

AGREEMENT

THIS AGREEMENT is made and entered into this 22nd day of September, 2020, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and CarivaCare, Inc., a California, Corporation whose address is PO Box 279407, Sacramento, CA 95827, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, as a result of the COVID-19 pandemic the COUNTY had a need to provide COVID-19 testing information to COUNTY employees who are experiencing COVID-19 symptoms or who have been involved in exposure events in which they had close contact with an individual who tested positive for COVID-19; and

WHEREAS, in addition, the COUNTY had a need for a way to maintain adequate staffing levels for critical services as well as meet new safety and reporting requirements set forth in Executive Order N-62-20; and

WHEREAS, COUNTY, through its Risk Management Division and CONTRACTOR have established a fully customized reporting hotline for COUNTY employees experiencing COVID-19 symptoms or who have been involved in exposure events in which they had close contact with an individual who tested positive for COVID-19 whether at their workplace or outside of work; and

WHEREAS, CONTRACTOR staffs the AMC Call Connect COVID-19 support hotline with registered nurses who triage for symptoms and provide recommendations and options for testing based on COUNTY'S protocols and current medical guidance and COUNTY wishes to continue to engage CONTRACTOR to provide these services; and

WHEREAS, CONTRACTOR has the facilities, equipment and personnel skilled to provide a COVID-19 support line to screen employees and provide recommendations and options for testing.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. **OBLIGATIONS OF THE CONTRACTOR**

A CONTRACTOR shall provide a support hotline staffed with registered nurses to receive

1 calls from County employees involved in COVID-19 exposure events, as described in Exhibit "A" (Scope
2 of Work) attached hereto and by this reference incorporated herein.

3 B. CONTRACTOR nursing staff will take a full report of the COVID-19 event, triage and
4 make recommendations to shelter in place or continue in the workplace if employees are asymptomatic
5 and wearing appropriate PPE. Employees who are asymptomatic and remain working outside the
6 home are placed in the COVID-19 Wellness Check Monitoring Program and will receive contact by
7 CONTRACTOR nursing staff twice per day via text or telephone call or after review of wellness check
8 forms from employees during the incubation period to monitor for changes or development in symptoms.

9 C. CONTRACTOR will provide testing site information dependent upon if an employee would like a
10 test or if the employee intends to file a workers' compensation claim due a COVID-19 event.

11 D. CONTRACTOR shall provide COUNTY updated reports for changes in status and
12 symptoms for employees placed in the Wellness Check Monitoring Program.

13 E. CONTRACTOR will collect test results from employees who test outside the hotline referral
14 service if County employee indicates they have tested elsewhere. CONTRACTOR shall provide the
15 results in updated reports to designated COUNTY staff.

16 F. All of COUNTY's request for services CONTRACTOR provided for under this Agreement
17 shall be at the sole discretion of COUNTY's Human Resources Department, Risk Management Division.

18 G. Both parties agree to comply with all applicable federal, state and local laws, rules and
19 regulations including the Health Insurance Portability and Accountability Act of 1996("HIPAA") and modified
20 by the Health Information Technology for Economic and Clinical Health ("HITECH") Act of 2009 and the
21 Omnibus Rule of 2013 in the performance of their obligations hereunder.

22 2. **TERM**

23 The term of this Agreement shall be effective commencing June 19, 2020 through and including
24 June 30, 2021. This agreement may be extended for two (2) additional consecutive twelve (12) month
25 periods upon written approval of both parties no later than thirty (30) days prior to the first day of the
26 next twelve (12) month extension period. The Director of Human Resources, or his designee, is
27 authorized to execute such written approval on behalf of COUNTY based on CONTRACTOR's
28 satisfactory performance.

1 3. **TERMINATION**

2 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be
3 provided hereunder, are contingent on the approval of funds by the appropriating government
4 agency. Should sufficient funds not be allocated, the services provided may be modified, or this
5 Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days advance written
6 notice.

7 B. Breach of Contract - The COUNTY may immediately suspend or terminate this
8 Agreement in whole or in part, where in the determination of the COUNTY there is:

- 9 1) An illegal or improper use of funds;
- 10 2) A failure to comply with any term of this Agreement;
- 11 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 12 4) Improperly performed service.

13 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach
14 of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such
15 payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default.
16 The COUNTY shall have the right to demand of the CONTRACTOR the repayment to the COUNTY of any
17 funds disbursed to the CONTRACTOR under this Agreement, which in the judgment of the COUNTY were
18 not expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly refund
19 any such funds upon demand.

