party Software by Contractor as Sub-Licenser to County as Sub-Licensee, in accordance with the terms and conditions of this Agreement. Contractor shall sub-license to County the Software as more fully described in Appendix C-1 of Schedule C and Table E-2 of Schedule E.

2.0 Grant of Sub-License

Unless this Agreement is terminated in accordance with the provisions of Schedule A: General Terms and Conditions, Contractor grants to County a, nontransferable (except as otherwise provided in Section 9 of Schedule A, "Assignment and Subcontracting"), revocable and nonexclusive subscription sub-license for use of the Software (machine readable version) and Documentation therefor in accordance with the terms and conditions of this Agreement. Such use shall be limited to County only. Any data supplied by the County shall remain the property of the County.

3.0 Right to New Versions

If Contractor is provided a new Version of the Software, Contractor will provide that new Version to County at no additional charge so long as the County is current with payments to Contractor for the Annual Software Subscription Fee. The delivery of each Version and Release will include Installation, any necessary data conversions, and Release documentation that will include Release/Version notes, and any updated Training materials prepared by Contractor. Notwithstanding anything in the foregoing to the contrary, the County shall, at its own expense, be responsible for the User Training with respect to each Version and Release. For clarity, new Versions will maintain the functionality of Customizations, Enhancements and Interfaces performed by Contractor and provided for under this Agreement or any Change Order. County understands implementation of a new Version may require County to upgrade its Computer Systems.

4.0 Third Party Software and Technologies

County shall execute all documents reasonably requested by Contractor and will abide by all reasonable requirements with respect to Third Party Software licensed or sublicensed by Contractor to County hereunder, or necessary to the performance of the Software hereunder in accordance with the Specifications, and County agrees to maintain in effect all required licenses and approvals of all applicable third persons.

Any third party technologies required to properly execute the Software may change over time. Additional network, communications or computer resources may be required to enable County to install and use enhancements, promotions or new Versions of the Software. Contractor will provide County a minimum of 180 days notice of additional third party software products that may be required, and provide information to allow County to evaluate the impact of the enhancement, promotion or new Version on network performance and to plan for network upgrades.

5.0 Rights of County as Sub-Licensee

5.1 If the Software is sub-licensed on a Seat basis, County may use and execute the Software only on the licensed number of Seats designated on Schedule E: Schedule of Charges and Payments. Unless otherwise provided on Schedule E, County must purchase a sub-license for each Seat that has access to the Software.

5.2 County may make copies of the Software for backup and archival purposes only, provided that (a) no more than two (2) copies of the Software are in existence at any one

time, and (b) Contractor's or Third Party Software Provider's copyright and other proprietary legends are reproduced on each copy. County shall keep appropriate records of the number and location of all copies and make such records available to Contractor upon request. All copies that are made by County shall be the property of Contractor.

- 5.3 County may make copies of the Documentation for County's internal use only, provided that Contractor's or Third Party Software Provider's copyright and other proprietary legends are reproduced on each copy.
- 5.4 County may permit access to the Software to third parties for the purpose of loading data and/or generating reports, subject to execution by said parties of a non-disclosure agreement to be provided by Contractor.

6.0 Restrictions

In addition to other restrictions set forth in this Agreement, County may not:

- 6.1 Use, copy, modify or distribute the Software (electronically or otherwise) or any copy, adaptation, transcription, or merged portion thereof except as expressly authorized under this Agreement;
- 6.2 Use the Software for any purpose for the benefit of any third party (including anybody of government other than the entity that executes this Agreement) in a commercial, retail, service bureau, or similar enterprise;
- 6.3 Without prior written approval of Contractor, modify or manipulate the data in the Software's database, except by means provided in the Software;
- 6.4 Without prior written approval of Contractor, modify, extend, or add tables, including, without limitation, the structure and sequence of any database or database files that are used by the Software, including those created by or for County under this Agreement; or
- 6.5 Intentionally remove the labels or any proprietary legends from the Software or its Documentation.

7.0 Tools and Customizations

County shall not have any right to independently make changes to the underlying code of the Software. County may develop, and shall retain ownership of, hooks, interfaces, or similar tools for use with the Software, provided that the hook, interface or tool does not use any part of the Software or require any modification or alteration of the underlying code of the Software. Contractor shall own all right, title, and interest (including all associated intellectual property rights) in and to any Customizations to the Software.

8.0 Right to Audit

Contractor shall have the right, up to two (2) times per calendar year and within ten (10) days of Contractor's written request, during normal business hours and at times mutually agreed upon by the parties, to audit County's use of the Software to monitor compliance with this Agreement. If an audit reveals that County has exceeded the restrictions on use, County shall be responsible for the prompt payment to Contractor of any underpayment of license fees.

SCHEDULE C—SOFTWARE SUPPORT, HOSTING AND MAINTENANCE AGREEMENT

1.0 Scope of Agreement

- 1.1** This Schedule C and its Appendix C-1 attached hereto and incorporated herein covers the Support, Hosting and Maintenance of Software sub-licensed or delivered by Contractor for the benefit of the County, as more fully described Appendix C-1 of Schedule C and Table E-2 of Schedule E, pursuant to that certain concurrently effective Software Sub-License Agreement between the parties, as listed on Schedule E: Schedule of Charges and Payments. This Agreement provides support, hosting and maintenance services only with respect to Software, including third party software, supplied by Contractor to County pursuant to the terms of the Software Sub-License Agreement. This Agreement does not provide for maintenance and support services for any third party software not provided by Contractor to County or for any County hardware.
- 1.2** Contractor's obligation to provide Support, Hosting, and Maintenance Services shall extend to the current Release and prior Versions whose Release number begins with the same number or immediately preceding number as the current Release. For example, if the current Release is 4.5, Contractor will support only those Versions between 3.x and 4.5. If County desires support for earlier Versions of the Software, such support may be treated by Contractor as additional consulting services for which County will be billed at Contractor's then-current time-and-materials rates. County understands that its implementation of a new Version may require County to upgrade its Computer System.

2.0 Software Support and Maintenance Fees

Software Support and Maintenance fees shall be as detailed in Schedule E, Schedule of Charges and Payments.

3.0 Hosting Services

As more fully set forth in this Schedule C and Appendix C-1, Contractor shall provide hosting of the Software on behalf of the County. For the Term of this Agreement and any extensions or renewals hereto, County will have the ability to access and use the Software on the Contractor's hosted servers selected by the Contractor to access Software, subject to the limitations and rights set forth in this Agreement.

- 4.0 Administrative Functions Performed by Contractor.** Contractor shall provide certain limited administrative services regarding the maintenance of the Software including, (i) setting permissions, (ii) adding, modifying or deleting attributes, events, statutes, program and case types and lookup items, (iii) adding and deleting case types, and (iv) creating and modifying workflows, (v) adding and modifying assessments and related scoring. If any change requested by the County for the administration of the Software require changes to reports, interfaces, workflows, creation of an event(s) or similar, the change order process outlined in Schedule C will be used to describe the work to be performed and any costs to be borne by County.

5.0 Confidentiality of County Information.

In amplification of the Confidentiality Provisions set forth in Exhibit A, Section 10 (Confidential Information), the following provisions shall also apply as to County information obtained by Contractor.

- 5.1** Any information obtained by Contractor or a subcontractor, such as Hosting Vendor, that is considered confidential by federal or state law, shall remain confidential and not disclosed unless court ordered to do so. The System must employ industry standard protections to prevent unauthorized access of confidential data. Any unauthorized access to data that will violate this confidentiality statement shall promptly be reported to the County.
- 5.2** Contractor shall not use County's library patron details such as names, addresses, etc., for any purpose other than providing requested services to the County and shall not transmit County data to any third party, except as requested by the County.

