

TULARE COUNTY AGREEMENT NO. _____

COUNTY OF TULARE
ADULT AND JUVENILE ELECTRONIC MONITORING EQUIPMENT AGREEMENT
BI INCORPORATED

THIS AGREEMENT ("Agreement") is entered into as of Aug 3 2020 between the COUNTY OF TULARE, a political subdivision of the State of California ("COUNTY"), and BI INCORPORATED ("CONTRACTOR"), a Colorado corporation with its principal place of business at 6265 Gunbarrel Avenue, Suite B, Boulder, CO 80301. COUNTY and CONTRACTOR are each a "Party" and together are the "Parties" to this Agreement, which is made with reference to the following:

- A. WHEREAS, COUNTY has determined that a present need exists for the products and services set forth in this Agreement; and
- B. WHEREAS, COUNTY is authorized to enter into this Agreement by the laws and regulations to which COUNTY is subject, and
- C. WHEREAS, COUNTY and CONTRACTOR agree that the terms and conditions of this Agreement apply to the products and services to be provided hereunder, and
- D. NOW, THEREFORE, in consideration of the promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, desiring to be legally bound, hereby agree as follows

THE PARTIES AGREE AS FOLLOWS:

- 1. **TERM:** This Agreement becomes effective as of July 1, 2020 and expires at 11:59 PM on June 30, 2021 unless earlier terminated as provided below, or unless the Parties extend the term by a written amendment to this Agreement.
- 2. **EQUIPMENT, SERVICES, RATES, AND PAYMENT:** See attached **Exhibit A**. The maximum compensation to CONTRACTOR through this agreement is **\$250,000** with Adult electronic monitoring equipment to be invoiced separately.
- 3. **INSURANCE:** Before approval of this Agreement by COUNTY, CONTRACTOR must file with the Clerk of the Board of Supervisors evidence of the required insurance as set forth in the attached **Exhibit B**.
- 4. **GENERAL AGREEMENT TERMS AND CONDITIONS:** COUNTY'S "General Agreement Terms and Conditions" are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein. COUNTY'S "General Agreement Terms and Conditions" can be viewed at <http://tularecountycounsel.org/default/index.cfm/public-information/>.
- 5. **ADDITIONAL EXHIBITS:** CONTRACTOR shall comply with the terms and conditions of the Exhibits listed below and identified with a checked box, which are by this reference made a part of this Agreement.

<input checked="" type="checkbox"/>	Exhibit C	Reporting Standards
<input type="checkbox"/>	Exhibit D	Additional terms and conditions for federally-funded contracts. This Exhibit can be viewed at: http://tularecountycounsel.org/default/index.cfm/public-information/Reporting Standards
<input checked="" type="checkbox"/>	Exhibit E	Monitoring and Audits
<input checked="" type="checkbox"/>	Exhibit F	Health Insurance Portability and Accountability Act (HIPPA) Requirements

6. **NOTICES:** (a) Except as may be otherwise required by law, any notice to be given must be written and must be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:

Marichu A. Baker, Fiscal Manager
Tulare County Probation Department
221 South Mooney Boulevard, Room 206
Phone No.: 559-713-2765
Fax No.: 559-713-2765

With a Copy to:

COUNTY ADMINISTRATIVE OFFICER
2800 West Burrel Avenue
Visalia, California 93291
Phone No.: 559-636-5005
Fax No.: 559- 733-6318

CONTRACTOR:

Michael F. Pharris, Assistant Secretary, BI Incorporated
6265 Gunbarrel Avenue, Suite B
Boulder, Colorado 80301
Phone No.: 303-218-1345

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the above address by giving written notice under this section.

7. **AUTHORITY:** CONTRACTOR represents and warrants to COUNTY that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind CONTRACTOR to its terms. CONTRACTOR acknowledges that COUNTY has relied upon this representation and warranty in entering into this Agreement.

8. **COUNTERPARTS:** The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together form one single document.

