

AGREEMENT BETWEEN COUNTY OF MONTEREY AND ACCOUNTABLE CARE TRANSACTIONS, INC DBA ACTIVATE CARE

This AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter referred to as “County”, and **Accountable Care Transactions, Inc. dba Activate Care** hereinafter referred to as “CONTRACTOR ” or “Activate Care”.

RECITALS

WHEREAS, County has invited proposals through Request for Quote (RFQ # 10812 for the provision of software subscription for the Activate Care Platform, professional services to implement the case management solution, and technical support and training in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible quote to perform such services; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, County and CONTRACTOR, for the consideration hereinafter named, agree as follows:

1.0 DEFINITIONS

Capitalized or bolded terms shall have the following meanings whenever used in this Agreement.

- 1.1. “Analytics” means statistics, metrics and other reports that are created by or on behalf of CONTRACTOR based on or derived from Care Management Data or User Data, including, but not limited to utilization, effectiveness, drivers of differential outcomes, or process improvement.
- 1.2. “Authorization” means the written permission of a patient or subscriber to specified uses and disclosures, as defined under HIPAA.
- 1.3. “Business Associate” has the same meaning as that phrase is defined under HIPAA.
- 1.4. “Care Management Data” means the information related to a given Record stored on an Activate Care database, which may include demographic, personal, medical, activity, outreach, and historical data. Care Management Data may include Protected Health

Information (PHI) and Individually Identifiable Health Information (IIHI), as such terms are defined under HIPAA.

- 1.5. "Care Management Record" means a Patient or individual whose care is being managed within the Platform. A Care Management Record may be provisioned directly in the Platform by County, upon request, or as part of a Professional Services Statement of Work.
- 1.6. "Coordination Activity" means the use of the Platform for team-based coordination activities, including treatment, payment, and health care operations. It includes, but is not limited to, County and Users use of the Platform for inviting Users; establishing a Patient-specific team; engaging with the team; undertaking, performing, and reporting on designated activities, dissolution of teams; and designating and scheduling activities.
- 1.7. "County Account" means an authorized configuration of the Activate Care platform, including the administrative and security designations within the Platform to provide a secure environment for its Users to engage in Coordination Activity or Referral Activity. County Accounts include access credentials, such as usernames and passwords, given to Users.
- 1.8. "Hub Partner Account" means an authorized configuration of the Activate Care platform to allow an organization invited to participate in County's service network a secure environment for its Users to engage in Referral Activity.
- 1.9. "County Account Features" means the quantified usage of the Platform as defined in this Agreement (including Exhibit D: Order) and/or an approved Statement of Work.
- 1.10. "Customizations" means modifications to the Platform, if any, to serve County's special workflow needs, roles, intended uses, relationships between Users, Care Management Records, Patients, or outcomes. Customizations may be created by CONTRACTOR on its own initiative, after consultation with County, or pursuant to an approved Statement of Work.
- 1.11. "Documentation" means CONTRACTOR's standard, published help, support, and knowledgebase accessed via the support sections of the Platform.
- 1.12. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191), and the implementing regulations set forth in 45 CFR 160 and 164, as such law and regulations have been, or may be amended.
- 1.13. "Hosting" (Hosted) means the services and servers required to host, operate, access, and support the Platform, that are made available to County by means of the Internet, app, or through other electronic means.
- 1.14. "Instance" means a single copy of the Platform.
- 1.15. "Order" means an order for access to the Platform in the form attached hereto as Exhibit C and executed by each party.

- 1.16. “Patient” means an Individual who receives Health Care, and with whom County has a special relationship due to County's status as a Covered Entity. Individual, Health Care, and Covered Entity shall have the same meaning as such terms are defined under HIPAA.
- 1.17. “Platform” or “Activate Care Platform” means the multi-tenant, cloud-based deployment of the CONTRACTOR software, documentation, and the totality of concepts, business and operational practices, business and clinical methods, site and materials designs, algorithms, templates, queries, responses, systems, trade secrets, Standard Care Processes, reports, analytic methods and Analytics, Customizations, and all reductions to practice of the foregoing, and all intellectual property and property rights connected thereto. Without limiting the foregoing the Platform may also include optional features and modules to the extent such features are specified in an Order or Statement of Work.
- 1.18. “Privacy Policy” means CONTRACTOR's privacy policy attached as Exhibit B and incorporated as part of this Agreement.
- 1.19. “Professional Services” means activities performed by CONTRACTOR, if any, provided to County as set forth in Section 4.0 of this Agreement.
- 1.20. “Referral Activity” means the use of the Platform for the research, initiation, and management of service requests between organizations.
- 1.21. “Referral Data” means the information generated by, stored on the Platform for the support of Referral Activity.
- 1.22. “Referral Network” means the County and Referral Accounts created on the Platform for the purpose of providing services for individuals whose care is being managed by the Platform.
- 1.23. “Services” means the maintenance, onboarding, support, and professional services that are provided to the County by CONTRACTOR through this Agreement and any approved Statement of Work
- 1.24. “Statement of Work” (also “SOW”) means a set of documented services provided by Activate Care and approved by County in writing via an amendment to this Agreement.
- 1.25. “Software Subscription” means the use of the Activate Care Platform provided in CONTRACTOR hosted environment.
- 1.26. “Standard Care Processes” means any collection of workflows, templates, custom fields, assessments, labels, groups, roles, and reports for use on the Platform as defined by CONTRACTOR independent of a Statement of Work.
- 1.27. “Standard Reports” means any visualization, lists, reports, or other analytics derived

from User Data, Care Management Data, or Referral Data as defined by CONTRACTOR independent of a Statement of Work.