20 C. Without Cause - Under circumstances other than those set forth above, this
21 Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of
22 an intention to terminate to CONTRACTOR.

23 4. **COMPENSATION:**

24 COUNTY agrees to pay CONTRACTOR and CONTRACTOR agrees to receive
25 compensation for services satisfactorily performed at the following rates: \$70 per initial call, \$9.50 per
26 review of Wellness Check Form submissions, and \$27.50 per call for COVID-19 wellness check
27 monitoring program for symptom checks, charting and documentation. Payment shall be made upon
28 certification or other proof satisfactory to COUNTY that services have been performed by

1 CONTRACTOR as specified in this Agreement.

2 In no event shall services performed under this Agreement exceed One Million One Hundred
3 Thousand and No/100 Dollars (\$1,100,000.00) during the period June 19, 2020 through June,30, 2021.
4 Should the term of this Agreement be extended for two (2) additional consecutive twelve (12) month
5 periods, in no event shall services performed under this Agreement during each of those (12) month
6 periods exceed One Million One Hundred Thousand and No/100 Dollars (\$1,100,000.00). It is understood
7 that all expenses incidental to CONTRACTOR's performance of services under this Agreement shall be
8 borne by CONTRACTOR.

9 5. **INVOICING**

10 CONTRACTOR shall submit a detailed invoice on contractor letterhead, to include the
11 following information: dates services provided, number of staff hours worked, number of initial reports,
12 wellness check reviews and wellness check monitoring calls.

13 CONTRACTOR shall submit monthly invoices to the County of Fresno, Risk Management
14 Division located at 2220 Tulare Street, 16th Floor Fresno, CA 93721, or electronically to e-mail address:
15 HRRiskWorkersComp@fresnocountyca.gov.

16 Payments by County shall be in arrears, for services provided during the preceding month,
17 within forty-five (45) days from date of receipt, verification and approval of CONTRACTOR'S invoice and
18 supporting documentation by COUNTY. If CONTRACTOR should fail to comply with any provision of the
19 Agreement, COUNTY shall be relieved of its obligation for further compensation.

20 6. **FUNDING:**

21 Funding for this Agreement is provided through legislative action for COVID-19 response.
22 Services will be covered using one or more of the following funding sources; the Coronavirus Aid, Relief,
23 and Economic Security (CARES) Act Funding (Pub. L. No. 116-136) and Risk Management ISF
24 appropriations.

25 7. **INDEPENDENT CONTRACTOR:** In performance of the work, duties and obligations
26 assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that
27 CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees will at all
28 times be acting and performing as an independent contractor, and shall act in an independent capacity and

1 not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY.

2 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which
3 CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer
4 this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the
5 terms and conditions thereof.

6 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and
7 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

8 Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right
9 to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely liable
10 and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In
11 addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating
12 to payment of CONTRACTOR'S employees, including compliance with Social Security withholding and all
13 other regulations governing such matters. It is acknowledged that during the term of this Agreement,
14 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

15 8. **MODIFICATION:** Any matters of this Agreement may be modified from time to time by
16 the written consent of all the parties without, in any way, affecting the remainder.

17 9. **NON-ASSIGNMENT:** Neither party shall assign, transfer or sub-contract this
18 Agreement nor their rights or duties under this Agreement without the prior written consent of the other
19 party.

20 10. **HOLD HARMLESS:**
21 CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY'S request, defend the
22 COUNTY, its officers, agents, and employees from any and all costs and expenses (including attorney's
23 fees and costs), damages, liabilities, claims, and losses occurring or resulting to COUNTY in connection
24 with the performance, or failure to perform, by CONTRACTOR, its officers, agents, or employees under this
25 Agreement, and from any and all costs and expenses (including attorney's fees and costs), damages,
26 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured
27 or damaged by the performance, or failure to perform, of CONTRACTOR, its officers, agents, or
28 employees under this Agreement.

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2 11. **INSURANCE:**

3 Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third
4 parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance
5 policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or
6 Joint Powers Agreement (JPA) throughout the term of the Agreement:

7 A. Commercial General Liability

8 Commercial General Liability Insurance with limits of not less than Two Million Dollars
9 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This
10 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including
11 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal
12 liability or any other liability insurance deemed necessary because of the nature of this contract.

13 B. Automobile Liability

14 Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars
15 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto
16 used in connection with this Agreement.