[THIS SPACE LEFT BLANK INTENTIONALLY; SIGNATURES FOLLOW ON NEXT PAGE]

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

BI, INCORPORATED

Date: 8/3/2020

By Ruth Skujawa
Print Name Ruth Skerjanec
Title VP

Date: 8/3/2020

By Joek Waldo
Print Name Joek Waldo
Title EUP

[Pursuant to Corporations Code section 313, County policy requires that contracts with a **Corporation** be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a **Limited Liability Company** be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

COUNTY OF TULARE

Date: _____

By _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By _____
Deputy Clerk

Approved as to Form
County Counsel

By Ameeta K. Nagra 8/10/20
Deputy
Matter # 2020804

EXHIBIT A

EQUIPMENT, SERVICES, RATES, AND PAYMENT

- I. **Spares Billing Deferment** - Following execution of this Agreement, County will be granted a sixty (60) day ramp-up period before billing of spares will commence.
- II. **Lost and Damaged Equipment Billing** – N/A
- III. **Equipment, Services, and Fees** - Pursuant to Section 6 of the Electronic Monitoring Service Agreement, the cost to County for the services rendered by BI is as follows:

A. HOMEGUARD 200 UNIT

Service Type – Standard

HomeGuard® 200 Unit Rental Charge:	\$1.30 per day per Unit from BI inventory.
HomeGuard 200 Monitoring Service Charge:	\$0.90 per Unit per Active Day.
Total HomeGuard 200 Unit Charge:	\$2.20 per Unit per day.

ADDITIONAL SERVICES:

- 1. **HomeGuard 200 Unit No-charge Spares:** Each month during the Term, County is entitled to keep a quantity of HomeGuard 200 Units equal to, but not to exceed, thirty percent (30%) of that month’s average number of active HomeGuard 200 Units per day in its possession at no charge (not subject to the Unit Rental Charge while not in use). For any inactive HomeGuard 200 Units in excess of the 30% allowance, County will incur a \$1.30 charge per unit per day.
- 2. **Unlimited HomeGuard 200 Unit Loss or Damage:** During each year of this Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged **HomeGuard 200** Units.
- 3. **Reasonable Supplies:** Service includes reasonable disposable field supplies as required by County.

B. HOMEGUARD 20|20 UNIT

Service Type – Standard

HomeGuard 20 20 Unit Rental Charge:	\$1.30 per day per Unit from BI inventory.
HomeGuard 20 20 Monitoring Service Charge:	\$0.90 per Unit per Active Day.
HomeGuard 20 20 Unit Charge:	\$2.20 per Unit per day.

EXHIBIT A (Continued)

ADDITIONAL SERVICES:

4. **HomeGuard 20|20 Unit No-charge Spares:** Each month during the Term, County is entitled to keep a quantity of HomeGuard 20|20 Units equal to, but not to exceed, thirty percent (30%) of that month's average number of active HomeGuard 20|20 Units per day in its possession at no charge (not subject to the Unit Rental Charge while not in use). For any inactive HomeGuard 20|20 Units in excess of the 30% allowance, County will incur a \$1.30 charge per unit per day.
5. **Unlimited HomeGuard 20|20 Unit Loss or Damage:** During each year of this Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged **HomeGuard 20|20** Units.
6. **Reasonable Supplies:** Service includes reasonable disposable field supplies as required by County.

C. HOMEGUARD 206 UNIT

Service Type – Standard

HG206 HomeGuard Digital Cell Unit Rental Charge:	\$2.40 per day per Unit from BI inventory.
Monitoring Service Charge:	\$0.90 per Unit per Active Day.
HG206 HomeGuard Digital Cell Unit Charge	\$3.30 per Unit per day.

ADDITIONAL SERVICES:

1. **HG206 HomeGuard Digital Cell Unit No-charge Spares:** Each month during the Term, County is entitled to keep a quantity of inactive HG206 HomeGuard Digital Cell Units equal to, but not to exceed, thirty percent (30%) of that month's average number of active HG206 HomeGuard Digital Cell Units per day in its possession at no charge (not subject to the Unit Rental Charge while not in use). For any inactive HG206 HomeGuard Digital Cell Units in excess of the 30% spares allowance, County will incur a \$2.40 charge per unit per day.
2. **Unlimited HomeGuard 206 Digital Cell Unit Loss or Damage:** During each year of this Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged HomeGuard 206 Units.
3. **Reasonable Supplies:** Service includes reasonable disposable field supplies as required by County.