- 1.27 "User" means any company, entity, or individual who uses the Platform on County's behalf, access, or authorization, through County or User Account, whether authorized or not. A User may be provisioned directly in the Platform by County, by CONTRACTOR upon request or as part of a Statement of Work. The parties acknowledge that use of the Platform by County may requires access by different types of Users, including, without limitation:
- 1.27.1 "County Users" means County's own employees and agents.
 - 1.27.2 "Invited Users" are Patients or other individuals whom County invites, approves, or otherwise authorized to use the Platform
 - 1.27.3 "Team-Invited Users" are health care agents, surrogates, friends, or family members of Invited Users, whom Invited Users or an Invited User's authorized representative wishes or invites to use the Platform in order to participate in Coordination Activity.
 - 1.27.4 "Care Team Users" are individual Health Care providers, or those in the employ of a Health Care provider, payer, social services, or other government agency, who are invited by a County User to participate in Coordination Activity and whose Coordination Activity is permitted under HIPAA.
 - 1.27.5 "Hub Users" are employees or agents belonging to Hub Partner Accounts.
- 1.28 "User Data" means the information related to a given User stored on an Activate Care database, which may include role, usage, and historical activity data.

2.0 PERFORMANCE OF THE AGREEMENT

- 2.1 The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

RFQ # 10812 dated July 15, 2021, including all Attachments and Exhibits
Addendum (or Addenda) #1
CONTRACTOR'S RFQ Response dated August 13, 2021
AGREEMENT
Exhibit A – Activate Care Core Functionality
Exhibit B – Activate Care Privacy Policy
Exhibit C – Example Order Form
Exhibit D – Example Change Order Form
Exhibit E – Terms of Service
Business Associate Agreement
Certificate of Insurance
Additional Insured Endorsements

- 2.2 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents and employees performing services under this AGREEMENT are experienced and competent to perform the work and deliver the services required under this AGREEMENT and are not employees of the County, or immediate family of an employee of the County.

3.0 SOFTWARE SUBSCRIPTION

3.1 Access to and Use of the Platform

- 3.1.1 Account. Upon execution of this Agreement and an Order, CONTRACTOR will provide County with the number of County Accounts specified in the Order and access credentials (and/or a mechanism that permits County to specify access credentials) as needed to (a) administer, configure, and manage the County Account, and (b) to identify, authorize and designate roles and permissions for Users. County is solely responsible for maintaining the confidentiality of all County Account information (including access credentials), and will be fully liable for any and all activities under its County Account. County agrees to keep all County Account information up-to-date and to notify CONTRACTOR promptly of any unauthorized use of its County Account or any other breach of security of which County becomes aware.
- 3.1.2 Use of the Platform. County and authorized Users may access and use the Platform (a) during the Term of an outstanding Order, including such features and functions as the Order requires, and (b) consistent with the terms and conditions in this Agreement, the Order, the Terms of Service, and Privacy Policy.
- 3.1.3 Right to Use Data. County hereby grants CONTRACTOR a nonexclusive, royalty-free, fully paid-up worldwide, perpetual right and license to access, copy, store, process, analyze, excerpt, display, disclose and otherwise use User Data, Care Management Data, and Referral Data for the purpose of (a) fulfilling CONTRACTOR's obligations under this Agreement, (b) creating and delivering Analytics; (c) customizing, extending and testing the Platform or any component thereof, (d) developing de-identified comparative Analytics for County and other customers for the purposes of quality improvement or long-term trend analysis. To the extent necessary, County shall secure any necessary Authorization, permissions, and other rights necessary for CONTRACTOR to access, possess and use the User Data and Care Management Data necessary to fulfill its obligations under this Agreement.
- 3.1.4 Availability. CONTRACTOR agrees to use commercially reasonable efforts to maintain the availability of the Platform, subject to downtime for scheduled maintenance, upgrades, repairs, security concerns, emergency outages and matters beyond its control. CONTRACTOR will not be responsible or liable for any delay, degradation or failure resulting from or attributable to (a) unusually high usage volumes, (b) failures in any telecommunications services, networks, or systems, (c) County's or any User's or other third party's negligence, acts or omissions, or criminal acts, (d) any force majeure or other cause beyond its reasonable control or (e) unauthorized access to the Service, breach of firewalls or other hacking.

- 3.1.5 Documentation. CONTRACTOR will provide County with access to the Documentation, and grants to County a limited license to view and distribute the Documentation to a County's Users, in unmodified form, without deletions, additions, or alterations in any respect. CONTRACTOR's logo, copyright and any other proprietary marks shall remain unaltered and conspicuous.
- 3.1.6 Acceptable Use. County and Users shall use the Platform for Coordination Activity and Referral Activity in a manner consistent with all applicable laws, including HIPAA, and in accordance with this Agreement. County shall use the Activate Care Platform only in unmodified form and shall not, directly or indirectly (a) use any CONTRACTOR Confidential Information to create any software, platform, service or documentation that is similar in design, function or purpose to any CONTRACTOR Property, (b) attempt to access any component of the Platform or to disassemble, decompile, reverse engineer or otherwise discover any source code or underlying organization, structures, ideas or algorithms of the Platform, (c) encumber, sublicense, distribute, transfer, rent, lease, lend, access or use any CONTRACTOR Property in any time-share or service bureau arrangement, (d) copy, adapt, combine, create derivative works of, translate, localize, port or otherwise modify any component of the CONTRACTOR Platform, (e) use or allow the transmission, transfer, export, re-export or other transfer of any product, technology or information it obtains or learns pursuant to this Agreement (or any direct product thereof) in violation of any export control or other laws and regulations of the United States or any other relevant jurisdiction or (f) permit any third party to do any of the foregoing.
- 3.1.7 Prohibited Use and Content. County is solely responsible for the content a User or anyone using its County Account generates, posts, transmits, distributes, prints, or otherwise stores through the Platform. Users may not use the Platform to generate, post, transmit, distribute, print or otherwise store Prohibited Content, which is content that CONTRACTOR reasonably believes to (1) be abusive, deceptive, pornographic, obscene, defamatory, slanderous, offensive, or otherwise inappropriate; (2) comprise copyrighted material used without the express permission of the owner or otherwise infringe the proprietary rights of another; (3) violate or otherwise encroach on the legal rights of others; (4) contain viruses, worms, corrupt files, Trojan horses or other similar forms of corruptive code, or any other content which may compromise the Platform; (5) advocate illegal activity; (6) hack, destabilize or adapt the Platform, or alter another website to falsely imply it is affiliated with CONTRACTOR or the Platform; (7) broadcast or send any form of advertising, mass communication or solicitation to Users; (8) harass or harm anyone; (9) violate any applicable law; (10) subject CONTRACTOR to any legal liability; or (11) provide a link to any of the above. CONTRACTOR will use its reasonable discretion to determine whether content is Prohibited Content.
- 3.1.8 Accounts Necessary for Coordination Activity and Referral Activity.
- 3.1.8.1 User Accounts. In order to facilitate Coordination Activity and Referral Activity, each User must be configured on the Platform. County shall be wholly responsible for all Users configured under the County Account including, without limitation, determining each User's authorization and