- 5.3 In addition to complying with all applicable HIPAA breach notification and reporting requirements set forth in Schedule F, Contractor shall report to County within twenty four (24) hours any violations of these provisions with regard to confidentiality of data, or any data security incidents that may result in the unauthorized disclosure of County information. Data security incident means any actual or reasonably suspected: (a) unauthorized use of, or unauthorized access to, Contractor systems; (b) inability to access County information or Vendor systems due to a malicious use, attack or exploit of such information or systems; (c) unauthorized access to, theft of or loss of County information; (d) unauthorized use of County information for purposes of actual or reasonably suspected theft, fraud or identify theft; (e) unauthorized disclosure of County information; or (f) breach of, or transmission of malicious code to County's Computer Systems arising from, in whole or part, an act, error, or omission by Contractor.
- 5.4 Contractor shall conduct an internal data security risk assessment and implement reasonable administrative, technical, and physical safeguards designed to protect County information from unauthorized disclosure. Contractor shall update the risk assessment and related safeguards at least annually. Upon request by the County, Contractor agrees to provide documentation sufficient to demonstrate Contractor's compliance with the terms of this paragraph.

6.0 Covered Maintenance

Contractor will provide to County: (a) all services required to ensure that the Software operates in conformity with all Specifications; and (b) all Enhancements developed by Contractor for the Software and related Documentation during the Term of this Agreement. Covered Maintenance Services do not include the costs of accessories and expendable supplies necessary to operate the Software, such as magnetic tape cards, optical disks, disk packs, paper, and similar items, and such items are not provided free of charge by Contractor hereunder.

7.0 County Obligations

- 7.1 County may designate up to five (5) persons by whom requests by County for Support Services may be made ("Support Team"). Contractor shall not be required to accept calls or requests from anyone other than a designated contact person. County may change its designated contact person, or request that additional people be made contact persons, at any time upon notice to Contractor.
- 7.2 County shall implement and follow the reasonable written Instructions of Contractor regarding operation of the Software.
- 7.3 County will maintain a Computer System shall be housed with site conditions that conform to common industry standards for all computer systems and/or media devices. County shall, at its own expense, install and periodically update a computer virus program to protect its Computer System from computer viruses that may, from time to time, be transmitted or downloaded. Contractor expressly disclaims any liability for loss or damage caused by any computer virus on County's Computer System, except those which may prove to be attributed to Contractor's software or activities.
- 7.4 County shall, at its own expense, protect the security of its Computer System and adopt policies and practices needed to prohibit unauthorized access to the Computer System. Contractor shall not be responsible for any security breach of County's Computer System and expressly disclaims any liability for loss or damage caused by the unauthorized access to County's Computer System other than that which is caused by an employee of Contractor. Contractor shall ensure that the Hosting Services Agreement includes provisions ensuring security of the Software and Data.
- 7.5 Software Administration. County, as a general matter, shall perform all tasks associated with the administration of the Software, other than those that are assigned to Contractor, including without limitation, adding, modifying, removing and otherwise maintaining users, templates, lookups, and logons and passwords,

- 7.6 Communications Equipment. County shall, at its sole expense, install and maintain communications equipment that will permit County to have high speed internet access to the Software. County acknowledges that maintenance of the appropriate communications equipment is a condition precedent to Contractor's provision of use for the Software.
- 7.7 Cooperate with CONTRACTOR in the delivery of services pursuant to this Agreement.
- 7.8 Provide a desk, a PC that meets County standards, a telephone, and access to the internet. The use of these resources shall be restricted to performing the services pursuant to this agreement and in conformance with NCSP 102. The County PC will not be used to provide VPN access outside of the County network.
- 7.9 Provide Guest Wireless access. CONTRACTOR will provide a PC, laptop or tablet for the purpose of using Guest Wireless access to connect to CONTRACTOR'S Data Center.

8.0 Compliance Updates

Where applicable, Contractor shall exercise due diligence in accordance with the highest professional standards and provide County, in a timely manner, with Compliance Updates. Contractor agrees to monitor changes in the applicable California laws and regulations to help the County maintain the system compliance. The County agrees to promptly notify Contractor when it becomes aware of any applicable change in the laws or regulations which the Software is designed to support. Contractor will provide up to 1000 hours of technical effort per calendar year in furtherance of legislative compliance updates. Any hours over 1000 that are required to meet a compliance update effort by Contractor shall be spread on an equitable basis across Contractor's affected client base on a time and materials basis.

9.0 Service Level Agreement

- 9.1 Contractor will maintain a website accessible by County, which contains information concerning the Software and Support Services.
- 9.2 Contractor will respond to County requests for software support services regarding the licensed software in accordance with the procedures identified below. In each case, County may describe and submit notice of the support need by telephone, facsimile or electronic mail.
- 9.3 All Contractor staff assigned to provide services to County will be appropriately qualified by education, training and experience to deliver those services, and will be familiar with the functional capabilities of the Software.
- 9.4 Telephone Support includes: (i) remote diagnostics; (ii) service desk and dispatch; (iii) question and answer consulting; and, (iv) non-chargeable user error remedies. Contractor shall provide a toll-free maintenance telephone number. Remote diagnostics equipment is required at County's location for remote support, which equipment is to be obtained by County at its sole expense.

Contractor shall provide County with telephone support services for Software from 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, excluding County-recognized holidays.

9.5 Remedies

In the event Contractor fails to meet the service level standards described herein, County may, without penalty, withhold payment for maintenance and support fees until said standards are met.

10.0 Right to Modify or Cancel Support

10.1 County may choose to cancel software maintenance and support in accordance with the termination provisions set forth in Schedule A, Section 18.0.

10.2 County may delete a subset of licenses that are no longer in use from software maintenance and support upon thirty (30) days notice to Contractor.

10.3 County may resume software maintenance and support for lapsed periods by paying Contractor an amount no greater than the support fee that would have been due if maintenance and support had been continued over the lapsed period. Upon payment of such fees for lapsed periods, Contractor agrees to provide County with right to any software upgrades released during that period.

Appendix C-1
Schedule of Support, Hosting, and Maintenance Services
Kings View Corporation

This Schedule of Support, Hosting and Maintenance Services is applicable to the utilization of Cerner Community Behavioral Health Software (formerly Anasazi Behavioral Health Software) for COUNTY's Electronic Health Record Information and service billing to various funding sources. The Cerner software modules utilized by COUNTY and Hosted by Contractor are hereby incorporated by way of reference into this Schedule to include:

1. Cerner Client Data System;
2. Cerner Assessment System;
3. Cerner Treatment Plan System;
4. Cerner Scheduling System;
5. Cerner Doctor's Home Page;
6. Cerner Cost Accounting System;
7. Cerner Human Resource System;
8. Cerner Fiscal System;
9. Cerner Managed Care Organization (MCO) System;
10. Ultra Sensitive Exchange/ Cerner Direct HISP - Ambulatory;
11. CBH Patient Portal;
12. CBH Electronic Prescription of Controlled Substances (EPCS) Credential and Authentication;
13. DSM-5 for Community Behavioral Health;
14. Cerner Reference Labs (RLN);

Contractor represents and warrants that it has a thorough understanding of the Cerner Community Behavioral Health Software and its application in the California Medi-Cal billing environment. Having the contracted responsibility as the System Administrator for the Cerner Community Behavioral Health Software system Contractor assumes the lead role on such items as but not limited to: system integrator, reports generator, providing guidance on workflow and ongoing system set-up, assisting with month end billing and accounts receivable processes including data and error review prior to submission of monthly claims, training of county staff, reviewing Cerner Community Behavioral Health Software updates (Promotions), overall system performance, back up & disaster recovery, testing compliance of State and Federal mandated changes, and providing system maintenance, administrative, and technical support including helpdesk functionality.

CONTRACTOR shall provide application hosting services at CONTRACTOR's Data Center located in Fresno, CA. Contractor warrants that its data center is a HIPAA compliant facility, monitored 24/7, climate controlled environment, dry fire suppression system, hardware and power supply redundancies, expandable 30 terabytes of storage capacity and data communication. CONTRACTOR shall update its hardware every 3 years to ensure efficient utilization of the latest available technologies.

CONTRACTOR shall provide the following services:

Section 1.0 Reporting/Compliance

- 1.1 CONTRACTOR shall provide services and software support that are compliant with all applicable local, state and federal requirements for claiming or billing and Clinical systems.
- 1.2 CONTRACTOR shall work with and coordinate with COUNTY to ensure that all local, state and federal requirements are met within the time lines set by those agencies.
- 1.3 CONTRACTOR shall provide specialized reporting as required by County, State, and Federal agencies as a result of mandatory audit/reporting requirements.