EXHIBIT A (Continued)

D. HOMEGUARD 20/20 CELLULAR UNIT

Service Type – Standard

HG20/20 HomeGuard Digital Cell Unit Rental Charge: \$2.40 per day per Unit from BI inventory.

HG20/20 HomeGuard Digital Cell Monitoring Service Charge: \$0.90 per Unit per Active Day.

Total HG20/20 HomeGuard Digital Cell Unit Charge: \$3.30 per Unit per day.

ADDITIONAL SERVICES:

1. **HG20/20 HomeGuard Digital Cell Unit No-charge Spares:** Each month during the Term, County is entitled to keep a quantity of inactive HG20/20 HomeGuard Digital Cell Units equal to, but not to exceed, thirty percent (30%) of that month's average number of active HG20/20 HomeGuard Digital Cell Units per day in its possession at no charge (not subject to the Unit Rental Charge while not in use). For any inactive HG20/20 HomeGuard Digital Cell Units in excess of the 30% spares allowance, County will incur a \$2.40 charge per unit per day.
2. **Unlimited HomeGuard 20/20 Digital Cell Unit Loss or Damage:** During each year of this Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged HomeGuard 20/20 Units.
3. **Reasonable Supplies:** Service includes reasonable disposable field supplies as required by County.

E. TAD UNIT TERMS AND CHARGES:

Service Type –Standard

TAD ALCOHOL ONLY CHARGES:

TAD Monitoring Unit Rental Charge: \$5.54 per Unit per day from BI inventory.

TAD Alcohol Only Monitoring Service Charge: \$2.00 per Unit per Active Day.

Total TAD Alcohol Only Charge: \$7.54 per Unit per day.

TAD WITH RF CHARGES:

TAD Monitoring Unit Rental Charge: \$5.54 per Unit per day from BI inventory.

TAD with RF Monitoring Service Charge: \$2.00 per Unit per Active Day.

Total TAD with RF Charge: \$7.54 per Unit per day.

EXHIBIT A (Continued)

TAD PLUS CELLULAR – ALCOHOL ONLY CHARGES:

TAD Monitoring Unit Rental Charge:	\$5.54 per Unit per day from BI inventory.
TAD Cellular HomeBase Unit Rental Surcharge:	\$1.58 per Unit per day from BI inventory.
TAD Alcohol Only Monitoring Unit Service Charge:	\$2.00 per Unit per Active Day.
Total TAD Plus Cellular – Alcohol Only Charge:	\$9.12 per Unit per day.

TAD PLUS CELLULAR - WITH RF MONITORING CHARGES:

TAD Monitoring Unit Rental Charge:	\$5.54 per Unit per day from BI inventory.
TAD Cellular HomeBase Unit Rental Surcharge:	\$1.58 per Unit per day from BI inventory.
TAD with RF Monitoring Service Charge:	\$2.00 per Unit per Active Day.
Total TAD Plus Cellular – with RF Monitoring Charge:	\$9.12 per Unit per day.

ADDITIONAL SERVICES:

1. **TAD Unit No-charge Spares:** Each month during the Term, County is entitled to keep a quantity of TAD units equal to, but not to exceed, thirty percent (30%) of that month's average number of active TAD Units per day in its possession at no charge (not subject to the Unit Rental Charge while not in use). For any inactive TAD units in excess of the 30% allowance, County will incur a \$5.54 charge per unit per day.
2. **Unlimited TAD Unit Loss or Damage:** BI will be responsible for all costs related to lost, stolen or damaged TAD Equipment.
3. **TAD Cellular HomeBase No-charge Spares:** Each month during the Term, County is entitled to keep a quantity of TAD Cellular HomeBases equal to, but not to exceed, thirty percent (30%) of that month's average number of active TAD Cellular Homebases per day in its possession at no charge (not subject to the Unit Rental Charge while not in use). For any inactive TAD Cellular HomeBases in excess of the 30% allowance, County will incur a \$1.58 charge per unit per day.
4. **Unlimited Cellular HomeBase Loss or Damage:** BI will be responsible for all costs related to lost, stolen or damaged TAD Cellular HomeBase Equipment.
5. **Reasonable Supplies:** BI will provide reasonable supplies.