User type. The maximum number of County User Accounts and Hub Partner Accounts shall be specified in an applicable Order. All Users shall be required to agree to the Activate Care Terms of Service posted on the Activate Care website <https://go.activatecare.com/brands/41ede218-cf4f-4d80-9798-6762aff3a278/terms> , that each User must agree to before accessing the Platform, as such Terms of Service may be updated by Activate Care from time to time (“Terms of Service”) and Privacy Policy prior to accessing the Platform. Any material revisions to the Terms of Service and Privacy Policy shall not be binding on County unless County agrees to such revisions in advance, which such consent thereto shall not be unreasonably withheld conditioned or delayed..

- 3.1.8.2 Reliance on County Statements. In establishing Users, County Accounts, and Hub Partner Accounts, County agrees that CONTRACTOR may rely on the truthfulness and accuracy of County and User statements, and County agrees that CONTRACTOR may rely without any cause for liability. By way of example, CONTRACTOR may rely on a County statement that an invited Team Member is a physician, and as such, the Invited Team Member is appropriately licensed, in good standing, engaged in treatment or anticipated treatment of the Patient, and as a consequence, PHI may be sent to or received from that User for purposes of treatment and care coordination.
- 3.1.8.3 Non-Covered Entity Users. County acknowledges and understands that use of the Platform to engage in Coordination Activity and Referral Activity related to Patients with Users who are not covered Entities or Business Associates may violate both HIPAA and state laws governing the exchange, disclosure and use of information without written Patient Authorization. As such, County agrees to obtain all necessary Patient Authorizations necessary to comply with the law and this Agreement.
- 3.1.8.4 Notification of defects. As a condition of this Agreement, County covenants and agrees to promptly notify CONTRACTOR, in writing, of any bugs, defects or required adaptations or modifications (each, a “Defect” and collectively, "Defects") of the Platform. Such notification shall be immediate where the Defect may result in serious harm to a person, application, or operating system, and/or the operations of a health care entity or system. County agrees to cooperate with CONTRACTOR in investigating and understanding fully the circumstances, sources and effects of any bug or defect, to provide copies of any basic documentation, analyses, and investigatory material, and, where necessary to actively cooperate in securing the consent of third parties, such as software suppliers, to review third party code or materials that may have affected the matter.

3.2 **Support Services**

- 3.2.1 Support Services. CONTRACTOR will provide County and County Users with the training, maintenance, support, Hosting, and other services as specified in a valid Order.

- 3.2.2 Acceptance of Deliverables. To the extent an Order calls for deliverables, such deliverables will be considered accepted ("Acceptance") (a) when County provides CONTRACTOR written notice of acceptance or (b) 10 days after delivery if County has not first provided CONTRACTOR with written notice of rejection. County may reject a deliverable only if it materially deviates from its specifications and requirements listed in the applicable and only via written notice setting forth the nature of such deviation. In the event of such rejection, CONTRACTOR shall correct the deviation and redeliver the deliverable within 10 days. After redelivery pursuant to the previous sentence, the parties shall again follow the acceptance procedures set forth in this Subsection. If such notice of rejection is not provided by the County within 10 days, the deliverables shall be considered Accepted. This Subsection, in conjunction with County's right to terminate for material breach where applicable, sets forth County's only remedy and CONTRACTOR's only liability for failure of deliverables.
- 3.3.1 Compliance with Applicable Laws. Each party agrees to comply with laws and regulations applicable to it, insofar as it affects their performance of this Agreement, including the HIPAA, and any other law, regulation, and rule regarding the use, confidentiality and security of PHI and nonpublic personal information.
- 3.3.2 Authorization to Use Data. County warrants to CONTRACTOR that the access, transfer, collection, processing, distribution and use of User Data, Care Management Data, and Referral Data to fulfill its obligations under this Agreement is authorized and that such use will not violate any applicable law, regulation, or proprietary right (including without limitation, rights regarding privacy, publicity, and defamation).
- 3.3.3 Whitelist. County agrees to Whitelist (a) e-mails sent from the domain 'activatecare.com', and (b) IP address(es) specified in the Order. County further agrees to notify CONTRACTOR within ten (10) days of the effective date the name and contact information of the County personnel who shall be responsible for complying with this responsibility. For purposes of this clause, "Whitelist" means to configure clients e-mail server(s), and any related Spam filters, such that e-mails sent from the domain(s) or IP address(es) identified above are delivered to the intended recipient, and are not marked as spam, junk, or automatically deleted.
- 3.3.4 Commercially Reasonable Diligence and Care. CONTRACTOR will use commercially reasonable diligence and care in performing its obligations under this Agreement, and commercially reasonable judgment in contracting for those components of the Activate Care Platform it does not directly provide.
- 3.3.5 Data Security Audits. CONTRACTOR represents that the Platform will be Hosted by Hosting providers who have retained a qualified, independent third party to perform an annual audit of the Hosting Provider's data protection features and to provide a report pursuant to such an audit. The audit shall be conducted in accordance with SSAE16, SOC 2 Type II, ISO27002, or other industry recognized standards. Reasonably promptly after County's request, CONTRACTOR shall provide a copy of the Hosting Provider's most recent audit report, provided such report will be considered Confidential Information pursuant to Subsection 3.4 ("Confidentiality; Retained Rights") to Section 3 ("Software Subscription") of this