- 1.4 CONTRACTOR shall provide customized reporting formats, screens, data tables and databases as required for COUNTY's operation of COUNTY'S Mental Health and Alcohol/Drug Program, and CONTRACTOR shall generate Mental Health and Alcohol/Drug Program reports for COUNTY as requested.
- 1.5 CONTRACTOR and COUNTY will work together on setting up an Activity Deadline for the purpose of reporting or compliance. The Activity Deadline Calendar includes the defined roles, responsibilities and processes for each party for the reporting or compliance activities.
- 1.6 COUNTY will provide information technology and business process staff resources to work with CONTRACTOR in the development of specialized reports for audits and compliance activities.

Section 2.0 Cerner Community Behavioral Health Software Management, Hosting, and Training

- 2.1 Client Data, Scheduler, Assessments & Treatment Plans (ATP), Patient Portal, Reference Labs, Messaging/HIE, DSM-V/ICD-10, EPCS, Document Management, Managed Care Products (MC), and any additional Cerner ATP software modules or features County opts to incorporate.
 - a. CONTRACTOR will provide at no additional cost continuing training of Behavioral Health Department staff and contracted providers as it applies to the ATP applications including an electronic medical record management. All training will be at COUNTY'S facilities with CONTRACTOR'S staff on site or via video conferencing or internet meeting technologies at times that best meet COUNTY needs for communicating new procedures or policies to COUNTY staff.
 - b. CONTRACTOR agrees that as the Information Systems expert in applying Cerner Community Behavioral Health Software in the California environment, CONTRACTOR will ensure that assigned staff liaisons respond to COUNTY Clinical concerns, issues, and questions in a timely manner. There should be no more than a week turnaround for items that can be resolved by CONTRACTOR and additional support will be added if the lead liaison cannot meet this timeframe.
 - c. CONTRACTOR will provide consultative services to COUNTY concerning current and historical data analysis, data collection, system design, claiming, billing, Clinical systems and reporting as needed or when requested by COUNTY.
 - d. CONTRACTOR agrees to maintain a LIVE, TRAIN and TEST version of Cerner Community Behavioral Health Software on CONTRACTOR's servers.
 - i. The TEST environment serves the purpose of testing all development work including WYSIWYG form changes and Cerner Community Behavioral Health Software Promotions.
 - ii. The TRAIN environment serves the purpose of training staff on changes to Cerner Community Behavioral Health Software Promotions or products. This environment is a copy of the LIVE for purpose of training staff on actual data without impacting the LIVE or production environment.
 - iii. The LIVE environment is the production environment. Changes to this environment require coordination with and approval of COUNTY EHRs Steering Committee before being implemented.
- 2.2 CONTRACTOR agrees to perform all development work and testing in the TEST environment, following notification by CONTRACTOR to COUNTY and with COUNTY's approval.
 - a. CONTRACTOR agrees to coordinate the scheduling and release or transfer of development work to LIVE or TRAIN environments, and of copies from LIVE to TRAIN or LIVE to TEST, with COUNTY EHRs Steering Committee.
 - b. COUNTY agrees to coordinate all moves or changes impacting the LIVE, TRAIN, or TEST environments with COUNTY Cerner Community Behavioral Health Software

users and CONTRACTOR. COUNTY will determine and decide on the schedule when Promotions (Cerner Community Behavioral Health Software updates or upgrades) are loaded, the process for loading Promotions into each environment, and any system copies.

- c. COUNTY agrees to submit requests to CONTRACTOR Help Desk for any system copies or changes impacting LIVE, TRAIN, or TEST environments.

2.3 CONTRACTOR will provide guidance and recommendation when to load Promotions. Services will include the following:

- a. Prepare and provide to COUNTY EHRS Steering Committee a thorough risk-benefit analysis for all Cerner Community Behavioral Health Software Promotions based on supplied documentation from Cerner within 4 weeks of the released Cerner Community Behavioral Health Software Promotion to include:
 - i. Summary of the purpose(s)
 - ii. List of known and potential risks
 - iii. List of known and potential benefits
 - iv. Reporting implications, including identification of any additional report functionality
 - v. Recommendation on when to load the Promotions based on CONTRACTOR'S testing results and COUNTY's claiming schedule.
 - 1. Test Cerner Community Behavioral Health Software promotion and work out known bugs on CONTRACTOR hosted servers TEST environment.
 - 2. Coordinate and work with COUNTY Steering Committee to schedule when CONTRACTOR will load promotions including any copies of LIVE to TRAIN or LIVE to TEST.
 - 3. COUNTY is aware failure to load all Cerner Community Behavioral Health Software Promotions in sequence and as supplied by Cerner could impact CONTRACTOR'S ability to meet scope of services as discussed as set forth herein.
 - 4. CONTRACTOR will maintain Cerner Community Behavioral Health Software Promotions within the vendor suggested guidelines (staying within 3 Promotions of the current Promotion). An exception will be made when a major release to key functionality such as ATP, Assessments or Client Data requires planning and additional training to facilitate a smooth implementation of the new promotion.
 - 5. CONTRACTOR, with County agreement, may reschedule the load of Promotions based on available staff resources or discovery of previous unknown or documented bugs which may negatively impact key agency operations.
- b. CONTRACTOR will act as system administrator in COUNTY's CONTRACTOR hosted system and agrees to provide customization including table changes or updates, workflow redesign, keying guides, management forms, WYSIWYG design and development, training materials and other assistance. The scope of services shall include the publishing and availability of the following forms of documentation:
 - i. Manuals for Accounts Receivable (AR) and all reporting required by the State of California.
 - ii. Status Reports as mutually agreed, including the status of claiming, billing, ATP changes or updates, Promotion testing status, and MCO status (if implemented), via email to the BH Helpdesk and the COUNTY EHRS Steering Committee. A written report format, content and frequency will be determined and modified as needed by mutual agreement.
 - iii. COUNTY'S electronic health record system schema (incorporating COUNTY's unique implementation decisions) as it relates to CONTRACTOR provision of services, as directed by COUNTY'S EHRS Steering Committee.

- iv. Special Projects (audits, State reviews, other ad hoc requests) as needed by COUNTY including the following:
 - 1. Consultation and assistance with special projects
 - 2. Data/Reports
 - 3. Participate in Meetings/Calls

Section 3.0 Ongoing Support for CONTRACTOR Hosted Software

- 3.1 CONTRACTOR will notify COUNTY EHRIS Steering Committee of all upgrades or modifications to the system which affect billing or other operational functions within three days after CONTRACTOR receives notice of such upgrades or modifications.
- 3.2 COUNTY will continue to maintain its existing Cerner Community Behavioral Health Software User Forum and User Group account to access Cerner Community Behavioral Health Software announcements of Promotions. This same account receives emails and participates in the User Forum discussions via email.
- 3.3 COUNTY will continue to own its CBHA (Cerner Behavioral Health Alliance) and CALSIG (California Special Interest Group) voting rights. At COUNTY EHRIS Steering Committee discretion, COUNTY may assign CONTRACTOR as the Proxy vote for COUNTY at CCBHA conventions. If COUNTY chooses to assign its vote, COUNTY will complete and deliver to CONTRACTOR a PROXY assignment request prior to each CBHA conference.
- 3.4 All upgrades and modifications will first be installed to TEST environment for evaluation by CONTRACTOR and COUNTY staff. Only after approval by COUNTY will modifications and upgrades be installed in LIVE or TRAIN environments. The approval process will be completed within thirty (30) days of loading modifications onto TEST environment. COUNTY is aware some modifications may be needed to fix system issues in LIVE. Work on the LIVE environment in impacted areas may need to be halted until COUNTY approves the software modification. CONTRACTOR will inform COUNTY of potential impacts to any system functionality including billing or claiming or clinical systems, and coordinate with COUNTY to ensure the modification is installed at a mutually agreeable date and time.
- 3.5 COUNTY is responsible for approving the load of the new Promotions containing any patches or upgrades. COUNTY must submit the request to CONTRACTOR Help Desk located in Fresno, CA for the loading of any Promotions due to contractual hosting obligations between COUNTY and CONTRACTOR.
- 3.6 CONTRACTOR is assigned responsibility for Hosted System Support including Network Connectivity Support between COUNTY and CONTRACTOR.
- 3.7 CONTRACTOR will provide access up to 70 concurrent users utilizing Citrix software. CONTRACTOR will maintain updates to ensure compatibility with Cerner Community Behavioral Health Software.
- 3.8 CONTRACTOR will act as sole liaison between COUNTY and Cerner with respect to COUNTY'S Cerner Community Behavioral Health Software hosted on CONTRACTOR servers, and will be responsible for working with Cerner to resolve all software and/or connectivity issues regarding said software. In addition, unless a separate schedule is mutually agreed upon by the Parties, Contractor shall ensure that new Cerner software modules made part of this Agreement will be successfully implemented and fully operational within a period of 30-days from the date of the release of each new software module.
- 3.9 COUNTY is aware additional charges may apply from Cerner and CONTRACTOR if COUNTY staff place support calls directly to Cerner and not to CONTRACTOR Help

Desk.