F. SL3 UNIT

SL3 Unit Rental Charge:	\$3.80 per day per Unit from BI inventory.
SL3 Unit Monitoring Service Charge	\$2.00 per Unit per Active Day.
Total SL3 Unit Charge:	\$5.80 per Unit per day.

ADDITIONAL SERVICES:

1. **SL3 Unit No-charge Spares:** Each month during the Term, County is entitled to keep a quantity of inactive SL3 Units equal to, but not to exceed, thirty percent (30%) of that month's average number of active SL3 Units per day in its possession at no charge (not subject to the Unit Rental Charge while not in use). For any inactive SL3 Units in excess of the 30% spares allowance, County will incur a \$3.80 charge per unit per day.
2. **Unlimited SL3 Unit Loss or Damage:** BI will be responsible for all costs related to lost, stolen, or damaged SL3 Units.
3. **SL3 Accessories:** BI will provide, at no charge to County, one (1) carrying case, one (1) charger, and five (5) mouthpieces per Unit supplied by BI. A reasonable number of additional mouthpieces shall be provided as needed at no charge.
4. **SL3 Telco Service Charge:** SL3 Units that are inactive continue to incur telecom fees. BI reserves the right to discontinue (turn off) the telecommunications plan for purchased SL3 units which have not incurred data usage fees for at least 180 consecutive days.

G. EXACUTRACK

Service Type – Standard

EXACUTRACK ONE CHARGES:

ExacuTrack One Tracker Component Rental:	\$2.80 per day per Unit from BI inventory.
---	--

EXACUTRACK ONE WITH 1.30.A30.ZX SERVICE:

ExacuTrack One 1.30.A30 ZX - GPS Point Collection every 1 minute, Data Transmission every 30 minutes, AFLT Collection every 30 minutes if needed, with Zone Crossing Notification.

ExacuTrack One 1.30.A30.ZX Service:	\$1.30 per day per Unit per Active Day.
--	---

Total ExacuTrack One 1.30.A30.ZX Charge:	\$4.10 total of ExacuTrackOne Components and ET1 1.30.A30.ZX Service charges.
---	---

EXACUTRACK ONE WITH 1.720.A0.ZX SERVICE:

ExacuTrack One 1.720.A0 ZX - GPS Point Collection every 1 minute, Data Transmission every 720 minutes, no AFLT, with Zone Crossing Notification.

ExacuTrack One 1.720.A0.ZX Service:	\$1.30 per day per Unit per Active Day.
--	---

EXHIBIT A (Continued)

Total ExacuTrack One 1.720.A0.ZX Charge: \$4.10 total of ExacuTrackOne Components and ET1 1.720.A0.ZX Service charges.

ADDITIONAL SERVICES:

1. **ExacuTrack One Unit No-charge Spares:** Each month during the term of the Agreement, County is entitled to keep a quantity of ExacuTrack One Tracking units equal to, but not to exceed, thirty percent (30%) of that month's average number of active ExacuTrack One Units per day in its possession at no charge (not subject to the Rental Charge while not in use). For any inactive ExacuTrack One Units in excess of the 30% allowance, County will incur a \$2.80 charge per unit per day.
2. **Unlimited ExacuTrack One Unit Loss or Damage:** During each year of this Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged ExacuTrack One Units.

H. LOC8 / LOC8 XT

Service Type –Standard

LOC8 Component Rental: \$2.90 per day per Unit provided from BI inventory.

OPTION A: LOC8 WITH 1.30.W5.C30.ZX SERVICE:

LOC8 1.30.W5.C30.ZX - GPS Collection Rate once 1 per minute, Data Transmission every 30 minutes, Wi-Fi Locate every 5 minutes (If GPS not found), Cell Tower Locate every 30 minutes (If GPS not found), with Data Transmission at Zone Crossing.

LOC8 1.30.W5.C30.ZX Service: \$1.35 per day per Unit per Active Day.