Agreement below. CONTRACTOR shall perform all training, maintenance, support, Hosting, and other services pursuant to this Agreement in accordance with CONTRACTOR's HIPAA and Security Policy Overview Activate Care Policies for Administrative, Physical, and Technical Safeguards, as updated.

3.4 Confidentiality; Retained Rights

- 3.4.1 Protected Health Information. The Parties will comply with the applicable provisions of HIPAA and the HITECH Act. Since exchange of protected health information ("PHI") is anticipated, the Parties shall enter into a business associate agreement. The BAA will be the controlling document as it relates to use, disclosure, confidentiality, and notifications relating to PHI.
- 3.4.2 Confidentiality. The term Confidential Information means all trade secrets, business methods, know-how, inventions and other financial, business or technical information disclosed by or for a party in relation to this Agreement, but not including any information the receiving party can demonstrate is (a) rightfully furnished to it without restriction by a third party, (b) generally available to the public without breach of this Agreement, including a disclosure by County of this Agreement required under the California Public Records Act, or (c) independently developed by it without reliance on such information, EXCEPT as modified by terms herein with respect to User Data, Analytics, and Documentation, which are addressed by different provisions of this Agreement. This Agreement grants specific privileges to either party to use the other party's Confidential Information. For example, CONTRACTOR must access and understand County workflow patterns, orders, and privacy practices in order to integrate platform customizations with County's business practices. County will acquire knowledge of CONTRACTOR formats and algorithms. Except for those and other specific rights granted or implied by this Agreement (or to comply with any legal, regulatory, law enforcement or similar requirement or investigation), the receiving party shall not access, reproduce, use or disclose any of the other's Confidential Information without its written consent, and shall use reasonable care to protect the other's Confidential Information from unauthorized access, use and disclosure (including by ensuring that its employees and contractors who access any Confidential Information have a need to know for the permitted purpose and are bound by written obligations that are at least as protective as this Agreement). Each party shall be responsible for any breach of confidentiality by its employees and contractors.
- 3.4.3 IP Rights. Except for the limited rights and licenses that may be expressly granted hereunder, no other right, license or option is granted to County or Users, no other use is permitted, and (as between the parties) CONTRACTOR owns and retains all rights, title, and interests (including patents, copyrights, trade secrets and trademarks) in and to the Platform.
- 3.4.4 Data Retention. Notwithstanding the above, and subject and subordinate to the Parties' obligations under any applicable Business Associate Agreement, the following provisions apply to CONTRACTOR's retention of data through the Platform:

3.4.4.1 With respect to any external files which are provided to CONTRACTOR that contain County Confidential Information, including but not limited to PHI, such files will be either returned or destroyed upon Termination of this Agreement.

3.4.4.2 With respect to any data created using the Platform, CONTRACTOR will retain encrypted archived copies of data for a minimum of seven (7) years to meet Medicare, Medicaid, and HIPAA obligations.

3.4.4.3 The Platform is designed to facilitate the authorized sharing of real-time care plan, referral, and process information amongst Users. Due to this sharing, information within the Platform may not be immediately deleted from the system.

3.4.4.4 If the return or destruction of PHI is not feasible, CONTRACTOR shall comply with the terms of the Agreement (including the Business Associate Agreement) that are applicable to Confidential Information and PHI for as long as CONTRACTOR retains the Confidential Information and/or PHI. Any data that remains in the system will not be sold to third parties, and will only be used for the purposes covered in Agreements outlined between County and CONTRACTOR.

3.4.4.5 So long as the data is permitted to be retained under this Agreement, CONTRACTOR may use the retained data for the purposes of quality improvement for the software performance, for technical support or troubleshooting purposes only.

3.5 Quality Improvement

3.5.1 Analytics. CONTRACTOR may use data, only for the purpose of providing technical support and troubleshooting.

3.5.2 Customizations. All Customizations incorporated into the Platform, whether created by County, by Activate Care on its own initiative, by Activate Care after consultation with County or pursuant to Section 4 (“Scope of Service”) of this Agreement, will constitute an element of the Platform, and will thereafter be subject to this Agreement's terms, including without limitation terms regarding intellectual property, representations & warranties, indemnification, and limitation of liability. For avoidance of doubt, Activate Care retains ownership of all Customizations, and County receives no right, title, or interest in or to Customization except as specifically set forth in this Agreement, Order, and/or Section 4 (“Scope of Service”) of this Agreement.

4.0 SCOPE OF SERVICE

The Activate Care Platform software solution will be used by County to track the provision of care coordination services and referrals provided by County and community-based organizations (CBOs). The following details the scope of the engagement under this Agreement between CONTRACTOR and County to include the provision of software subscription, deployment, and implementation of the Activate Care Platform in CONTRACTOR hosted environment, provide training and technical support.