17 C. Professional Liability

18 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in
19 providing services, Professional Liability Insurance with limits of not less than One Million Dollars
20 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

21 CONTRACTOR agrees that it shall maintain, at its sole expense, in full force and effect for a period
22 of (3) years following the termination of this Agreement, one or more policies of professional liability
23 insurance with limits of coverage as specified herein.

24 D. Workers' Compensation

25 A policy of Workers' Compensation insurance as may be required by the California Labor
26 Code.

1 E. Cyber Liability

2 CONTRACTOR shall obtain cyber liability insurance with limits not less than Two Million Dollars
3 (\$2,000,000) per occurrence. Coverage shall include, but not be limited to, claims involving Cyber Risks.
4 The cyber liability policy shall be endorsed to cover the full replacement value of damage to, alteration
5 of, loss of, or destruction of intangible property (including but not limited to information or data) that is in
6 the care, custody, or control of the CONTRACTOR.

7 For purposes of the technology professional liability insurance and the cyber liability insurance
8 required under this Agreement, Cyber Risks include, but are not limited to, (i) security breaches, which
9 include disclosure of, whether intentional or unintentional, information provided by COUNTY, information
10 provided by or obtained from any person, or personal-identifying information relating to any person, to
11 an unauthorized third party; (ii) breach of any of CONTRACTOR's obligations under this Agreement
12 relating to data security, protection, preservation, usage, storage, transmission, and the like; (iii)
13 infringement of intellectual property including, but not limited to, infringement of copyright, trademark,
14 and trade dress; (iv) invasion of privacy, including any release of private information; (v) information theft
15 by any person or entity, whatsoever; (vi) damage to or destruction or alteration of electronic information;
16 (vii) extortion related to CONTRACTOR's obligations under this Agreement regarding electronic
17 information, including information provided by COUNTY, information provided by or obtained from any
18 person, or personal-identifying information relating to any person; (viii) network security; (ix) data breach
19 response costs, including security breach response costs; (x) regulatory fines and penalties related to
20 CONTRACTOR's obligations under this Agreement regarding electronic information, including
21 information provided by COUNTY, information provided by or obtained from any person, or personal-
22 identifying information relating to any person; and (xi) credit monitoring expenses.

23 Additional Requirements Relating to Insurance

24 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming
25 the County of Fresno, its officers, agents, and employees, individually and collectively, as additional
26 insured, but only insofar as the operations under this Agreement are concerned. Such coverage for
27 additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained
28 by COUNTY, its officers, agents and employees shall be excess only and not contributing with insurance

1 provided under CONTRACTOR's policies herein. This insurance shall not be cancelled or changed without
2 a minimum of thirty (30) days advance written notice given to COUNTY.

3 CONTRACTOR hereby waives its right to recover from COUNTY, its officers, agents, and
4 employees any amounts paid by the policy of workers' compensation insurance required by this
5 Agreement. CONTRACTOR is solely responsible to obtain any endorsement to such policy that may be
6 necessary to accomplish such waiver of subrogation, but CONTRACTOR's waiver of subrogation under
7 this paragraph is effective whether or not CONTRACTOR obtains such an endorsement.

8 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,
9 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the
10 foregoing policies, as required herein, to the County of Fresno, (Paul Nerland, Human Resources Director,
11 2220 Tulare Street, 16th floor, Fresno, CA 93721), stating that such insurance coverage have been
12 obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be
13 responsible for any premiums on the policies; that such Commercial General Liability insurance names the
14 County of Fresno, its officers, agents and employees, individually and collectively, as additional insured, but
15 only insofar as the operations under this Agreement are concerned; that such coverage for additional
16 insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by
17 COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance
18 provided under CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed
19 without a minimum of thirty (30) days advance, written notice given to COUNTY.

20 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein
21 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this
22 Agreement upon the occurrence of such event.

23 All policies shall be issued by admitted insurers licensed to do business in the State of California,
24 and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A
25 FSC VII or better.

26 12. **AUDITS AND INSPECTIONS:** The CONTRACTOR shall at any time during business
27 hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination
28 all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR

1 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data
2 necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

3 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to
4 the examination and audit of the Auditor General for a period of three (3) years after final payment under
5 contract (Government Code Section 8546.7).