Total LOC8 1.30.W5.C30.ZX Charge: \$4.25 (total of LOC8 Components and LOC8 1.30.W5.C30.ZX Service charges)

OPTION B: LOC8 WITH 1.720.W5.C0.ZX SERVICE:

LOC8 1.720.W5.C0.ZX - GPS Collection Rate once 1 per minute, Data Transmission every 720 minutes, Wi-Fi Locate every 5 minutes (If GPS not found), no Cell Tower Locate (If GPS not found), with Data Transmission at Zone Crossing.

LOC8 1.720.W5.C0.ZX Service: \$1.35 per day per Unit per Active Day.

Total LOC8 1.720.W5.C0.ZX Charge: \$4.25 (total of LOC8 Components and LOC8 1.720.W5.C0.ZX Service charges)

EXHIBIT A (Continued)

ADDITIONAL SERVICES:

1. **LOC8 Unit No-charge Spares:** Each month during the term of the Agreement, County is entitled to keep a quantity of LOC8 units equal to, but not to exceed, thirty percent (30%) of that month's average number of active LOC8 Units per day in its possession at no charge (not subject to the Rental Charge while not in use). For any inactive LOC8 Units in excess of the 30% allowance, County will incur a \$2.90 charge per unit per day.
2. **Unlimited LOC8 Unit Loss or Damage:** During each year of this Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged LOC8 Units.
3. **Reasonable Supplies:** Service includes reasonable disposable field supplies as required by County.

EXHIBIT B

INSURANCE

PROFESSIONAL SERVICES CONTRACTS INSURANCE REQUIREMENTS

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his agents, representatives, employees and subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability of \$1,000,000 per occurrence including any auto or, if the CONTRACTOR has no owned autos, hired and non-owned auto coverage. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to the CONTRACTOR's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
2. CONTRACTOR must submit endorsements to the General Liability reflecting the following provisions:
 - a. *The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of work or operations performed by or on behalf of the CONTRACTOR including material, parts, or equipment furnished in connection with such work or operations.*
 - b. *For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.*
 - c. *CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of CONTRACTOR may acquire against the county by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.*

EXHIBIT B (Continued)

d. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled, except after written notice has been provided to the COUNTY.

3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors. CONTRACTOR waives all rights against the COUNTY and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employer's liability.

C. Deductibles and Self-Insured Retentions

Deductibles and Self-insured retentions must be declared and any deductible or self-insured retention that exceeds \$100,000 will be reviewed by the COUNTY Risk Manager for approval.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-: VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

E. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

WAIVERS:

I represent and attest that I am a person authorized to make representations on behalf of the CONTRACTOR, and represent the following:

(mark X if applicable)

Automobile Exemption: I certify that BI Incorporated does not own nor use vehicles in the performance of the agreement for which this insurance requirement is attached.

Workers' Compensation Exemption: I certify that _____ is not required to carry workers' compensation coverage or has filed an exemption with the State of California as required by law.

I acknowledge and represent that we have met the insurance requirements listed above.

Print Name Ruth Skerjanec

Date: 8/3/2020

Contractor Name BI Incorporated

Signature Ruth Skerjanec

EXHIBIT C

REPORTING STANDARDS

- A. CONTRACTOR will enter information as outlined below, into the case management system as identified by the Tulare County Probation Department no later than two (2) business days after the event occurs for all clients served. Until a system is identified, the CONTRACTOR will notify the COUNTY via email.
- a. CONTRACTOR will enter into the system the type, date, location, and duration of service provided to each client.
 - b. CONTRACTOR will enter into the system the admission date of each client.
 - c. CONTRACTOR will enter into the system the discharge date and reason for the discharge of each client.
 - d. CONTRACTOR will correct any identified errors in the system.