Section 4.0 Medi-Cal and Medicare Billing and Accounts Receivable (A/R) Cycle Support for Cerner Community Behavioral Health Software

- 4.1** CONTRACTOR will complete processes to submit an electronic claim file within 30 days of month end for both Mental Health and Alcohol and Drug services to Medi-Cal and to Medicare for the Mental Health Services.
- 4.2** CONTRACTOR will complete monthly processes to submit an electronic claim file for Medi-Cal services with a low denial rate of no more than 5% error rate excluding errors caused by COUNTY.
- 4.3** CONTRACTOR will complete processes to submit an electronic claim file for all Medi-Cal Supplemental Mental Health and Alcohol and Drug services at minimum of one time a month with a low denial rate of no more than 5% error rate excluding errors caused by COUNTY.
- 4.4** CONTRACTOR will complete processes for Medi-Cal Void and Replace Mental Health and Alcohol and Drug services at minimum of once a month with a low denial rate of no more than 5% error rate excluding errors caused by COUNTY.
- 4.5** CONTRACTOR will complete the month end processes for CSI and CalOMS file submissions with a low denial rate or no more than 5% error rate excluding errors caused by COUNTY.
- 4.6** CONTRACTOR will complete the monthly processes for 270 (HIPAA compliant eligibility) Claims, when available from the State of California, subject to the functionality within the Cerner Community Behavioral Health Software and with a low denial rate of no more than 5% error rate, excluding errors caused by COUNTY.
- 4.7** CONTRACTOR will complete the month end batch preparation for Private Insurance and Private Pay.
- 4.8** CONTRACTOR will provide all month end processes for the completion of A/R, Medi-Cal and Medicare Billing Processes including Managed Care at CONTRACTOR'S MIS office. With the support of COUNTY BH claim processing staff, CONTRACTOR'S staff will complete and submit all Month end A/R and Pre-Billing Processes for all requirements set forth by California Department of Health Care Services (DHCS).
- 4.9** CONTRACTOR will provide training and support to program staff for program processes required in the month end process including billing, claiming, CSI and CalOMS.
- 4.10** CONTRACTOR will use its assigned System Administrative privileges to insure COUNTY's Cerner Community Behavioral Health Software system is compliant with all State and Federal billing and claiming requirements.
- 4.11** CONTRACTOR will perform the monthly data reviews and data submittals to COUNTY for MMEF Files, California Alcohol and Drug Data Systems, California Outcomes Measurement System (CalOMS), Client and Service Information (CSI), and Explanation of Benefits (EOB) reporting.
- 4.12** CONTRACTOR will submit the CSI file within 60 days from the end of the processing month or meet the current state compliance timeframe.
- 4.13** CONTRACTOR will submit the CalOMS file within 45 days from the end of the processing month or meet the current state compliance timeframe.

- 4.14 CONTRACTOR will work with COUNTY EHRS Steering Committee to determine the claiming or billing schedule including the frequency of billing of various pay sources including Medi-Cal, Medicare, 3rd Party Insurance and Private Pay for a complete monthly claiming or billing cycle.

Section 5.0 Service Level Agreements

- 5.1 CONTRACTOR warrants that all services will be performed in a professional and workmanlike manner consistent with industry standards.
- 5.2 CONTRACTOR hosting equipment, Cerner Community Behavioral Health Software, and COUNTY Data will be available to concurrent users on a 24 x 7 basis, except for scheduled downtime.
- 5.3 CONTRACTOR will provide COUNTY with seven days' prior notice of scheduled downtime in the provision of services for maintenance or upgrades. To the extent possible, CONTRACTOR will schedule downtime during times of ordinarily low use by COUNTY. In the event of unscheduled and unforeseen downtime for any reason, CONTRACTOR will promptly notify COUNTY and respond promptly to COUNTY'S reasonable requests for information regarding the downtime.
- 5.4 System Availability Level - CONTRACTOR warrants that unscheduled downtime will not be more than a total of 1 (one) hour per month during normal County business hours of 8 AM to 6 PM. The COUNTY reserves the right to expand the normal business hour requirement. CONTRACTOR will take corrective action as may be required to maintain the required System Availability Level including but not limited to the addition of new hardware or increasing hardware performance.
- 5.5 System Availability Level – Post DR SITE Operation – CONTRACTOR agrees to maintain in full operation a mirrored, hot Disaster Recovery Site with Service Availability Level of 99.95% minimum on a 24x7x52 basis. The calculation of System Availability Level will be Potential Minutes minus Duration of all System Outages divided by Potential Minutes where Potential minutes are the number of total minutes in a fiscal year less the minutes of scheduled maintenance and where the Duration of all System Outages is the sum of all System Outages in minutes within the current fiscal year.
- 5.6 System Outage Definition- In order to calculate System Availability Level a System Outage is defined as any unscheduled event that results in the COUNTY's inability to access and utilize the full functionality of the hosted application AND/OR meet any of the Service Level Agreements described above.
- 5.7 Credit – CONTRACTOR shall credit COUNTY the equivalent of one day value of the total contract amount, exclusive of Section 3.0, for each day in which a System Outage occurs once the threshold of one hour per month has been reached. Post DR Site operation the credit will apply for each day in which a System Outage occurs once the 99.95% availability per fiscal year is not maintained. The credit will be applied monthly as a credit to the monthly invoice.
- 5.8 A minimum of 24k of bandwidth times the number of concurrent users will be made available through CONTRACTOR's Internet Service Provider or the direct connection. CONTRACTOR will periodically test communications to ensure that this bandwidth is properly provided.
- 5.9 CONTRACTOR will not be responsible for failures to meet these Service Level Requirements that are due to the following events: (a) any latency or downtime due to acts or omissions by COUNTY or concurrent users; (b) Internet latency, failures or outages; (c) third party acts or omissions over which CONTRACTOR has no control; and

(d) problems associated with the computer hardware and software systems used by COUNTY or its concurrent users (other than the hosting equipment).

- 5.10** COUNTY may suspend, or terminate, or direct CONTRACTOR to suspend or terminate, a COUNTY Cerner Community Behavioral Health Software user's access to services in accordance with COUNTY'S policies. COUNTY will assume sole responsibility for any claims made by COUNTY Cerner Community Behavioral Health Software users regarding COUNTY'S decision to suspend or terminate such service.
- 5.11** CONTRACTOR may suspend access to services by COUNTY or a COUNTY Cerner Community Behavioral Health Software user immediately in response to an act or omission that reasonably appears to jeopardize the security or integrity of CONTRACTOR'S services or the network(s) or facilities used to provide the services. Suspension will be to the minimum extent, and of the minimum duration, required to prevent or end the security issue. If the cause of said suspension is due to a grossly negligent or willful act or omission by COUNTY, then CONTRACTOR may suspend COUNTY'S access to services if COUNTY fails to correct the security issue after at least thirty (30) days' written notice to COUNTY regarding the basis of the security issue and subsequent good-faith, commercially reasonable efforts to resolve the matter with COUNTY to the parties' mutual satisfaction. The suspension will be lifted immediately when the security issue is cured. CONTRACTOR may suspend access to services by a COUNTY Cerner Community Behavioral Health Software user in response to a material breach by a COUNTY Cerner Community Behavioral Health Software user of any terms of use he or she has agreed to in connection with receiving the services. CONTRACTOR will notify COUNTY of any suspension of COUNTY Cerner Community Behavioral Health Software user access to services at least one day before suspension.