6 13. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

7 A. The parties to this Agreement shall be in strict conformance with all applicable
8 Federal and State of California laws and regulations, including but not limited to Sections 5328, 10850, and
9 14100.2 *et seq.* of the Welfare and Institutions Code, Sections 2.1 and 431.300 *et seq.* of Title 42, Code of
10 Federal Regulations (CFR), Section 56 *et seq.* of the California Civil Code and the Health Insurance
11 Portability and Accountability Act (HIPAA), including but not limited to Section 1320 D *et seq.* of Title 42,
12 United States Code (USC) and its implementing regulations, including, but not limited to Title 45, CFR,
13 Sections 142, 160, 162, and 164, The Health Information Technology for Economic and Clinical Health Act
14 (HITECH) regarding the confidentiality and security of patient information, and the Genetic Information
15 Nondiscrimination Act (GINA) of 2008 regarding the confidentiality of genetic information.

16 Except as otherwise provided in this Agreement, CONTRACTOR, as a Business
17 Associate of COUNTY, may use or disclose Protected Health Information (PHI) to perform functions,
18 activities or services for or on behalf of COUNTY, as specified in this Agreement, provided that such use
19 or disclosure shall not violate the Health Insurance Portability and Accountability Act (HIPAA), USC 1320d
20 *et seq.* The uses and disclosures of PHI may not be more expansive than those applicable to COUNTY,
21 as the "Covered Entity" under the HIPAA Privacy Rule (45 CFR 164.500 *et seq.*), except as authorized for
22 management, administrative or legal responsibilities of the Business Associate.

23 B. CONTRACTOR, including its subcontractors and employees, shall protect, from
24 unauthorized access, use, or disclosure of names and other identifying information, including genetic
25 information, concerning persons receiving services pursuant to this Agreement, except where permitted in
26 order to carry out data aggregation purposes for health care operations [45 CFR Sections 164.504 (e)(2)(i),
27 164.504 (3)(2)(ii)(A), and 164.504 (e)(4)(i)] This pertains to any and all persons receiving services pursuant
28 to a COUNTY funded program. This requirement applies to electronic PHI. CONTRACTOR shall not use

1 such identifying information or genetic information for any purpose other than carrying out
2 CONTRACTOR'S obligations under this Agreement.

3 C. CONTRACTOR, including its subcontractors and employees, shall not disclose any
4 such identifying information or genetic information to any person or entity, except as otherwise specifically
5 permitted by this Agreement, authorized by Subpart E of 45 CFR Part 164 or other law, required by the
6 Secretary, or authorized by the client/patient in writing. In using or disclosing PHI that is permitted by this
7 Agreement or authorized by law, CONTRACTOR shall make reasonable efforts to limit PHI to the minimum
8 necessary to accomplish intended purpose of use, disclosure or request.

9 D. For purposes of the above sections, identifying information shall include, but not be
10 limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such
11 as finger or voice print, or photograph.

12 E. For purposes of the above sections, genetic information shall include genetic tests of
13 family members of an individual or individual, manifestation of disease or disorder of family members of an
14 individual, or any request for or receipt of, genetic services by individual or family members. Family
15 member means a dependent or any person who is first, second, third, or fourth degree relative.

16 F. CONTRACTOR shall provide access, at the request of COUNTY, and in the time
17 and manner designated by COUNTY, to PHI in a designated record set (as defined in 45 CFR Section
18 164.501), to an individual or to COUNTY in order to meet the requirements of 45 CFR Section 164.524
19 regarding access by individuals to their PHI. With respect to individual requests, access shall be provided
20 within thirty (30) days from request. Access may be extended if CONTRACTOR cannot provide access
21 and provides individual with the reasons for the delay and the date when access may be granted. PHI shall
22 be provided in the form and format requested by the individual or COUNTY.

23 CONTRACTOR shall make any amendment(s) to PHI in a designated record set at
24 the request of COUNTY or individual, and in the time and manner designated by COUNTY in accordance
25 with 45 CFR Section 164.526.

26 CONTRACTOR shall provide to COUNTY or to an individual, in a time and manner
27 designated by COUNTY, information collected in accordance with 45 CFR Section 164.528, to permit
28 COUNTY to respond to a request by the individual for an accounting of disclosures of PHI in accordance

1 with 45 CFR Section 164.528.

