

SERVICE AGREEMENT

This Service Agreement ("Agreement") is dated February 20, 2024 and is between Unite USA Inc., a Delaware Corporation ("Contractor"), and the County of Fresno, a political subdivision of the State of California ("County").

Recitals

A. The County, through its Department of Behavioral Health (DBH), is seeking a web-based integrated information system to manage persons served, services, providers, and related data for the Multi-Agency Access Program (MAP);

B. The County, through its DBH, operates several MAP Points throughout Fresno County and utilizes a community screening tool to identify the needs and barriers of its service population and connect them to necessary or desired services and resources;

C. The Contractor provides the Unite Us Platform, a web-based closed-loop referral system, which offers the ability to implement the MAP community screening tool, create closed loop linkages between community and healthcare partners, and deliver comprehensive to individual level data.

D. The Contractor has been providing these services to DBH through Procurement Agreement No. P-22-016 beginning January 5, 2022 with that agreement, as amended, expiring on February 29, 2024. The parties desire to continue the services according to the terms stated below, which exceeds the Purchasing Managers authority and now requires a board approved agreement.

The parties therefore agree as follows:

Article 1

Contractor's Services

1.1 **Scope of Services.** The Contractor shall perform all of the services provided in Exhibit A to this Agreement, titled "Scope of Services."

1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and able to perform all of the services provided in this Agreement.

1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all applicable federal, state, and local laws and regulations in the performance of its obligations under this Agreement, including but not limited to workers compensation, labor, and confidentiality laws and regulations.

Article 2

County's Responsibilities

2.1 The County shall include the following:

(A) Provide the MAP screening tool questionnaire for integration into the Unite Us Platform.

(B) Identify data and related programmatic needs to the Contractor for efficient and effective platform operations and data reporting.

(C) Enable access between the Contractor and contracted and community-based MAP partners to streamline communication, training opportunities, and troubleshooting and resolution.

(D) Maintain regular meetings with the Contractor, as needed.

Article 3

Compensation, Invoices, and Payments

3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for the performance of its services under this Agreement as described in this section.

(A) The County shall pay no more than Six Thousand Sixty-Six and 67/100 Dollars (\$6,666.67) for Network Access, which includes a waived fee for Twenty-Five (25) customer licenses to the Unite Us Platform, and an additional Ten (10) licenses to the Unite Us Platform for County's clinical partners.

(B) The County shall pay no more than Twenty Thousand and No/100 Dollars (\$20,000.00) for Unite Us Insights, including Network Activity Dashboard, Health Equity Dashboard, and Monthly Data Delivery via Secure Shell (SSH) File Transfer Protocol (SFTP).

3.2 **Maximum Compensation.** The maximum compensation payable to the Contractor under this Agreement is Twenty-Six Thousand Six Hundred Sixty-Six and 67/100 Dollars (\$26,666.67) for the period of March 1, 2024 through June 30, 2024. The Contractor acknowledges that the County is a local government entity, and does so with notice that the County's powers are limited by the California Constitution and by State law, and with notice that the Contractor may receive compensation under this Agreement only for services performed according to the terms of this Agreement and while this Agreement is in effect, and subject to the maximum amount payable under this section. The Contractor further acknowledges that County employees have no authority to pay the Contractor except as expressly provided in this Agreement.

The Contractor will be compensated for performance of its services under this Agreement as provided in this Article. The Contractor is not entitled to any compensation except as expressly provided in this Agreement.

3.3 **Invoices.** The Contractor shall submit an invoice to County's DBH email inboxes: DBHInvoiceReview@fresnocountyca.gov, DBH-Invoices@fresnocountyca.gov, and DBHContractedServicesDivision@fresnocountyca.gov, and copy the assigned Staff Analyst. Invoices may also be sent by physical mail to County of Fresno, Department of Behavioral Health, Contracted Services Division, 1925 E. Dakota Ave., Fresno, CA 93726; Attention: MAP Staff Analyst. The Contractor shall invoice the County upon execution of this Agreement.

3.4 **Payment.** The County shall pay each correctly completed and timely submitted invoice within 45 days after receipt. The County shall remit any payment to the Contractor's address specified in the invoice.