4.1 Complex Implementation: 1 Instance of Activate Care Platform with a single care record that includes the following 5 program-specific workflows:

- Nurse Family Partnership
- Maternal Child Adolescent Health
- Targeted Case Management
- Nutrition
- Whole Person Care

4.2 Onboarding for referral network collaboration of up to twenty-five (25) CBOs is included in this scope. Onboarding will require the setup of the CBO to receive client referrals through the system and enter client services provided for County reporting requirements.

4.3 **CONTRACTOR responsibilities are as follows:**

4.3.1 Provision of the Activate Care Platform, unfettered access by County with unlimited end user accounts, and up to 1000 client/patient records as part of the software subscription.

4.3.2 Project management services to implement the Activate Care Platform is as follows:

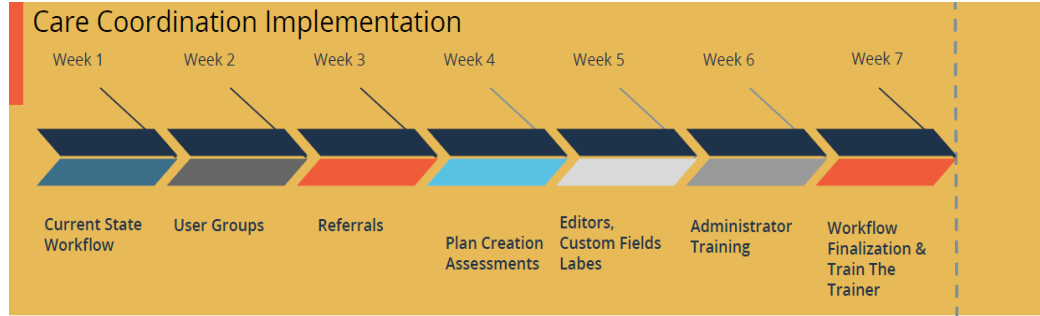
4.3.2.1 Planning

PLANNING	DESCRIPTION
Project Kick-Off	<ul style="list-style-type: none"> • Review roles & responsibilities, implementation overview, confirm key success measures • Appoint single points of contact for Activate Care and client • Establish overall project plan, check-in meeting cadence, working session times
Program Discovery and Planning	<ul style="list-style-type: none"> • Conduct discovery assessments with each participating Program, including workflow observations, vision-sharing, and process mapping • Develop Implementation and Program Design Plan
Technical and Integrations Planning	<ul style="list-style-type: none"> • Conduct discovery meetings with technical staff regarding integrations requirements • Develop Integration Plan
Reporting and Analytics Planning	<ul style="list-style-type: none"> • Conduct discovery meetings with technical and analytics staff regarding reporting requirements • Develop Reporting and Analytics Plan

4.3.2.2 Implementation. CONTRACTOR and County will develop a mutually agreed upon implementation plan and overview for design development of the Activate Care Platform instance to support the programs listed in Section 3.1. Length and specifics of the plan may change based on the discovery phase. Steps to develop the County workflows and implement

the workflows within the application for each program is specified in Table 1 below.

Table 1



Pre-work Weeks Setting the stage for success through discovery, education, and preparation. Kickoff meeting (if needed).

Week 1: Workflows

- ❑ Review Current State Workflow Modular Implementation Meeting (1hr)
- ❑ Deliverable Due: Completed current state workflow mapping document and copy of current reports.
 - ❑ Estimated deliverable weekly time commitment: 15 hrs

Week 2: User Groups

- ❑ Review User Account Provisioning & Groups Modular Implementation Meeting (1hr)
- ❑ Deliverable Due: Completed User Upload Template.
 - ❑ Estimated deliverable weekly time commitment: 5 hrs

Week 3: Referrals

- ❑ Review Referrals Modular Implementation Meeting (1hr)
- ❑ Deliverable Due: Complete Referrals CBO Ingestion Template, Cobranding Template & Revised Hub Agreement
 - ❑ Estimated deliverable weekly time commitment: 15 hrs

Week 4: Patient Records & Assessments

- ❑ Review Patient Upload, Plan Creation & Assessments Modular Implementation Meeting (1hr)
- ❑ Deliverable Due: Patient Record Creation Template & Final versions of program forms and Assessments
 - ❑ Estimated deliverable weekly time commitment: 10 hrs

Week 5: Editors, Custom Fields & Labels

- ❑ Editors, Custom Fields & Labels Modular Implementation Meeting (1hr)
- ❑ Working Sessions in Editors (Two sessions of 2 hrs each)
- ❑ Deliverable Due: Standard Custom Field and Labels Template.
 - ❑ Estimated deliverable weekly time commitment: 2 hrs

Week 6: Administrator Training

- ❑ Review Administrator Training Modular Implementation Meeting (1hr)
- ❑ Workflow finalization session (2hrs)

Week 7: Workflow Finalization & Train The Trainer

- ❑ End-User group review sessions (two days, 2 hr sessions per day)
 - ❑ Workflow review sessions with Build team (two days, 2 hr sessions per day)
 - ❑ Train-The-Trainer session (1hr)
 - ❑ Getting to current state session (1hr)
- Last Revised: 2/11/21

4.3.3 Table 2 below provides specific deliverables that shall be performed by CONTRACTOR during the implementation phase:

Table 2

Phase	EXECUTION	Description
Implementation	Program Implementation <i>FOR EACH PARTICIPATING</i>	<ul style="list-style-type: none"> Client provides key configuration deliverables Develop custom Program Content (care plan templates, assessments, automations, etc.) Load program and user profiles, validate/test
	<i>PROGRAM</i>	<ul style="list-style-type: none"> Deploy integration staging environment Develop Training Plan
Integration	Integration Implementation <i>FOR EACH INTEGRATION</i>	<ul style="list-style-type: none"> Validate configuration and connectivity to remote data source Map remote data sources to planned deployment framework Develop and validate/test
Implementation	Reporting and Analytics	<ul style="list-style-type: none"> Deploy reporting database and standard reports Select and configure standard report delivery Validate/test
Implementation	Custom Reports and Analytics <i>AS DEFINED IN REPORTING PLAN</i>	<ul style="list-style-type: none"> Client provides key reporting deliverables Define custom reports and validate Build custom reports
Training	Training	<ul style="list-style-type: none"> Training & Onboarding Admin training, editor training and train-the-trainer training
Implementation	Validation and Testing	<ul style="list-style-type: none"> End-to-end testing Program/workflows/automation Integrations Reporting
Implementation	Launch - GO LIVE	<ul style="list-style-type: none"> Conduct training for administrative staff Conduct training for end-users, if required Launch for public use
Support	Support	<ul style="list-style-type: none"> On going support Account Management

4.3.4 CONTRACTOR will complete core functionality deliverables of the Activate Care Platform specified in Exhibit A attached to this Agreement.

4.3.5 Reporting: CONTRACTOR will provide five (5) user seats to access up to 20 standard reports available through the platform and will develop one custom report for County.

4.3.6 Integration with outside data source/interface: CONTRACTOR will work with a third-party vendor to set up interface between Activate Care Platform and County specified electronic health records system. CONTRACTOR will complete the number of interfaces specified in Section 6 (“Schedule of Rates/Payment Provisions”) of this Agreement.

4.3.7 CONTRACTOR will provide access to the platform for full data extracts and batch uploads as needed by County and technical support and training will be provided as part of this engagement for these tasks.

- 4.3.8 Training and technical support: CONTRACTOR will provide training to key staff designated by County to configure the application and develop custom workflows to support County requirements in tracking client information and services provided.
 - 4.3.9 CONTRACTOR will perform all services under this Agreement remotely and will not require CONTRACTOR to be on County premises.
- 4.4 County responsibilities are as follows:
- 4.4.1 Provide Project Manager representing the County during implementation. County Project Manager will be the single point of contact and will be responsible to provide appropriate resources and subject matter experts with their participation as required.
 - 4.4.2 Delivery of needed information and documentation required by CONTRACTOR as part of implementation and will be defined during the program discovery and planning process. Timeliness of the information provided will impact the project timeline.
 - 4.4.3 All hardware to include computers and mobile devices will be provided by County.
 - 4.4.4 County and CBOs will be responsible for the hardware and internet connections necessary for this project.
- 4.5 After the two-week monitoring period, implementation will be considered accepted.

5.0 TERM OF AGREEMENT

- 5.1 The initial term of this Agreement is from **January 25, 2022 (“Effective Date”) through January 24, 2025**, with the **option to extend the AGREEMENT for one (1) additional two-year period**. County is not required to state a reason if it elects not to renew this AGREEMENT.
- 5.2 If County exercises its option to extend, all applicable parties shall mutually agree upon the extension, including any changes in rate and/or terms and conditions in writing.
- 5.3 Either party reserves the right to cancel the AGREEMENT, or any extension of the AGREEMENT, without cause, with a ninety (90) day written notice, or immediately with cause.
- 5.4 **Effect of Termination**. Upon termination or expiration of this Agreement for any reason, County shall cease all use of the Platform and delete, destroy, or return all copies of the Documentation in its possession or control that CONTRACTOR has deemed proprietary. This will not include any documentation County has developed for processes and procedures for staff and programs. Upon termination or expiration of this Agreement, or within 30 days of termination or cancellation, CONTRACTOR shall provide to County or County’s designee all County data and information provided to or received by CONTRACTOR through CONTRACTOR’s performance of services pursuant to this

Agreement or County's use of the Activate Care Platform in a machine-readable format in an industry standard or other format mutually agreed to by the parties at no additional charge to County. Notwithstanding anything to the contrary contained herein, in no event shall termination by either party relieve the other party of obligations already incurred for work performed.

6.0 SCHEDULE OF RATES/PAYMENT PROVISIONS

6.1 The following table reflects the total costs according to the services provided under this Agreement.

Description	1/25/22 - 1/24/23		1/25/23 - 1/24/24	1/25/24 - 1/24/25	1/25/22 - 1/24/25
	One time	Recurring	Recurring	Recurring	
Implementation					
Up to 20 standard reports for County or Community Based Organization Partner Programs	Included				
Unlimited Users	Included				
Full Care Coordination	Included				
Referral Management	Included				
Train the Trainer program for County Use to build internal capabilities	Included				
County Programs (NFP, TCM, MCAH, Nutrition, WPC)	Included				
Onboarding of up to 25 CBOs	Included				
Integration to outside data source/ Interface (2)	15,000.00	2,000.00	2,000.00	2,000.00	
Software Subscription					
0-1000 clients		64,000.00	64,000.00	64,000.00	
*Resource Directory Integration / 211 data	5,500.00				
*Custom Billing Report (1)	6,000.00	1,000.00	1,000.00	1,000.00	
Complex Implementation Fee (5 separate workflow design work sessions)	7,500.00				
Additional professional and/or technical services, licensing, or optional costs not covered in the recurring software subscription on an "as-needed" and "as-approved" basis by County					25,000.00
	34,000.00	67,000.00	67,000.00	67,000.00	25,000.00
TOTAL AGREEMENT AMOUNT			260,000.00		

Additional Optional Services	Cost
To add Community Based Organizations (increments of 5)	3,000.00
Integration	7,500.00
Professional Services (Hourly)	250.00
Recurring Rate Tier by Client Count 1001- 2000	1,000.00

6.2 For additional professional and/or technical services or for subscription costs in excess of the number of clients specified in the table above, County shall submit a written request for quote to CONTRACTOR. CONTRACTOR shall provide a quote through an Order Form substantially similar to that attached as **Exhibit C** and incorporated as part of this Agreement. Any quotes for additional professional and/or technical services that require additional funds beyond what is budgeted in Subsection 6.1 to Section 4 ("Scope of

Service”) to this Agreement will require a written amendment to this Agreement signed by both parties.