2 G. CONTRACTOR shall report to COUNTY, in writing, any knowledge or reasonable
3 belief that there has been unauthorized access, viewing, use, disclosure, security incident, or breach of
4 unsecured PHI not permitted by this Agreement of which it becomes aware, immediately and without
5 reasonable delay and in no case later than two (2) business days of discovery. Immediate notification shall
6 be made to COUNTY's Information Security Officer, Privacy Officer and COUNTY's DBH HIPAA
7 Representative, and County of Fresno Risk Manager within two (2) business days of discovery. The
8 notification shall include, to the extent possible, the identification of each individual whose unsecured PHI
9 has been, or is reasonably believed to have been, accessed, acquired, used, disclosed, or breached.
10 CONTRACTOR shall take prompt corrective action to cure any deficiencies and any action pertaining to
11 such unauthorized disclosure required by applicable Federal and State Laws and regulations.
12 CONTRACTOR shall investigate such breach and is responsible for all notifications required by law and
13 regulation or deemed necessary by COUNTY and shall provide a written report of the investigation and
14 reporting required to COUNTY's Information Security Officer and Privacy Officer. This written investigation
15 and description of any reporting necessary shall be postmarked within the thirty (30) working days of the
16 discovery of the breach to the addresses below:

17 County of Fresno
18 Dept. of Behavioral Health
19 HIPAA Representative
20 (559) 600-6439
P.O. Box 11867
Fresno, CA 93775

County of Fresno
Dept. of Public Health
Privacy Officer
(559) 600-6405
P.O. Box 11867
Fresno, CA 93775

County of Fresno
Information Technology Services
Information Security Officer
(559) 600-5800
333 W. Pontiac Way
Clovis, CA 93612

21 County of Fresno
22 Risk Manager
23 (559) 600-1851
24 2220 Tulare Street, 16th Floor
Fresno, CA 93721

25 H. CONTRACTOR shall make its internal practices, books, and records relating to the
26 use and disclosure of PHI received from COUNTY, or created or received by the CONTRACTOR on behalf
27 of COUNTY, in compliance with HIPAA's Privacy Rule, including, but not limited to the requirements set
28 forth in Title 45, CFR, Sections 160 and 164. CONTRACTOR shall make its internal practices, books, and

1 records relating to the use and disclosure of PHI received from COUNTY or created or received by the
2 CONTRACTOR on behalf of COUNTY, available to the United States Department of Health and Human
3 Services (Secretary) upon demand.

4 CONTRACTOR shall cooperate with the compliance and investigation reviews conducted
5 by the Secretary. PHI access to the Secretary must be provided during the CONTRACTOR'S normal
6 business hours, however, upon exigent circumstances access at any time must be granted. Upon the
7 Secretary's compliance or investigation review, if PHI is unavailable to CONTRACTOR and in possession
8 of a Subcontractor, it must certify efforts to obtain the information to the Secretary.

9 I. Safeguards

10 CONTRACTOR shall implement administrative, physical, and technical safeguards
11 as required by the HIPAA Security Rule, Subpart C of 45 CFR 164, that reasonably and appropriately
12 protect the confidentiality, integrity, and availability of PHI, including electronic PHI, that it creates,
13 receives, maintains or transmits on behalf of COUNTY and to prevent unauthorized access, viewing, use,
14 disclosure, or breach of PHI other than as provided for by this Agreement. CONTRACTOR shall conduct
15 an accurate and thorough assessment of the potential risks and vulnerabilities to the confidential, integrity
16 and availability of electronic PHI. CONTRACTOR shall develop and maintain a written information privacy
17 and security program that includes administrative, technical and physical safeguards appropriate to the
18 size and complexity of CONTRACTOR operations and the nature and scope of its activities. Upon
19 COUNTY's request, CONTRACTOR shall provide COUNTY with information concerning such safeguards.

20 CONTRACTOR shall implement strong access controls and other security
21 safeguards and precautions in order to restrict logical and physical access to confidential, personal (e.g.,
22 PHI) or sensitive data to authorized users only. Said safeguards and precautions shall include the
23 following administrative and technical password controls for all systems used to process or store
24 confidential, personal, or sensitive data:

25 1. Passwords must not be:

26 a. Shared or written down where they are accessible or recognizable by
27 anyone else; such as taped to computer screens, stored under keyboards, or visible in a work area;

28 b. A dictionary word; or

- 1 c. Stored in clear text
- 2 2. Passwords must be:
 - 3 a. Eight (8) characters or more in length;
 - 4 b. Changed every ninety (90) days;
 - 5 c. Changed immediately if revealed or compromised; and
 - 6 d. Composed of characters from at least three (3) of the following four
- 7 (4) groups from the standard keyboard:
 - 8 1) Upper case letters (A-Z);
 - 9 2) Lowercase letters (a-z);
 - 10 3) Arabic numerals (0 through 9); and
 - 11 4) Non-alphanumeric characters (punctuation symbols).