Section 6.0 Security

- 6.1** CONTRACTOR will maintain reasonable and appropriate administrative, physical and technical safeguards of the confidentiality, integrity and availability of COUNTY data, and provide Hosting Services in a manner consistent with the HIPAA Security Rules.
- 6.2** Steps taken by CONTRACTOR to safeguard the confidentiality, integrity and availability of COUNTY Data shall include, but are not limited to the following: CONTRACTOR will backup COUNTY Data stored on the Hosting Equipment on a daily basis. Each week, CONTRACTOR will perform a full backup of COUNTY Data, and store the backup copy at a secure offsite location, as mutually agreed by COUNTY and CONTRACTOR.
- 6.3** Communication between concurrent users and the Hosting Equipment that include access to or transfer of County Data, including Protected Health Information, will utilize a secure connection consistent with National Institute of Standards and Technology (NIST) encryption guidelines to render electronic Protected Health Information unusable, unreadable or indecipherable to unauthorized individuals as described in HITECH section 13402(h) and 74 FR 42740.
- 6.4** CONTRACTOR will conduct a background check of all CONTRACTOR staff who will have system administrator level access to the Hosting Equipment. All CONTRACTOR staff will receive training about compliance with the HIPAA Security Standards and protection of the privacy of County Data.
- 6.5** As more fully set forth in Exhibit F (Schedule of HIPAA Provisions for Business Associate), attached here to and incorporated herein, COUNTY is a covered entity that is required to comply with HIPAA. CONTRACTOR is acting as a Business Associate to COUNTY. They have entered into a Business Associate Agreement as Required by HIPAA. It is understood that COUNTY remains solely responsible for its compliance with HIPAA, and must establish and maintain its own compliance program to ensure that its

workforce safeguards the privacy and security of protected health information. CONTRACTOR shall be solely responsible for, and shall defend, indemnify and hold COUNTY harmless for all HIPAA violations arising out of acts or omissions of CONTRACTOR, its officers, directors, employees, agents, representatives or subcontractors.

6.6 Host Facility Physical Security

- a. CONTRACTOR will provide documentation and, at the discretion of COUNTY, allow for on-site inspections as needed to demonstrate that all facilities supporting the application have adequate physical security. This includes, at a minimum, centrally administered electronic locks that control entry and exit from all rooms where the hosted system resides. Any door security system must either be connected to the building's power backup system or have internal battery power sufficient to last 24 hours in normal usage.
- b. Security events for the physical access system must be logged and the logs stored electronically in a secure location in a non-changeable format and must be searchable. Retention on the logs must be not less than 7 years. Log entries must be created for at least: successful entry and exit (indicating whether the access was to enter or exit the room) as well as all security related events such as, doors left open more than 30 seconds, forced entries, failed entry attempts, repeat entries without exit, repeat exits without entry, attempts to access doors for which access was not authorized. CONTRACTOR agrees to provide, at COUNTY'S request, full access to search the security logs, and/or copies of such security logs, for any access or security events related to any and all rooms and physical locations hosting COUNTY'S system.

6.7 Host Network Security

- a. CONTRACTOR will use industry standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing Services under this Agreement.
- b. CONTRACTOR will, at its expense, either conduct or have conducted on an annual basis:
 - i. An examination of CONTRACTOR'S security policies, procedures and controls annually, results will be made available to County upon request;
 - ii. A vulnerability scan, performed by a scanner mutually agreed upon by COUNTY and CONTRACTOR, of CONTRACTOR'S systems and facilities that are used in any way to deliver services under this Agreement;
 - iii. A formal penetration test, performed by a process and qualified personnel mutually agreed upon by COUNTY and CONTRACTOR, of CONTRACTOR'S systems and facilities that are used in any way to deliver services under this Agreement.

6.8 At the request of COUNTY, CONTRACTOR will:

- a. Provide reports to COUNTY, at no additional cost, as needed to document compliance with the Security Standards; and
- b. Cooperate with COUNTY or with Department of Health and Human Services, accreditation bodies, or outside auditors who wish to inspect CONTRACTOR data center or CONTRACTOR'S efforts to ensure compliance with the Security Standards, provided that any inspection shall take place during regular business hours, and with advance notice to CONTRACTOR.
- c. Time devoted by CONTRACTOR toward production of reports or response to compliance audits will be considered part of covered support services.

Section 7.0 Disaster Recovery

- 7.1 CONTRACTOR will maintain a commercially reasonable disaster recovery and contingency plan (Exhibit G, attached hereto and incorporated herein by this reference) to enable CONTRACTOR to resume operation of the Hosting Equipment, re-install the various software products and third party applications, install the most recent copy of COUNTY Data, and enable COUNTY to resume operations.
- 7.2 Beyond the expectation of a commercially reasonable disaster recovery and contingency plan, CONTRACTOR shall maintain a full hot site solution including disaster recovery and redundant Kings View hosting infrastructure services.
- 7.3 For purposes of this Agreement, a "Disaster" shall mean any unplanned interruption of the operation of or inaccessibility to CONTRACTOR'S service in which CONTRACTOR, using reasonable judgment, requires relocation of processing to a recovery location.
- 7.4 CONTRACTOR shall notify COUNTY as soon as possible after CONTRACTOR deems a service outage to be a Disaster. CONTRACTOR shall move the processing of COUNTY'S services to a recovery location as expeditiously as possible and shall coordinate the cut-over.
- 7.5 During a disaster, optional or on-request services shall be provided by CONTRACTOR only to the extent adequate capacity exists at the recovery location and only after stabilizing the provision of base services.
- 7.6 CONTRACTOR will test the effectiveness of its disaster recovery and contingency plan biannually.
- 7.7 Contractor will consider as part of any future modification to its disaster recovery and contingency plan County's support of the ISO 27031 standard for guidelines for information and communications technology readiness for business continuity, as well as obtaining ISO 27001 certification for information security practices.

Section 8.0 Audit

- 8.1 CONTRACTOR will allow COUNTY, at COUNTY'S expense, twice annually or as mutually agreed periodically, a security audit and vulnerability assessment to provide third party verification of CONTRACTOR'S IT security safeguards for the system and its data. COUNTY can request to review independent audit reports that document the system's security posture. This security audit and vulnerability assessment must come from a third party source.
- 8.2 CONTRACTOR agrees to work with COUNTY to rectify any serious security issues the security audit and vulnerability assessments reveal. This includes additional security audits and vulnerability assessments that may be performed after any remediation efforts to confirm the serious security issues have been resolved and no further serious security issues exist.

Section 9.0 Facilities Inspection

- 9.1 CONTRACTOR grants authorized County personnel access to inspect CONTRACTOR'S systems, facilities, work areas, contractual relationships with third parties involved in supporting any aspects of the hosted system, and the systems which support/protect the hosted system. Inspection methodologies and services shall be mutually agreed upon by County and Contractor prior to inspection. This access will be granted on a minimum of one week's notice to allow for coordinating staff schedules. Such personnel will be limited to staff authorized by COUNTY to audit the system, and representatives of COUNTY

entity that funds the hosting. COUNTY accepts that access will be arranged with an escort, and CONTRACTOR commits that the escort will have the access and authority to provide physical access to facilities, answer appropriate questions, and provide requested documentation, including but not limited to executed contract terms, operating procedures, records of drills and tests, certification of background checks, security logs, and any other items required by state or federal audit requirements or as deemed by COUNTY to be required to demonstrate CONTRACTOR is complying with all contract terms.