Tulare County Probation Department
11200 Avenue 368, Room 108
Visalia, California 93291
+1 (559) 713-2828
+1 (559) 737-4414 Fax
ATTN: Tracye Peck, Division Manager
TPeck@co.tulare.ca.us

EXHIBIT E

MONITORING AND AUDIT

COUNTY staff shall have the right to monitor, assess, and evaluate the CONTRACTOR'S performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include but is not limited to, audits, inspections of project premises, and interviews of project staff and participants. This fiscal audit shall be:

- Performed timely – not less frequently than annually and a report submitted timely. The audit is required to be completed no later than nine (9) months after the end of the subcontractor's fiscal year. The audit report is due to the Probation Department no later than thirty (30) days after the completion of the audit.
 - Performed in accordance with Government Auditing Standards – shall be performed by the County or an independent audit and be organization-wide.
 - All inclusive – includes an audit of the financial statements; an assessment of internal controls, including tests of transactions; and a determination of compliance with laws and regulations of all major programs and selected non-major program transactions. Programs which may be reviewed include, but are not limited to:
 - Electronic Monitoring
1. The COUNTY shall prepare a summary worksheet of results from the audit resolutions performed for all CONTRACTORS. The summary worksheet shall include, but not be limited to, contract amount, amount resolved, variances, whether an audit was relied upon or the CONTRACTOR performed an independent expense verification review of the CONTRACTOR in making the determination, whether audit findings were issued, and if applicable, date of management letter.
 2. Audits to be performed shall be, minimally, financial and compliance audits, and may include economy and efficiency and/or program results audits.
 3. Audits may be conducted by the County, an independent, third party, including either a private professional, or a separate governmental agency or office. The audit will be conducted at a time specified by the COUNTY.

Records Retention

CONTRACTOR shall retain and safeguard all records for a minimum of five (5) years from the date of final payment under this Agreement and shall make such records available and subject to inspection by the COUNTY upon request. CONTRACTOR shall not destroy any records without written consent provided by COUNTY.

EXHIBIT F

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Exhibit shall constitute the Business Associate Agreement (the "Exhibit") between Contractor, (the "Business Associate") and the County of Tulare (the "Covered Entity"), and applies to the functions Business Associate will perform on behalf of Covered Entity (collectively, "Services"), that are identified in the Agreement (as defined below).

Business Associate acknowledges and agrees that all Protected Health Information ("PHI") that is created or received by Covered Entity and disclosed or made available in any form, including but not limited to paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

1. Purpose. This Exhibit is intended to ensure that the Business Associate will establish and implement appropriate privacy and security safeguards with respect to PHI (as defined below) that the Business Associate may create, receive, use, or disclose in connection with the Services to be provided by the Business Associate to the Covered Entity. Such safeguards will be consistent with the standards set forth in regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIP ") as amended by the Health Information Technology for Economic and Clinical Health Act as set forth in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 ("HITECH Act") and amendments to include HIPA 's Administrative Simplification provisions.

2. Regulatory References. All references to regulatory Sections, Parts and Subparts in this Exhibit are to Title 45 of the Code of Federal Regulations, parts 160 and 164 (the "HIPA Privacy Rule" and the "HIPA Security Rule") as in effect or as amended, and for which compliance is required, unless otherwise specified.

3. Definitions. Unless otherwise defined in this Agreement, the terms used in this Agreement shall have the meanings ascribed in the HIPAA Regulations; provided that PHI shall mean Protected Health Information, as defined in 45 C.F.R. section 160.103, limited to the Protected Health Information Business Associate received from, created, or received on behalf of Covered Entity as its Business Associate.

4. Obligations and Activities of Business Associate.

Business Associate agrees to:

- a. Acknowledge that it is required by Sections 13401 and 13404 of the HITECH Act to comply with the HIPAA Security Rule, Sections 164.308 through 164.316, including the Security Rule's Administrative, Physical and Technical safeguard requirements and the use and disclosure provisions of the HIPAA Privacy Rule, Sections 164.502 and 164.504.
- b. Not use or further disclose PHI other than as permitted or required by this Exhibit, or as required by law.
 1. Use appropriate safeguards to maintain the security, including compliance with Subpart C of 45 CFR Part 164, with respect to electronic PHI, to prevent use or disclosure of the PHI other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that is created, received, maintained or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary rules, regulations and statutes.
 2. To the extent practicable, Business Associate will secure all PHI by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with any applicable standards or guidance issued by the Department of Health and Human Services under Section 13402 of the HITECH Act.
- c. Report breach disclosures immediately to Covered Entity. Business associate: 1) shall report to Covered Entity any use or disclosure of PHI not provided for by this Agreement on the first day the Business Associate knows or should have known about it; 2) notify the Covered Entity of any and all

EXHIBIT F (Continued)

breaches of PHI, and provide detailed information to the Covered Entity about the breach, along with the names and contact information, when available, of all individuals whose PHI was involved. **(See Section 6 of this Exhibit for further detail.)** 3) agrees that such notification will meet the requirements of Section 13402 of the HITECH Act and § 164.410 of the amended HIPAA regulations.