12 CONTRACTOR shall implement the following security
13 controls on each workstation or portable computing device (e.g., laptop computer) containing confidential,
14 personal, or sensitive data:

- 15 1. Network-based firewall and/or personal firewall;
- 16 2. Continuously updated anti-virus software; and
- 17 3. Patch management process including installation of all operating
18 system/software vendor security patches.

19 CONTRACTOR shall utilize a commercial encryption solution that has received
20 FIPS 140-2 validation to encrypt all confidential, personal, or sensitive data stored on portable electronic
21 media (including, but not limited to, compact disks and thumb drives) and on portable computing devices
22 (including, but not limited to, laptop and notebook computers).

23 CONTRACTOR shall not transmit confidential, personal, or sensitive data via e-mail
24 or other internet transport protocol unless the data is encrypted by a solution that has been validated by
25 the National Institute of Standards and Technology (NIST) as conforming to the Advanced Encryption
26 Standard (AES) Algorithm. CONTRACTOR must apply appropriate sanctions against its employees who
27 fail to comply with these safeguards. CONTRACTOR must adopt procedures for terminating access to
28 PHI when employment of employee ends.

1 J. Mitigation of Harmful Effects

2 CONTRACTOR shall mitigate, to the extent practicable, any harmful effect that is suspected
3 or known to CONTRACTOR of an unauthorized access, viewing, use, disclosure, or breach of PHI by
4 CONTRACTOR or its subcontractors in violation of the requirements of these provisions. CONTRACTOR
5 must document suspected or known harmful effects and the outcome.

6 K. CONTRACTOR Subcontractors

7 CONTRACTOR shall ensure that any of its contractors, including subcontractors, if
8 applicable, to whom CONTRACTOR provide PHI received from or created or received by CONTRACTOR
9 on behalf of COUNTY, agree to the same restrictions, safeguards, and conditions that apply to
10 CONTRACTOR with respect to such PHI and to incorporate, when applicable, the relevant provisions of
11 these provisions into each subcontract or sub-award to such agents or subcontractors.

12 L. Employee Training and Discipline

13 CONTRACTOR shall train and use reasonable measures to ensure compliance with
14 the requirements of these provisions by employees who assist in the performance of functions or activities
15 on behalf of COUNTY under this Agreement and use or disclose PHI and discipline such employees who
16 intentionally violate any provisions of these provisions, including termination of employment.

17 M. Termination for Cause

18 Upon COUNTY's knowledge of a material breach of these provisions by
19 CONTRACTOR, COUNTY shall either:

20 1. Provide an opportunity for CONTRACTOR to cure the breach or end the violation
21 and terminate this Agreement if CONTRACTOR do not cure the breach or end the violation within the
22 time specified by COUNTY; or

23 2. Immediately terminate this Agreement if CONTRACTOR have breached a
24 material term of these provisions and cure is not possible.

25 3. If neither cure nor termination is feasible, the COUNTY's Privacy Officer shall
26 report the violation to the Secretary of the U.S. Department of Health and Human Services.

27 N. Judicial or Administrative Proceedings

28 COUNTY may terminate this Agreement in accordance with the terms and

1 conditions of this Agreement as written hereinabove, if: (1) CONTRACTOR is found guilty in a criminal
2 proceeding for a violation of the HIPAA Privacy or Security Laws or the HITECH Act; or (2) a finding or
3 stipulation that the CONTRACTOR has violated a privacy or security standard or requirement of the
4 HITECH Act, HIPAA or other security or privacy laws in an administrative or civil proceeding in which the
5 CONTRACTOR is a party.

6 O. Effect of Termination

7 Upon termination or expiration of this Agreement for any reason, CONTRACTOR
8 shall return or destroy all PHI received from COUNTY (or created or received by CONTRACTOR on
9 behalf of COUNTY) that CONTRACTOR still maintain in any form, and shall retain no copies of such
10 PHI. If return or destruction of PHI is not feasible, it shall continue to extend the protections of these
11 provisions to such information, and limit further use of such PHI to those purposes that make the return
12 or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of
13 subcontractors or agents, if applicable, of CONTRACTOR. If CONTRACTOR destroys the PHI data, a
14 certification of date and time of destruction shall be provided to the COUNTY by CONTRACTOR.

15 P. Disclaimer

16 COUNTY makes no warranty or representation that compliance by
17 CONTRACTOR with these provisions, the HITECH Act, HIPAA or the HIPAA regulations will be
18 adequate or satisfactory for CONTRACTOR own purposes or that any information in CONTRACTOR
19 possession or control, or transmitted or received by CONTRACTOR, is or will be secure from
20 unauthorized access, viewing, use, disclosure, or breach. CONTRACTOR is solely responsible for all
21 decisions made by CONTRACTOR regarding the safeguarding of PHI.