3.5 **Incidental Expenses.** The Contractor is solely responsible for all of its costs and expenses that are not specified as payable by the County under this Agreement.

Article 4

Term of Agreement

4.1 **Term.** This Agreement is effective on March 1, 2024 and terminates on June 30, 2024.

Article 5

Notices

5.1 **Contact Information.** The persons and their addresses having authority to give and receive notices provided for or permitted under this Agreement include the following:

For the County:

County of Fresno
Department of Behavioral Health
Attn: Contracts Division Staff Analyst
1925 E. Dakota Ave.
Fresno, CA 93726

For the Contractor:

Unite USA Inc.
217 Broadway, Floor 8
New York, NY 10007
legal@uniteus.com
finance@uniteus.com

5.2 **Change of Contact Information.** Either party may change the information in section 5.1 by giving notice as provided in section 5.3.

5.3 **Method of Delivery.** Each notice between the County and the Contractor provided for or permitted under this Agreement must be in writing, state that it is a notice provided under this Agreement, and be delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, or by Portable Document Format (PDF) document attached to an email.

(A) A notice delivered by personal service is effective upon service to the recipient.

(B) A notice delivered by first-class United States mail is effective three County business days after deposit in the United States mail, postage prepaid, addressed to the recipient.

(C) A notice delivered by an overnight commercial courier service is effective one County business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient.

(D) A notice delivered by telephonic facsimile transmission or by PDF document attached to an email is effective when transmission to the recipient is completed (but, if

1 such transmission is completed outside of County business hours, then such delivery is
2 deemed to be effective at the next beginning of a County business day), provided that
3 the sender maintains a machine record of the completed transmission.

4 **5.4 Claims Presentation.** For all claims arising from or related to this Agreement,
5 nothing in this Agreement establishes, waives, or modifies any claims presentation
6 requirements or procedures provided by law, including the Government Claims Act (Division 3.6
7 of Title 1 of the Government Code, beginning with section 810).

8 **Article 6**

9 **Termination and Suspension**

10 **6.1 Termination for Non-Allocation of Funds.** The terms of this Agreement are
11 contingent on the approval of funds by the appropriating government agency. If sufficient funds
12 are not allocated, then the County, upon at least 30 days' advance written notice to the
13 Contractor, may:

- 14 (A) Modify the services provided by the Contractor under this Agreement; or
- 15 (B) Terminate this Agreement.

16 **6.2 Termination for Breach.**

17 (A) Upon determining that a breach (as defined in paragraph (C) below) has
18 occurred, the County may give written notice of the breach to the Contractor. The written
19 notice may suspend performance under this Agreement, and must provide at least 30
20 days for the Contractor to cure the breach.

21 (B) If the Contractor fails to cure the breach to the County's satisfaction within the
22 time stated in the written notice, the County may terminate this Agreement immediately.

23 (C) For purposes of this section, a breach occurs when, in the determination of the
24 County, the Contractor has:

- 25 (1) Obtained or used funds illegally or improperly;
- 26 (2) Failed to comply with any part of this Agreement;
- 27 (3) Submitted a substantially incorrect or incomplete report to the County; or
- 28 (4) Improperly performed any of its obligations under this Agreement.

6.3 Termination without Cause. In circumstances other than those set forth above, the County may terminate this Agreement by giving at least 30 days advance written notice to the Contractor.

6.4 No Penalty or Further Obligation. Any termination of this Agreement by the County under this Article 6 is without penalty to or further obligation of the County.

6.5 **County's Rights upon Termination.** Upon termination for breach under this Article 6, the County may demand repayment by the Contractor of any monies disbursed to the Contractor under this Agreement that, in the County's sole judgment, were not expended in compliance with this Agreement. The Contractor shall promptly refund all such monies upon demand. This section survives the termination of this Agreement.

Article 7

Independent Contractor

7.1 **Status.** In performing under this Agreement, the Contractor, including its officers, agents, employees, and volunteers, is at all times acting and performing as an independent contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the County.

7.2 Verifying Performance. The County has no right to control, supervise, or direct the manner or method of the Contractor's performance under this Agreement, but the County may verify that the Contractor is performing according to the terms of this Agreement.