- 6.3 Changes to the requirement or specifications defined in the Order Form will require a Change Order. Change Orders will be initiated by County, and CONTRACTOR will provide a Change Order Form substantially similar to that attached as **Exhibit D** and incorporated as part of this Agreement.
- 6.4 All Order Forms and Change Order Forms shall be approved and signed by the Director of Health or designee for all services defined in this Agreement. Upon approval, services/support shall commence.
- 6.5 Prices shall remain firm for the term of this AGREEMENT. County does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 6.6 Tax:
 - 6.6.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.
 - 6.6.2 County is registered with the Internal Revenue Service, San Francisco office, and registration number 94-6000524. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.
- 6.7 County shall pay the CONTRACTOR in accordance with the payment provisions subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the total of: **\$260,000.**

7.0 INVOICES AND PURCHASE ORDERS

- 7.1 Invoices for software subscription recurring costs will be submitted by CONTRACTOR to the County on a yearly basis.
- 7.2 Invoices for all services rendered per this AGREEMENT shall be billed directly to the Monterey County Health Department, Public Health Bureau:

Physical Mail Delivery	<u>Email Delivery</u>
Monterey County Health Department -Public Health 1270 Natividad Road Salinas, Ca. 93906 Attn: Accounts Payable	RipleyJL@co.monterey.ca.us

- 7.3 CONTRACTOR shall reference the RFQ number on all invoices submitted to County. CONTRACTOR shall submit an invoice for the initial annual fee for this Agreement within 30 days from the date of this Agreement. CONTRACTOR shall submit additional invoices periodically or at the completion of services, but in any event, not later than 30 days after completion of services. Invoices shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. County shall certify the

invoice, either in the requested amount or in such other amount as County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 45 days of CONTRACTOR submitting the invoice to County.

- 7.4 All County of Monterey Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 7.5 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by County. Surcharges and additional fees not included in the AGREEMENT must be approved by County in writing via an Amendment.

8.0 LIMITATION OF LIABILITY

- 8.1 NOTHING IN THIS AGREEMENT SHALL BE TAKEN TO EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY (A) FOR FRAUD OR FRAUDULENT MISREPRESENTATION; (B) FOR GROSS NEGLIGENCE, INTENTIONAL, WILLFUL, OR CRIMINAL MISCONDUCT; (C) FOR DEATH, PERSONAL INJURY, OR TANGIBLE PROPERTY DAMAGE CAUSED BY ITS GROSS NEGLIGENCE; (D) BREACH OF CONFIDENTIALITY; (E) BREACH OF ANY OF THE WARRANTIES IN SUBSECTION 19.1 TO SECTION 19 (WARRANTY BY CONTRACTOR); (F) ANY INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT; OR (G) TO THE EXTENT THAT SUCH EXCLUSION OR LIMITATION IS NOT OTHERWISE PERMITTED BY LAW.
- 8.2 SUBJECT TO SUBSECTION 8.1 TO THIS SECTION 8 OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE FOR LOSS OF PROFITS OR REVENUES, LOSS OF ANTICIPATED SAVINGS, LOSS OF CUSTOMERS, OR LOSS OF USE OF ANY SOFTWARE OR DATA, NOR FOR ANY SPECIAL, CONSEQUENTIAL OR INDIRECT LOSS OR DAMAGE, COSTS, EXPENSES OR OTHER CLAIMS OF CONSEQUENTIAL COMPENSATION, HOWSOEVER CAUSED, WHICH ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR SERVICES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES., EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 8.3 EXCEPT FOR EITHER PARTY'S LIABILITY UNDER SUBSECTION 8.1 TO THIS SECTION 8 ("LIMITATION OF LIABILITY"), WHICH SHALL NOT BE EXCLUDED OR LIMITED UNDER THIS AGREEMENT, THE PARTIES, HAVING ASSESSED THE RISKS, AGREE THAT EACH PARTY'S TOTAL LIABILITY SHALL NOT EXCEED THE ANNUAL FEES PAID OR TO BE PAID UNDER THIS AGREEMENT.

9.0 INDEMNIFICATION

CONTRACTOR shall defend, indemnify and hold harmless County, its officers, agents, employees, and assigns against any and all third-party claims, suits, actions, proceedings, judgements, losses, payments, costs, expenses (including reasonable attorney's fees), damages, and liabilities arising from or relating to (i) the breach by CONTRACTOR or its personnel of its confidentiality or security obligations under this Agreement; (ii) the non-compliance by CONTRACTOR or its personnel with applicable law; (iii) death, personal injury, bodily injury or any real or tangible personal property damage caused or incurred by CONTRACTOR or its personnel; (iv) the negligent acts or omissions, gross negligence, or intentional, willful or criminal misconduct of CONTRACTOR or its personnel; (v) the infringement, misappropriation or other violation of any patent, copyright, trade secret or other intellectual property right of a third party; and (vi) any breach incident involving any County data in CONTRACTOR's possession, custody, or control or County's network or systems.