22 Q. Amendment

23 The parties acknowledge that Federal and State laws relating to electronic data
24 security and privacy are rapidly evolving and that amendment of these provisions may be required to
25 provide for procedures to ensure compliance with such developments. The parties specifically agree to
26 take such action as is necessary to amend this agreement in order to implement the standards and
27 requirements of HIPAA, the HIPAA regulations, the HITECH Act and other applicable laws relating to
28 the security or privacy of PHI. COUNTY may terminate this Agreement upon thirty (30) days written

1 notice in the event that CONTRACTOR does not enter into an amendment providing assurances
2 regarding the safeguarding of PHI that COUNTY in its sole discretion, deems sufficient to satisfy the
3 standards and requirements of HIPAA, the HIPAA regulations and the HITECH Act.

4 R. No Third-Party Beneficiaries

5 Nothing express or implied in the terms and conditions of these provisions is
6 intended to confer, nor shall anything herein confer, upon any person other than COUNTY or
7 CONTRACTOR and their respective successors or assignees, any rights, remedies, obligations or
8 liabilities whatsoever.

9 S. Interpretation

10 The terms and conditions in these provisions shall be interpreted as broadly as
11 necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State laws. The
12 parties agree that any ambiguity in the terms and conditions of these provisions shall be resolved in
13 favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.

14 T. Regulatory References

15 A reference in the terms and conditions of these provisions to a section in the
16 HIPAA regulations means the section as in effect or as amended.

17 U. Survival

18 The respective rights and obligations of CONTRACTOR as stated in this Section
19 shall survive the termination or expiration of this Agreement.

20 V. No Waiver of Obligations

21 No change, waiver or discharge of any liability or obligation hereunder on any one
22 or more occasions shall be deemed a waiver of performance of any continuing or other obligation or
23 shall prohibit enforcement of any obligation on any other occasion.

24 14. **NON-DISCRIMINATION:**

25 During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate
26 against any employee or applicant for employment, or recipient of services, because of race, religious
27 creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic
28 information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military

1 status or veteran status pursuant to all applicable State of California and Federal statutes and regulation.

2 **15. REPORTS:**

3 CONTRACTOR shall work with the COUNTY to develop monthly reports.

4 **16. AUDITS AND INSPECTIONS:** The CONTRACTOR shall at any time during
5 business hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for
6 examination of all of its records and data with respect to the matters covered by this Agreement. The
7 CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of
8 such records and data necessary to ensure CONTRACTOR's compliance with the terms of this
9 Agreement.

10 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be
11 subject to the examination and audit of the Auditor General for a period of three (3) years after final
12 payment under contract (Government Code section 8546.7).

13 **17. SINGLE AUDIT CLAUSE:**

14 If CONTRACTOR expends Seven Hundred Fifty Thousand Dollars (\$750,000) or more
15 Federal and Federal flow-through monies, CONTRACTOR agrees to conduct an annual audit in
16 accordance with the requirements of the Single Audit Standards as set forth in Office of Management
17 and Budget (OMB) Title 2 of the Code of Federal Regulations, Chapter II, Part 200. CONTRACTOR
18 shall submit said audit and management letter to COUNTY. The audit must include a statement of
19 findings or a statement that there were no findings. If there were negative findings, CONTRACTOR
20 must include a corrective action plan signed by an authorized individual. CONTRACTOR agree to take
21 action to correct any material non-compliance or weakness found as a result of such audit. Such audit
22 shall be delivered to COUNTY'S Human Resources Department /Risk Management Division for review
23 within nine (9) months of the end of any fiscal year in which funds were expended and/or received for
24 the program. Failure to perform the requisite audit functions as required by this Agreement may result in
25 COUNTY performing the necessary audit tasks, or at the COUNTY'S option, contracting with a public
26 accountant to perform said audit, or, may result in the inability of COUNTY to enter into future
27 agreements with the CONTRACTOR.

28 B. A single audit report is not applicable if all CONTRACTOR'S Federal contracts do

1 not exceed the Seven Hundred Fifty Thousand Dollars (\$750,000) requirement or CONTRACTOR'S
2 federal funding is through Drug Medi-Cal.