- d. Enter into a written agreement with any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, pursuant to which such agent or subcontractor agrees to be bound by the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2) if applicable. **(See Section 11 of this Exhibit for further detail.)**
- e. Make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI available to the Covered Entity or to the Secretary of the United States Department of Health and Human Services (“Secretary”), for purposes of determining Business Associate’s compliance with the HIPAA Privacy Rule and Security Rule. **(See Section 12 of this Exhibit for further detail.)**
 - 1. Business Associate shall concurrently provide to the Covered Entity a copy of any PHI that Business Associate provides to the Secretary.
- f. Maintain and make available the information required to provide an accounting of disclosures of PHI as would be required for Covered Entity to respond to a request by an individual for an account of disclosures of PHI in accordance with 45 CFR § 164.528.

5. Permitted Uses and Disclosures by Business Associate.

- a. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities consistent with Section 164.502(j). Unless otherwise limited in this Exhibit, Business Associate may:
- b. Use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as necessary to perform the services

described in Exhibit A to the Agreement, or as otherwise specified in the Master Exhibit, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

- c. Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- d. Disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains the appropriate medical release from the person whose PHI is being disclosed and the person to whom the PHI is disclosed provides reasonable assurances in writing that the PHI will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- e. Use PHI to provide Data Aggregation services to Covered Entity as permitted by Section 164.504(e)(2)(i)(B).

6. Reporting Unauthorized Uses and Disclosures.

- a. Business Associate agrees to notify Covered Entity of any breach, or security incident involving PHI of which it becomes aware, including any access to, or use or disclosure of PHI not permitted by this Exhibit. Such notification will be made immediately after discovery and will include, to the extent possible, the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed, a description of the PHI involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by Business Associate. Business Associate will also provide to Covered Entity any other available information that the Covered Entity is required to include in its

EXHIBIT F (Continued)

notification to the individual under Section 164.404(c) at the time of the initial report or within three (3) days of the information becoming available.

- b. In the event of a request by law enforcement under Section 164.412, Business Associate may delay notifying Covered Entity for the applicable timeframe.
- c. breach or unauthorized access, use, or disclosure shall be treated as discovered by the Business Associate on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the Business Associate or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of the Business Associate.
- d. In meeting its obligations under this section, it is understood that Business Associate is not acting as the Covered Entity's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Exhibit, it is understood and agreed that Business Associate is at all times acting as an independent contractor in providing services pursuant to this Exhibit and the Agreement.

7. Mitigation of Harmful Effects.

- a. Business Associate agrees to mitigate, to the greatest extent possible, any harm that results from the following actions: breach, security incident, or unauthorized access, use or disclosure of PHI by Business Associate or its employees, officers, subcontractors, agents, or other representatives.
- b. Following the actions listed in Section 7(a) of this Exhibit, Business Associate agrees to take any and all corrective action necessary to prevent recurrence, to document any such action, and to make said documentation available to Covered Entity.
- c. Except as required by law, Business Associate agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of PHI without obtaining the Covered Entity's

prior written consent. Covered Entity hereby reserves the sole right to determine whether and how such notice is to be provided to any individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice.

8. Indemnification.

Business Associate agrees to:

- a. Hold harmless, defend at its own expense, and indemnify Covered Entity for the costs of any mitigation undertaken by Business Associate pursuant to Section 7 of this Exhibit.
- b. Assume responsibility for any and all costs associated with the Covered Entity's notification of individuals affected by a breach or unauthorized access, use or disclosure by Business Associate or its employees, officers, subcontractors, agents or other representatives when such notification is required by any state or federal law or regulation, or under any applicable contract to which Covered Entity is a party.
- c. Hold harmless, defend at its own expense and indemnify Covered Entity and its respective employees, directors, officers, subcontractors, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Exhibit or from any acts or omissions related to this Exhibit by Business Associate or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorney's fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Business Associate's acts or omissions hereunder. Business Associate's obligation to indemnify any Indemnified Party shall survive

EXHIBIT F (Continued)

the expiration or termination of the Agreement.