7.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no right to employment rights or benefits available to County employees. The Contractor is solely responsible for providing to its own employees all employee benefits required by law. The Contractor shall save the County harmless from all matters relating to the payment of Contractor's employees, including compliance with Social Security withholding and all related regulations.

7.4 **Services to Others.** The parties acknowledge that, during the term of this Agreement, the Contractor may provide services to others unrelated to the County.

Article 8

Indemnity and Defense

8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the County (including its officers, agents, employees, and volunteers) against all claims, demands, injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to the performance or failure to perform by the Contractor (or any of its officers, agents, subcontractors, or employees) under this Agreement. The County may conduct or participate in its own defense without affecting the Contractor's obligation to indemnify and hold harmless or defend the County.

8.2 **Survival.** This Article 8 survives the termination of this Agreement.

Article 9

Insurance

9.1 The Contractor shall comply with all the insurance requirements in Exhibit C to this Agreement.

Article 10

Inspections, Audits, and Public Records

10.1 **Inspection of Documents.** The Contractor shall make available to the County, and the County may examine at any time during business hours and as often as the County deems necessary, all of the Contractor's records and data with respect to the matters covered by this Agreement, excluding attorney-client privileged communications. The Contractor shall, upon request by the County, permit the County to audit and inspect all such records and data to ensure the Contractor's compliance with the terms of this Agreement.

10.2 **State Audit Requirements.** If the compensation to be paid by the County under this Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the California State Auditor, as provided in Government Code section 8546.7, for a period of three years after final payment under this Agreement. This section survives the termination of this Agreement.

1 10.3 **Public Records.** The County is not limited in any manner with respect to its public
2 disclosure of this Agreement or any record or data that the Contractor may provide to the
3 County. The County's public disclosure of this Agreement or any record or data that the
4 Contractor may provide to the County may include but is not limited to the following:

5 (A) The County may voluntarily, or upon request by any member of the public or
6 governmental agency, disclose this Agreement to the public or such governmental
7 agency.

8 (B) The County may voluntarily, or upon request by any member of the public or
9 governmental agency, disclose to the public or such governmental agency any record or
10 data that the Contractor may provide to the County, unless such disclosure is prohibited
11 by court order.

12 (C) This Agreement, and any record or data that the Contractor may provide to the
13 County, is subject to public disclosure under the Ralph M. Brown Act (California
14 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

15 (D) This Agreement, and any record or data that the Contractor may provide to the
16 County, is subject to public disclosure as a public record under the California Public
17 Records Act (California Government Code, Title 1, Division 7, Chapter 3.5, beginning
18 with section 6250) ("CPRA").

19 (E) This Agreement, and any record or data that the Contractor may provide to the
20 County, is subject to public disclosure as information concerning the conduct of the
21 people's business of the State of California under California Constitution, Article 1,
22 section 3, subdivision (b).

23 (F) Any marking of confidentiality or restricted access upon or otherwise made with
24 respect to any record or data that the Contractor may provide to the County shall be
25 disregarded and have no effect on the County's right or duty to disclose to the public or
26 governmental agency any such record or data.

27 10.4 **Public Records Act Requests.** If the County receives a written or oral request
28 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,

1 and which the County has a right, under any provision of this Agreement or applicable law, to
2 possess or control, then the County may demand, in writing, that the Contractor deliver to the
3 County, for purposes of public disclosure, the requested records that may be in the possession
4 or control of the Contractor. Within five business days after the County's demand, the
5 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's
6 possession or control, together with a written statement that the Contractor, after conducting a
7 diligent search, has produced all requested records that are in the Contractor's possession or
8 control, or (b) provide to the County a written statement that the Contractor, after conducting a
9 diligent search, does not possess or control any of the requested records. The Contractor shall
10 cooperate with the County with respect to any County demand for such records. If the
11 Contractor wishes to assert that any specific record or data is exempt from disclosure under the
12 CPRA or other applicable law, it must deliver the record or data to the County and assert the
13 exemption by citation to specific legal authority within the written statement that it provides to
14 the County under this section. The Contractor's assertion of any exemption from disclosure is
15 not binding on the County, but the County will give at least 10 days' advance written notice to
16 the Contractor before disclosing any record subject to the Contractor's assertion of exemption
17 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs
18 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,
19 failure to produce any such records, or failure to cooperate with the County with respect to any
20 County demand for any such records.