3 **18. NOTICES:**

4 The persons and their addresses having authority to give and receive notices under this
5 Agreement include the following:

6	<u>COUNTY</u>	<u>CONTRACTOR</u>
7	County of Fresno	CarivaCare Inc.
8	Risk Management	PO Box 279407
9	2220 Tulare Street, 16 th Floor	Sacramento, CA 95827
10	Fresno, CA 93721	

11 All notices between the COUNTY and CONTRACTOR provided for or permitted under this
12 Agreement must be in writing and delivered either by personal service, by first-class United States mail, by
13 an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by
14 personal service is effective upon service to the recipient. A notice delivered by first-class United States
15 mail is effective three COUNTY business days after deposit in the United States mail, postage prepaid,
16 addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one
17 COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid,
18 with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by
19 telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission is
20 completed outside of COUNTY business hours, then such delivery shall be deemed to be effective at the
21 next beginning of a COUNTY business day), provided that the sender maintains a machine record of the
22 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section
23 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,
24 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,
25 beginning with section 810).

26 **19. GOVERNING LAW:**

27 Venue for any action arising out of or related to this Agreement shall only be in Fresno
28 County, California.

The rights and obligations of the parties and all interpretation and performance of this

1 Agreement shall be governed in all respects by the laws of the State of California.

2 20. **DISCLOSURE OF SELF-DEALING TRANSACTIONS:**

3 This provision is only applicable if the CONTRACTOR is operating as a corporation (a
4 for-profit or non-profit corporation) or if during the term of the agreement, the CONTRACTOR changes
5 its status to operate as a corporation.

6 Members of the CONTRACTOR'S Board of Directors shall disclose any self-dealing
7 transactions that they are a party to while CONTRACTOR is providing goods or performing services
8 under this agreement. A self-dealing transaction shall mean a transaction to which the CONTRACTOR
9 is a party and in which one or more of its directors has a material financial interest. Members of the
10 Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and
11 signing a Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit "B" and incorporated
12 herein by reference, and submitting it to the COUNTY prior to commencing with the self-dealing
13 transaction or immediately thereafter.

14 21. **SEVERABILITY:**

15 The positions of this Agreement are severable. The invalidity or unenforceability of any
16 one provision in the Agreement shall not affect the other provisions.

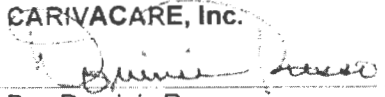
17 22. **ENTIRE AGREEMENT:**

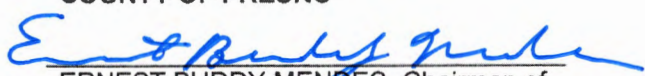
18 This Agreement, including all exhibits constitutes the entire agreement between the
19 CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous
20 Agreement negotiations, proposals, commitments, writings, advertisements, publications, and
21 understanding of any nature whatsoever unless expressly included in this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

CARIVACARE, Inc.

By: Dominic Russo
Dominic Russo
Print Name
Title: President
Mailing Address
PO Box 279407
Sacramento, CA 95827

COUNTY OF FRESNO

ERNEST BUDDY MENDES, Chairman of
the Board of Supervisors of the County of
Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: 
Deputy

FOR ACCOUNTING USE ONLY:
Fund: 1060
Subclass: 10000
ORG: 89250100
Account: 7295

CarivaCare

Exhibit "A"

Scope of Work

The AMC Call Connect COVID-19 Support Line for the County of Fresno is a fully customized COVID-19 reporting hotline for County of Fresno employees involved in COVID-19 exposure events. Employees call the hotline number to report exposure events. Registered nurses staff the hotline, take a full report of the event, triage, and provide recommendations and options for testing based on County of Fresno protocols and current medical guidance.

CarivaCare refers employees for testing to United Health Centers of San Joaquin Valley or to Kaiser on the Job based on the employee's intent to file a Workers' Compensation claim. CarivaCare provides designated County staff with individual call reports, as well as regular call logs with frequency based on County's needs. Call logs include employee demographics, summary of exposure event, PPE worn, nurse recommendations and disposition.

Employees who are asymptomatic and remain working outside the home are placed into the COVID-19 Wellness Check Monitoring Program to receive twice daily phone calls for symptom checks, charting and documentation. County will receive updated reports for changes in status and symptoms. Employees will receive text messages to complete Wellness Check Form submissions twice per day. Wellness check submissions will be reviewed for symptoms or additional information that warrants a call back from the Wellness Check Nurse.

CarivaCare will also collect test results from employees who test outside of the hotline referral service if employee indicate that have tested elsewhere. Results will be sent in updated reports to County staff.

Exhibit B

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the Corporation has the transaction;
and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit B

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	