9. Individuals' Rights.

- a. Provide access, at the request of Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an individual in order to meet the requirements under Section 164.524.
- b. Make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to make pursuant to Section 164.526, at the request of Covered Entity or an individual, and in the time and manner designated by the Covered Entity.
- c. Document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Section 164.528.
- d. Provide to Covered Entity or an individual, in the time and manner designated by Covered Entity, information collected in accordance with Section 9(c) of this Exhibit, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Section 164.528.
- e. Comply with any restriction to the use or disclosure of PHI that Covered Entity agrees to in accordance with Section 164.522.

10. Obligations of Covered Entity.

Covered Entity

- a. Provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520, as well as any changes to such notice.
- b. Provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

- c. Notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

11. Agents and Subcontractors of Business Associate.

- a. Business Associate agrees to ensure that any agent, subcontractor, or other representative to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees in writing to the same restrictions, conditions and requirements that apply through this Exhibit to Business Associate with respect to such information, including the requirement to promptly notify the Business Associate of any instances of unauthorized access to or use or disclosure of PHI of which it becomes aware. Upon request, Business Associate shall provide copies of such agreements to Covered Entity.
- b. Business Associate shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

12. Audit, Inspection, and Enforcement.

- a. Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, available to any state or federal agency, including the Secretary, for the purposes of determining compliance with HIPAA and any related regulations or official guidance.
- b. With reasonable notice, Covered Entity and its authorized agents or contractors may audit and/or examine Business Associate's facilities, systems, policies, procedures, and documentation relating to the security and privacy of PHI to determine compliance with the terms of this Exhibit. Business Associate shall promptly correct any violation of this Exhibit found by Covered Entity and shall certify in writing that the correction has been made. Covered Entity's failure to detect any unsatisfactory practice does not constitute

EXHIBIT F (Continued)

acceptance of the practice or a waiver of Covered Entity's enforcement rights under the Agreement.

13. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

14. Term and Termination.

- a. The terms of this Exhibit shall remain in effect for the duration of all services provided by Business Associate under the Agreement and for so long as Business Associate remains in possession of any PHI received from, or created or received by Business Associate on behalf of Covered Entity unless Covered Entity has agreed in accordance with this section that it is not feasible to return or destroy all PHI.
- b. Upon termination of the Agreement, Business Associate shall recover any PHI relating to the Agreement and this Exhibit in its possession and in the possession of its subcontractors, agents or representatives. Business Associate shall return to Covered Entity, or destroy with the consent of Covered Entity, all such PHI, in any form, in its possession and shall retain no copies. If Business Associate believes it is not feasible to return or destroy the PHI, Business Associate shall so notify Covered Entity in writing. The notification shall include: (1) a statement that the Business Associate has determined that it is not feasible to return or destroy the PHI in its possession, and (2) the specific reasons for such determination. If Covered Entity agrees in its sole discretion that Business Associate cannot feasibly return or destroy the PHI, Business Associate shall ensure that any and all protections, requirements and restrictions contained in the Agreement and this Exhibit shall be extended to any PHI for so long as Business Associate maintains such PHI, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the PHI infeasible.
- c. Covered Entity may immediately terminate the Agreement if it determines that Business

Associate has violated a material term of this Exhibit.

15. Amendment.

The Parties agree to take such action as is necessary to amend this Exhibit from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of the HIPAA Privacy and Security Rules and the HITECH Act.

16. Lost Revenues; Penalties/Fines.

- a. Covered Entity whole for any revenues lost arising from an act or omission in billing practices by Business Associate.
- b. Penalties/Fines for Failure to Comply with HIPAA. Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with the obligations imposed by HIPAA.
- c. Penalties/Fines (other). Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

17. Entire Agreement.

This Exhibit constitutes the entire HIPAA Business Associate Agreement between the parties, and supersedes any and all prior HIPAA Business Associate Agreements between them.

Revised 6/29/16. SDE: 2015418-930874-2