Section 10.0 Data Retention and Disposal

- 10.1** Using appropriate and reliable storage media, CONTRACTOR will back up COUNTY data daily and retain such backup copies for a minimum of thirty-six months, or as consistent with requirements in federal, state and local law. At the end of that time period and at COUNTY's election, CONTRACTOR will securely destroy the backup copies. Upon COUNTY's request, CONTRACTOR will supply COUNTY with a certificate indicating the nature of the storage media destroyed, the date destroyed, and the method of destruction used. In addition, CONTRACTOR will provide certification of Department of Defense (DOD) 5220.22-M (or current) standard wipe of any hard drive media storage device removed from CONTRACTOR's production systems.
- 10.2** CONTRACTOR will retain logs associated with COUNTY'S Cerner Community Behavioral Health Software user activity for a minimum of seven years, unless the parties mutually agree to a different period. This log functionality currently exists within the Cerner Community Behavioral Health Software product.
- 10.3** CONTRACTOR will immediately place a "hold" on the destruction under its usual storage media retention policies of storage media that include COUNTY data, in response to a written request from authorized County personnel indicating that those records may be relevant to litigation that COUNTY reasonably anticipates. COUNTY will promptly coordinate with CONTRACTOR regarding the preservation and disposition of storage media. CONTRACTOR and COUNTY shall mutually agree to the continued preservation of the storage media. CONTRACTOR will provide documentation and, at the discretion of COUNTY, allow for on-site inspections as needed to demonstrate that all facilities supporting the methods of disposal of storage media, are appropriate to and fulfill all of COUNTY's needs. By way of example but not of limitation, all hard drives and tapes used to store COUNTY data must, upon destruction be properly disposed of, or on removal from production be appropriately wiped per I.i. above. These and other media, if used, must be appropriately transferred from one environment to another, properly scheduled and prepared for reuse in any event acceptable methodologies must be employed for tracking and auditing to insure data security.
- 10.4** COUNTY shall have the right, at its election, to download its records and data onto COUNTY servers a minimum of once per week. CONTRACTOR shall assist COUNTY in establishing procedures pertaining the downloading of COUNTY's records and data onto COUNTY's servers. County will be responsible to negotiate this function with Cerner Cooperation for any necessary enhancements and costs to be covered by County.

Section 11.0 Access to County Sites

- 11.1** CONTRACTOR may need physical access to COUNTY facilities for technical services or support during this Agreement. Prior to any technical services or support visit by CONTRACTOR, an appointment will be made by CONTRACTOR with COUNTY IS Service Desk. A member of COUNTY'S IS Staff must be on-hand to provide access to facility and accompany CONTRACTOR personnel.

Section 12.0 Help Desk Support

- 12.1** CONTRACTOR will provide a full time qualified (40 hour per week) support staff stationed onsite in Nevada County during normal hours of operation, working in conjunction with CONTRACTOR's Support Staff in Yuba City and Fresno Help Desk. The support staff member shall be an employee of CONTRACTOR and CONTRACTOR shall be solely responsible for the support staff member's oversight, compensation and benefits, Worker's Compensation coverage, and shall indemnify and defend County from any and all liability resulting from the intentional or negligent conduct of the support staff member while performing his/her duties under this agreement. CONTRACTOR's support staff shall not be considered COUNTY staff for any reason whatsoever and shall not be entitled to any pay, retirement or other benefits incident to COUNTY employment. COUNTY shall not control the method, means or hours worked for CONTRACTOR's support staff. CONTRACTOR shall defend, indemnify and hold COUNTY harmless from any and all claims by CONTRACTOR's employee that employee is a COUNTY employee or is entitled to any right or benefit whatsoever related to COUNTY employment.
- 12.2** In the event CONTRACTOR staff needs to be away from COUNTY'S assigned location for staff due to scheduled trainings, appointments, or any leave of 8 hours or more, CONTRACTOR will provide onsite replacement staff. In the event staff is out due to unplanned illness, CONTRACTOR will provide remote support if not able to provide onsite staff due to short notice of staff absence.
- 12.3** Qualifications/ job duties and responsibilities for said CONTRACTOR employee are as follows:
- 12.4** Required Skills/Experience
- a. AA degree or other specialized program in computer operating/business management, or two years additional relevant experience.
 - b. Ability to train program staff effectively.
 - c. Ability to analyze client operating problems and implement solutions.
 - d. Ability to research information systems, creating reports utilizing data mining management tools.
 - e. Ability to assist management in software implementation projects.
 - f. Experience in healthcare information systems.
 - g. Ability to travel to various locations as needed for training and implementations.
- 12.5** Job Duties/ Responsibilities Summary
To include but not necessarily be limited to the following:
- a. Provide on-site project and data management support in the implementation and ongoing utilization of the Electronic Health Records System (EHRS) at Behavioral Health.
 - b. Work with Behavioral Health Management to analyze data as needed from the EHRS.
 - c. Identify and resolve problems as needed, redirecting complex requests/problems to appropriate CONTRACTOR Information Technology staff.
 - d. Stay current with all system information, changes, and updates.
 - e. Analyze and develop processes, procedures and reports under direction of CONTRACTOR Information Technology Supervisor.
 - f. Provide onsite help desk support, training and guidance on utilization of new EHR system as part of an implementation team.
 - g. Develop reports and ad hoc queries for management staff and provide duties as listed below:
 - h. Assist with development and ongoing operation of the Cerner Community Behavioral Health Software Electronic Health Record System (EHRS).
 - i. Analyze and develop processes, procedures, and reports under the direction of

- CONTRACTOR Information Technology Supervisor.
- j. Provide onsite Behavioral Health Help Desk Support, Training, and Guidance on utilization of the Cerner Community Behavioral Health Software EHRS as part of the Behavioral Health Steering Committee and Implementation Teams.
 - k. Research reported problems and incidents.
 - l. Provide System Administrative services assigned to CONTRACTOR.
 - m. Escalate reported problems to CONTRACTOR Help Desk and assign to appropriate level CONTRACTOR Support.
 - n. Work at COUNTY site with travel to corporate office in Fresno, CA. or Yuba City, CA home office when needed.
 - o. Assist Behavioral Health in reconciling billing and management reporting for the Cerner Community Behavioral Health Software EHRS.
 - p. Assist with the support and generation of reports for COUNTY of California's Mental Health Services Act (MHSA) Data Collection Reporting (DCR) System.
 - q. Generation of reports for COUNTY's financial staff as needed.
 - r. Assist with the support of COUNTY's Behavioral Health staff in other projects and duties as assigned as they relate to the Cerner Community Behavioral Health Software EHRS.
- 12.6** CONTRACTOR'S support staff member stationed onsite in Nevada County will be the liaison for and coordinate incident reporting through resolution involving CONTRACTOR Help Desk, COUNTY Information Systems Service Desk, and Users. CONTRACTOR'S onsite staff will be responsible to collect data on the reported incident involving Cerner Community Behavioral Health Software and triage to CONTRACTOR Help Desk. COUNTY IS Service Desk is responsible to collect data on the reported incident on issues involving COUNTY network and associated applications. CONTRACTOR and COUNTY IS staff will work together to ensure support requests are sent to appropriate Service Desks or Help Desks or all the Service Desks or Help Desks.
- 12.7** COUNTY will work with CONTRACTOR on reporting and resolving incidents surrounding the Network or connectivity to CONTRACTOR Data Center in Fresno, CA, including incidents reported on CITRIX software.
- 12.8** CONTRACTOR will maintain a help desk as support to COUNTY Behavioral Health Help Desk staff to attend to user inquiries and problems pertaining to Cerner Community Behavioral Health Software. Help Desk support shall be available to COUNTY BH Help Desk staff Monday through Friday from 8:00 a.m. until 6:00 p.m. except for COUNTY holidays.
- 12.9** CONTRACTOR will maintain a call log identifying consequential issues referred for help and provide CONTRACTOR Management with trend report as requested. CONTRACTOR will report to COUNTY on call log activities at least monthly via email to the BH Help Desk and Steering Committee.
- 12.10** CONTRACTOR will provide COUNTY after-hours software support seven days a week as needed.
- 12.11** CONTRACTOR will use their work order system to track issues related to Cerner Community Behavioral Health Software support.
- 12.12** CONTRACTOR will report to COUNTY BH Help Desk immediately by email any incidents related to CONTRACTOR hosted system involving Network response time, application failure, or table inconsistencies. CONTRACTOR and COUNTY agree to work together to resolve network issues concerning connectivity between CONTRACTOR Data Center and COUNTY network infrastructure.
- 12.13** CONTRACTOR will report to COUNTY BH Help Desk any planned development work

and coordinate scheduling of development work with COUNTY.