21 **Article 11**

22 **Disclosure of Self-Dealing Transactions**

23 11.1 **Applicability.** This Article 11 applies if the Contractor is operating as a corporation,
24 or changes its status to operate as a corporation.

25 11.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a
26 self-dealing transaction, he or she shall disclose the transaction by completing and signing a
27 "Self-Dealing Transaction Disclosure Form" (Exhibit B to this Agreement) and submitting it to the
28 County before commencing the transaction or immediately after.

11.3 **Definition.** “Self-dealing transaction” means a transaction to which the Contractor is a party and in which one or more of its directors, as an individual, has a material financial interest.

Article 12

General Terms

12.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this Agreement may not be modified, and no waiver is effective, except by written agreement signed by both parties. The Contractor acknowledges that County employees have no authority to modify this Agreement except as expressly provided in this Agreement.

12.2 Non-Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

12.3 Governing Law. The laws of the State of California govern all matters arising from or related to this Agreement.

12.4 Jurisdiction and Venue. This Agreement is signed and performed in Fresno County, California. Contractor consents to California jurisdiction for actions arising from or related to this Agreement, and, subject to the Government Claims Act, all such actions must be brought and maintained in Fresno County.

12.5 **Construction.** The final form of this Agreement is the result of the parties' combined efforts. If anything in this Agreement is found by a court of competent jurisdiction to be ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement against either party.

12.6 Days. Unless otherwise specified, “days” means calendar days.

12.7 **Headings.** The headings and section titles in this Agreement are for convenience only and are not part of this Agreement.

12.8 **Severability.** If anything in this Agreement is found by a court of competent jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of

1 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
2 intent.

3 12.9 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall
4 not unlawfully discriminate against any employee or applicant for employment, or recipient of
5 services, because of race, religious creed, color, national origin, ancestry, physical disability,
6 mental disability, medical condition, genetic information, marital status, sex, gender, gender
7 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
8 all applicable State of California and federal statutes and regulation.

9 12.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
10 of the Contractor under this Agreement on any one or more occasions is not a waiver of
11 performance of any continuing or other obligation of the Contractor and does not prohibit
12 enforcement by the County of any obligation on any other occasion.

13 12.11 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
14 between the Contractor and the County with respect to the subject matter of this Agreement,
15 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,
16 publications, and understandings of any nature unless those things are expressly included in
17 this Agreement. If there is any inconsistency between the terms of this Agreement without its
18 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
19 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
20 exhibits.

21 12.12 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
22 create any rights or obligations for any person or entity except for the parties.

23 12.13 **Authorized Signature.** The Contractor represents and warrants to the County that:

24 (A) The Contractor is duly authorized and empowered to sign and perform its
25 obligations under this Agreement.

26 (B) The individual signing this Agreement on behalf of the Contractor is duly
27 authorized to do so and his or her signature on this Agreement legally binds the
28 Contractor to the terms of this Agreement.

1 12.14 **Electronic Signatures.** The parties agree that this Agreement may be executed by
2 electronic signature as provided in this section.

3 (A) An "electronic signature" means any symbol or process intended by an individual
4 signing this Agreement to represent their signature, including but not limited to (1) a
5 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
6 electronically scanned and transmitted (for example by PDF document) version of an
7 original handwritten signature.

8 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed
9 equivalent to a valid original handwritten signature of the person signing this Agreement
10 for all purposes, including but not limited to evidentiary proof in any administrative or
11 judicial proceeding, and (2) has the same force and effect as the valid original
12 handwritten signature of that person.

13 (C) The provisions of this section satisfy the requirements of Civil Code section
14 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
15 Part 2, Title 2.5, beginning with section 1633.1).

16 (D) Each party using a digital signature represents that it has undertaken and
17 satisfied the requirements of Government Code section 16.5, subdivision (a),
18 paragraphs (1) through (5), and agrees that each other party may rely upon that
19 representation.

20 (E) This Agreement is not conditioned upon the parties conducting the transactions
21 under it by electronic means and either party may sign this Agreement with an original
22 handwritten signature.

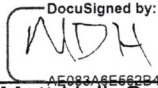
23 12.15 **Counterparts.** This Agreement may be signed in counterparts, each of which is an
24 original, and all of which together constitute this Agreement.