- 12.14** CONTRACTOR will assign a work order number on reported incidents and problems within 3 working hours. Items related to System Administration of Staff ID's, table updates for Service Codes, Units/Subunits, Insurance, Client Categories, Menu Group updates, will be completed within 24 hours of creating the ticket. CONTRACTOR will provide an estimated time of completion for all items not listed in previous sentence. COUNTY is aware estimated times may vary and subject to change depending on what is discovered during resolution of the reported incident.

- 12.15** All work orders submitted to CONTRACTOR for items that require troubleshooting, repair or triage will be assigned a work order number within 3 hours. Any issue related to work stoppage and the inability to enter or retrieve data in the system will also be resolved within 4 hours or escalated to CONTRACTOR's next level of incident resolution.

- 12.16** CONTRACTOR will provide a quarterly report within 15 days of the end of each quarter for all work orders including the type, resolution time and any outstanding issues that need to be discussed for escalation to either CalSIG or Cerner Community Behavioral Health Software Support.

SCHEDULE E— KINGS VIEW SCHEDULE OF CHARGES AND PAYMENTS

1.0 Maximum Contract Price

Schedule E contains two categories of payments set forth below in Tables E-1 and E-2. The Schedule of Charges in Table E-1 pertains to the services provided by Kings View listed in Sections 1-4 and 12 of Appendix C-1. The Schedule of Charges in Table E-2 pertains to the Cerner Pass Through Software Modules listed in Table of E-2 under Cerner Support (New Version Rights). The combined maximum total of the contract based on Tables E-1 and E-2 is \$1,121,298.

Table E-1 Hosting, Maintenance and Support Services Provided by Kings View

Notwithstanding any other provision of the contract, in no event will the cost to COUNTY for services to be provided herein on Table E.1 exceed the maximum sum of \$280,743 for the contract term of July 1, 2016 through June 30, 2017, \$287,426 for the contract term July 1, 2017 through June 30, 2018, and \$293,469 for the contract term July 1, 2018 through June 30, 2019. The contract annual maximums are based on the following schedule:

	FY 2016-2017	FY 2017-2018	FY 2018-2019
Appendix C-1, Section 1.0-1.6 Reporting Compliance	\$ 18,720	\$ 19,094	\$ 19,380
Appendix C-1, Section 2.0-2.3 Hosting Management and Training;	\$ 45,521	\$ 46,431	\$ 47,127
Section 3.0-3.9 and 4.0-4.14 On-going Support	\$ 94,473	\$ 96,362	\$ 97,807
Appendix C-1, Section 12.0-12.16 Helpdesk Support	\$ 117,029	\$ 120,539	\$ 124,155
Subtotal	\$ 275,743	\$ 282,426	\$ 288,469
On-Site Travel/ Consultation (Reimbursement for Expenses)	\$ 5,000	\$ 5,000	\$ 5,000
Grand Total	\$ 280,743	\$ 287,426	\$ 293,469

Compensation:

COUNTY agrees to pay CONTRACTOR for the services provided by CONTRACTOR hereunder in the amounts as set forth in Table E.1. Payment of \$22,978.58 will be due on July 15, 2016 and will be due on the 15th day of each month thereafter through June 15, 2017, and \$ 23,535.50 will be due on the 15th day of each month thereafter through June 15, 2018, and \$24,039.08 will be due on the 15th day of each month thereafter through June 15, 2019, for services listed in Table E-1 of Appendix C-1.

On-Site Training/Consultation:

Additionally, for travel related to Training/Consultation, COUNTY shall pay for travel expenses reasonably incurred by CONTRACTOR in the course of delivery of such services to COUNTY, including reimbursement of coach airfare if reasonably available (purchased in advance to reduce airfare whenever possible), lodging at reasonable rates, and a one hundred twenty-five dollar (\$125.00) per diem allowance for car rentals, taxis, meals, airport parking, time, and other incidental expenses. Should COUNTY request more than one CONTRACTOR Staff member, the per diem shall be reduced, since a car rental would be shared. CONTRACTOR shall also submit receipts/invoices for any lodging, meals,

airfare, and/or car rental/mileage for reimbursement by COUNTY. Contractor shall submit monthly invoices to COUNTY and shall be reimbursed for reasonable travel costs as may be required to perform services during the lifetime of this Agreement for a total amount not to exceed \$5,000 annually.

CONTRACTOR shall submit invoices/receipts to:
 Nevada County Behavioral Health
 Attn: HHSF Fiscal Staff
 950 Maidu Avenue
 Nevada City, CA 95959

COUNTY will review the invoice and notify CONTRACTOR within fifteen (15) working days if any individual item or group of costs is being questioned or if other information required to process the invoice is missing. Payments of approved invoices with complete documentation, shall be made within thirty (30) days of receipt of a completed, correct, and approved billing.

The payment of an invoice by County will not prejudice County's right to object to or question that or any other invoice or matter in relation thereto. Contractor's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by County, on the basis of audits conducted in accordance with the terms of this contract, not to constitute allowable costs. Any payment will be reduced for overpayments, or increased for underpayments on subsequent invoices.

Table E.2 Charges and Payments for use of Pass Through Software Modules

Notwithstanding any other provision of the contract, in no event will the cost to COUNTY for the items referenced herein on Table E-2 exceed the maximum sum of \$82,350 for the contract term of July 1, 2016 through June 30, 2017, \$86,506 for the contract term July 1, 2017 through June 30, 2018, and \$90,804 for the contract term July 1, 2018 through June 30, 2019. The contract annual maximums are based on the following schedule.

Pass Through Software	FY 2016-2017	FY 2017-2018	FY 2018-2019
Cerner Support (New Version Rights)	\$56,620	\$59,461	\$62,434
1. Cerner Client Data System;			
2. Cerner Assessment System;			
3. Cerner Treatment Plan System;			
4. Cerner Scheduling System;			
5. Cerner Doctor's Home Page;			
6. Cerner Human Resource System;			
7. Cerner Cost Accounting System;			
8. Cerner Fiscal System;			
9. Cerner Managed Care Organization (MCO) System;			
Annual Visual Data Flex Subscription 70 Concurrent Users	\$697	\$732	\$769
Annual MERTECH SQL Driver 70 Concurrent Users	\$2,005	\$2,106	\$2,211
EPCS	\$1,428	\$1,499	\$1,574
PATIENT PORTAL	\$5,340	\$5,607	\$5,888
HISP	\$540	\$568	\$595
DSM5	\$4,395	\$4,615	\$4,846
ULTRA-SENSITIVE EXCHANGE	\$5,067	\$5,321	\$5,586
ESTIMATED TAX -8.25%	\$6,258	\$6,597	\$6,901
Total	\$82,350	\$86,506	\$90,804

CONTRACTOR will provide COUNTY with monthly invoice documentation from Cerner Software supporting annual Cerner Support New Version Rights and Support costs as shown in Table E-2.

Compensation: Payment will be due and payable on the first day of each month commencing with the Effective Date of the contract. It is understood by COUNTY and CONTRACTOR Cerner Software's Version Rights and Support is a pass through which CONTRACTOR pays to Cerner Software with no markup. Cerner Software Version Rights and Supports can increase each year. CONTRACTOR will submit to COUNTY the annual software rights costs for review as provided by Cerner Software.

The annual renewal will be capped at a maximum up to 5% increase of the previous year's costs. CONTRACTOR will invoice COUNTY monthly 1/12th the annual amount as listed in Table E.2.

CONTRACTOR has in place a business relationship with Cerner Software allowing for the ability to download all appropriate software updates and installation onto COUNTY'S hosted Cerner solution by CONTRACTOR.

2.0 Payments

- 2.1 The contractual amounts described in this Schedule to be paid to Contractor constitute the entire compensation due Contractor and all of County's obligations regardless of the difficulty, materials or equipment required. The contractual amount includes fees, licenses, overhead, profit and all other direct and indirect costs incurred or to be incurred by Contractor.
- 2.2 Any cost adjustments to the agreement, not set forth in this agreement must be agreed upon by the parties by amending this contract. No claim for additional services, not specifically provided herein, will be allowed by County except to the extent provided by a valid amendment to this contract through the Change Request process.
- 2.3 Payment will be made by County upon receipt by County of invoices from Contractor. County will be allowed thirty days to process each payment. The payment of an invoice by County will not prejudice County's right to object to or question that or any other invoice or matter in relation thereto. Contractor's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by County, on the basis of audits conducted in accordance with the terms of this contract, not to constitute allowable costs. Any payment will be reduced for overpayments, or increased for underpayments on subsequent invoices. County reserves the right to deduct from amounts that are or will become due and payable to Contractor under this, or any contract between the parties, any amounts that are or will become due and payable to County by Contractor.