25 *[SIGNATURE PAGE FOLLOWS]*
26
27
28

The parties are signing this Agreement on the date stated in the introductory clause.

UNITE USA INC. dba UNITE US

COUNTY OF FRESNO

DocuSigned by:

AF082A6E668B4DD

Matt Hall, Senior Vice President, Sales
217 Broadway, Floor 8
New York, NY 10007



Nathan Magsig, 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:

Org No.: 56304776
Account No.: 7295
Fund No.: 0001
Subclass No.: 10000

Exhibit A

Scope of Services

The Contractor agrees to provide the following products and services through their representatives and the Unite Us Platform for the operation of the Multi-Agency Access Program (MAP).

I. PLATFORM

- a. MAP Community Screening Tool - Implement a custom screening configuration into the Unite Us Platform based on applicable service types and organizational profile structures.
- b. Provide access to the County and MAP partners to operate and manage the MAP screening tool at the organization level and for persons served.
- c. Develop and implement changes necessary and within reason to the Unite Us Platform to improve functionality and data collection needs for the effectiveness of MAP.
- d. Provide technical and training support as applicable for the operation and use of the Unite Us Platform, not including basic computer skills and applications use.

II. DATA INSIGHTS

- a. Network Activity and Health Equity Data – Provide the County with access to the Unite Us Platform Network Activity and Healthy Equity Data Visualizations to access network-level, de-identified data.
- b. Data Delivery – Provide line-level, de-identified cases and referrals data for clients on the Unite Us Platform within Fresno County served or referred by the County and County's clinical partners on whose behalf the County purchased Unite Us Platform licenses. The Contractor will provide such data via Secure Shell (SSH) File Transfer Protocol (SFTP) on a monthly basis.

III. COLLABORATION

- a. Provide training resources and opportunities for direct communication with users regarding workflows and resolution development.

Exhibit A

- b. Meet on at least a monthly basis with the County to provide status updates, share upcoming platform changes, discuss and act on opportunities and options to optimize platform functions for MAP and user interface.
- c. Work with the Contractor and MAP partners to address any needs and challenges of the Unite Us Platform as it relates to operating and obtaining data for MAP.

Exhibit B

Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("County"), members of a contractor's board of directors ("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 used 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.

The 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:	

Exhibit C

Insurance Requirements

1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Technology Professional Liability (Errors and Omissions).** Technology professional liability (errors and omissions) insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and in the aggregate. Coverage must encompass all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks.
- (F) **Cyber Liability.** Cyber liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence. Coverage must include claims involving Cyber Risks. The cyber liability policy must be endorsed to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.

Definition of Cyber Risks. "Cyber Risks" include but are not limited to (i) Security Breach, which may include Disclosure of Personal Information to an Unauthorized Third Party; (ii) data breach; (iii) breach of any of the Contractor's obligations under [identify the Article, section, or exhibit containing data security obligations] of this Agreement; (iv) system failure; (v) data recovery; (vi) failure to timely disclose data breach or Security Breach; (vii) failure to comply with privacy policy; (viii) payment card liabilities and costs; (ix) infringement of intellectual property, including but not limited to infringement of copyright, trademark, and trade dress; (x) invasion of privacy, including release of private information; (xi) information theft; (xii) damage to or destruction or alteration of

Exhibit C

electronic information; (xiii) cyber extortion; (xiv) extortion related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; (xv) fraudulent instruction; (xvi) funds transfer fraud; (xvii) telephone fraud; (xviii) network security; (xix) data breach response costs, including Security Breach response costs; (xx) regulatory fines and penalties related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; and (xxi) credit monitoring expenses.

2. Additional Requirements

(A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Contractor shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or HRRiskManagement@fresnocountyca.gov, and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.

- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Contractor has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
- (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Contractor's policy.
- (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.
- (iv) The technology professional liability insurance certificate must also state that coverage encompasses all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks, as that term is defined in this Agreement.
- (v) The cyber liability insurance certificate must also state that it is endorsed, and include an endorsement, to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.

Exhibit C

- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such charges against any amounts owed by the County to the Contractor under this Agreement.
- (G) **Subcontractors.** The Contractor shall require and verify that all subcontractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using subcontractors.