3.0 Taxes

Sales, use or excise taxes, to the extent they apply, are the sole responsibility of County. Contractor will not submit an invoice nor will Contractor collect such taxes from the County.

4.0 Payment Terms

All payments are due Net 30 Days following County's receipt of an accurate invoice.

SCHEDULE F

SCHEDULE OF HIPAA PROVISIONS FOR BUSINESS ASSOCIATES

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) BUSINESS ASSOCIATE AGREEMENT

Contractor acknowledges that it is a "Business Associate" for purposes of this contract and of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and The Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH) per 45 CFR §160.103 and therefore is directly subject to the HIPAA Security Rule, Privacy Rule and Enforcement Rule, including its civil and criminal penalties and shall implement its standards.

Regarding the Use and Disclosure of Protected Health Information:

1. Except as otherwise limited in this Agreement, Contractor may use or disclose Protected Health Information (PHI) to perform functions, activities, or services for, or on behalf of, County as specified in this contract, provided that such use or disclosure would not violate the Privacy Rule if done by County and is in accordance with the "minimum necessary" policies and procedures of the County (see NCPP 200 – Use and Disclosure Policy).
2. Except as otherwise limited in this Agreement, Contractor may use Protected Health Information (PHI) for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor provided that the disclosure is required by law or Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which Contractor disclosed it to the person. And, Contractor shall also ensure that the person notifies Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.
3. Contractor shall not use or further disclose the PHI it creates, receives, maintains or transmits on behalf of the County for any purpose other than as permitted or required by this agreement or as required by law.
4. Contractor shall make available PHI to the individual for which it pertains in accordance to applicable law including 45 CFR §164.524
5. Contractor shall make available PHI for amendment and incorporate any amendments to PHI records in accordance with 45 CFR §164.526.
6. Contractor shall track disclosures and make available the information required to provide an accounting of disclosures if requested by the individual or COUNTY in accordance with 45 CFR §164.528.
7. To the extent the Contractor is to carry out County's obligations under the Privacy Rule, Contractor agrees to comply with the requirements of the Privacy Rule that apply to County in the performance of such obligations.

Contractor agrees to:

8. Protect the privacy and provide for the security of Protected Health Information (PHI) and electronic Protected Health Information (ePHI) created, received, maintained or transmitted by Contractor pursuant to this agreement in accordance with HIPAA, HITECH and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the HIPAA Regulations) and other applicable laws.
9. Develop and maintain a written information privacy and security program that includes administrative, physical and technical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities. Contractor will provide County with information concerning such safeguards as County may reasonably request from time to time.
10. Comply with County policies and procedures related to obtaining, using, disclosing, creating, maintaining and transmitting PHI and ePHI as it relates to this agreement.
11. Ensure sufficient training and utilize reasonable measures to ensure compliance with requirements of this agreement by Contractor's workforce members who use or disclose PHI (in any form) to assist in the performance of functions or activities under this agreement; and discipline such employees who intentionally violate any provisions of this agreement, including termination of employment. Workforce member training shall be documented and such documents retained for the period of this contract and made available to County for inspection if requested.
12. Ensure that any subcontractors or agents agree to comply with the same restrictions, conditions and terms that apply to the Contractor with respect to this agreement and with applicable requirements of HIPAA and HITECH by entering into a written contract including permissible uses and disclosures and provisions where the subcontractor or agent agrees to implement reasonable and appropriate security measures to protect the information (PHI or ePHI) it creates, receives, maintains or transmits on behalf of Contractor or County with respect to this agreement.
13. Report to County any security incident or any unauthorized use or disclosure of PHI (in any form). Security incidents include attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system and includes breaches of unsecured protected health information as required by 45 CFR §164.410. Contractor shall make this report by the next business day following discovery of the use, disclosure, or security incident. Any unauthorized use or disclosure or security incident shall be treated as discovered by Contractor on the first day on which such use or disclosure or security incident is known to the Contractor, including any person, other than the individual committing the unauthorized use or disclosure or security incident, that is an employee, officer or other agent of the Contractor, or who should reasonably have known such unauthorized activities occurred.
14. Contractor will comply with all applicable breach notification requirements including notifications to the individual/s whose PHI is the subject of a breach, as provided under the HIPAA and HITECH Acts. Contractor shall take prompt corrective action to cure any breach or action pertaining to the unauthorized disclosure of PHI or ePHI.
15. Make Contractor's internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the

Contractor on behalf of County available to the County upon request. In addition, Contractor will make these items available to the Secretary of the United States Health and Human Services for purposes of determining County's or Contractor's compliance with HIPAA and its implementing regulations (in all events Contractor shall immediately notify County of any such request, and shall provide County with copies of any such materials).

16. Contractor agrees that this agreement may be amended from time to time by County if and to the extent required by the provision of 42 U.S.C. § 1171, et seq., enacted by HIPAA and regulations promulgated thereunder, in order to assure that this agreement is consistent therewith.
17. Contractor acknowledges that a violation of the terms of this exhibit would constitute a material breach of this agreement.
18. At termination of this contract, if feasible, Contractor agrees to return or destroy all protected health information received from, or created or received by the Contractor on behalf of County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

EXHIBIT G

Kings View Information Technology Disaster Recovery Plan for Customers using Cerner Behavioral Health Software Executive Summary

Kings View Information Technology is contractually obligated to provide customers with continuous access to Cerner Behavioral Health/Anasazi software. To meet this obligation, Kings View has partnered with EVault Inc. to fulfill a core component of our Disaster Recovery Plan.

EVault is a cloud-based managed service that allows us to quickly recover critical systems after a disaster and allows customers to gain remote access via a secure, virtual environment in the EVault cloud.

Features

- As a Hot Site/Fail Over solution for mission critical applications, EVault puts both primary production and disaster recovery instances into the cloud. EVault operates 16 state-of-the-art remote Top-Tier Data Centers that provide best-in-class redundancy and performance, and accessible 24x7x365 support.
- An EVault Express Recovery Appliance installed at the Kings View Data Center maintains 7-14 days of backups on site for quick recovery at LAN speeds. The preconfigured storage appliance adds a local cache to cloud backups to speed data recovery when needed. The production server replicates in real time to the mirrored server in the EVault cloud, where 36 months of backups are maintained. All data is encrypted using the National Institute of Standards and Technology (NIST) 128-bit or 256-bit AES. Encryption occurs prior to leaving the backup server, during transit between the client and EVault, and while it remains in the EVault Cloud.
- In the event of a disaster, **EVault provides a 1-Hour Guaranteed SLA for mission-critical SQL servers (Anasazi and Citrix.)** Protected Platforms include Windows Server 2003, 2008, and 2013; Microsoft Exchange, SQL Server, File Server, and SharePoint, and Blackberry Server. Their comprehensive package also covers Hosted Active Directory, VM storage, secure network protocols, SSL VPN and IPSec Tunnel. For all other servers, EVault provides 24-Hour Guaranteed SLA.
- EVault provides one complete Disaster Recovery test annually to confirm server recovery times meet the agreed upon SLAs, as well as to verify testing includes all required servers/applications.

Kings View Information Technology

Disaster Recovery Plan for Customers using Cerner Behavioral Health Software

Executive Summary

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- EVault provides one complete Disaster Recovery test annually to confirm server recovery times meet the agreed upon SLAs, as well as to verify testing includes all required servers/applications.

How it Works – In the Event of a Disaster:

1. Kings View Declares Disaster and calls EVAult
2. EVault recovers systems and data from our backups held in the EVault Cloud
3. Kings View alerts customers to access systems from a secure virtual environment
4. Transition back to Kings View environment when Kings View Data Center is up and running again.



**Seagate Cloud Disaster Recovery
Acceptance Test Results**

Kings View
11/12/15 11/12/2015

Last Revision by:
Raymond Jaramillo
Cloud Disaster Recovery Services
Seagate
11/12/2015