County shall defend, indemnify and hold harmless CONTRACTOR, its officers, agents, employees, and assigns against any and all third-party claims, suits, actions, proceedings, judgements, losses, payments, costs, expenses (including reasonable attorney's fees), damages, and liabilities arising from or relating to: (i) the breach by County or its personnel of its confidentiality or security obligations under this Agreement; (ii) the non-compliance by County or its personnel with applicable law; (iii) death, personal injury, bodily injury or any real or tangible personal property damage caused or incurred by County or its personnel; (iv) the negligent acts or omissions, gross negligence, or intentional, willful or criminal misconduct of County or its personnel; (v) the infringement, misappropriation or other violation of any patent, copyright, trade secret or other intellectual property right of a third party; and (vi) claims related to unauthorized disclosure or exposure of personally identifiable information or other private information; (vii) claims that use of the Platform through Customer Account, including by Customer or other Users, harasses, defames, or defrauds a third party or violates the CAN-Spam Act of 2003 or any other law or restriction on electronic advertising.

10.0 INSURANCE REQUIREMENTS

10.1 Evidence of Coverage: Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve

nor decrease the liability of the Contractor.

10.2 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

10.3 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

Agreement Under \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

XX Agreement Over \$100,000 Business Automobile Liability Insurance: covering ~~all~~ motor vehicles, including ~~owned, leased,~~ non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Contractor

County

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each

person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

10.4 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon

to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

11.0 RECORDS

- 11.1 County Records: When this AGREEMENT expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this AGREEMENT.
- 11.2 Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this AGREEMENT.
- 11.3 Access to and Audit of Records: County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of County or as part of any audit of County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this AGREEMENT for a period of three years after final payment under the AGREEMENT.

12.0 NON-DISCRIMINATION

- 12.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).
- 12.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- 12.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

13.0 OVERRIDING CONTRACTOR PERFORMANCE REQUIREMENTS

- 13.1 Independent Contractor: CONTRACTOR shall be an independent contractor and shall not be an employee of Monterey County, nor immediate family of an employee of County. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc.,) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.
- 13.2 Minimum Work Performance Percentage: CONTRACTOR shall perform with his own organization contract work amounting to not less than 50 percent of the original total AGREEMENT amount, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total AGREEMENT amount before computing the amount of work required to be performed by CONTRACTOR with his own organization or per a consortium.
- 13.3 Non-Assignment: CONTRACTOR shall not assign this contract, or the work required herein without the prior written consent of County.

14.0 CONFLICT OF INTEREST

CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any

manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.

15.0 COMPLIANCE WITH APPLICABLE LAWS

- 15.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws, that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 15.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 15.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

16.0 FORCE MAJEURE

- 16.1 "Force Majeure" means any cause beyond the reasonable control of a party, including but not limited to acts of God, civil or military disruption, fire, strike, flood, riot, war, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities.
- 16.2 If any party hereto is delayed or prevented from fulfilling its obligations under this AGREEMENT by Force Majeure, said party will not be liable under this AGREEMENT for said delay or failure, nor for damages or injuries resulting directly from the inability to perform scheduled work due to Force Majeure.
- 16.3 CONTRACTOR shall be granted an automatic extension of time commensurate with any delay in performing scheduled work arising from Force Majeure. CONTRACTOR agrees to resume such work within three (3) days after the Force Majeure has subsided enough to do so.

17.0 TRAVEL REIMBURSEMENT

County will not pay for any travel costs associated with the performance of this Agreement.

18.0 NON-APPROPRIATIONS CLAUSE

Notwithstanding anything contained in this AGREEMENT to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for County for any reason whatsoever in any fiscal year, for payments due under this AGREEMENT, County will immediately notify CONTRACTOR of such occurrence, and this AGREEMENT shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for County or are otherwise available for payments. To the extent permitted by law, this provision will not be construed so as to permit County to terminate this AGREEMENT in order to acquire or lease any other equipment or to allocate funds directly or indirectly to perform the same application and in the same manner for which the equipment is intended.

19.0 WARRANTY BY CONTRACTOR

19.1 CONTRACTOR represents and warrants as follows: (i) it has the full power, capacity and authority to enter into and perform this Agreement and to make the grant of rights contained herein, including without limitation, the right to license any ancillary or third party programs licensed to County under this Agreement; (ii) to the best of CONTRACTOR's knowledge as the Effective Date, County's permitted use of the Platform, and any component thereof, will not infringe the intellectual property rights of any third party; (iii) it shall use commercially reasonable efforts to ensure the Platform, and any component thereof, does not contain any viruses, worms, or other harmful or destructive code; (iv) it shall use best efforts to not deliver any third party software to County for installation on County's systems for which County would be required to be bound by any third party terms and conditions; and (v) it shall use commercially reasonable efforts to ensure the Platform, and any component thereof, will materially conform to CONTRACTOR's Documentation for a period of twelve (12) months from delivery.

19.2 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES SPECIFICALLY PROVIDED IN SUBSECTION 19.1 TO THIS SECTION 19 ("WARRANTY BY CONTRACTOR") OF THIS AGREEMENT, THE PLATFORM, AND ANY COMPONENT THEREOF, IS PROVIDED "AS IS" AND "AS AVAILABLE", WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. FOR CLARITY, CONTRACTOR DOES NOT WARRANT THAT: (A) ANY INFORMATION WILL BE TIMELY, ACCURATE, RELIABLE, OR CORRECT; (B) THE PLATFORM, OR ANY COMPONENT THEREOF, WILL BE ERROR-FREE, UNINTERRUPTED, SECURE, OR AVAILABLE AT ANY PARTICULAR TIME OR PLACE; (C) ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR (D) THE PLATFORM, OR ANY COMPONENT THEREOF, WILL MEET CUSTOMER'S BUSINESS REQUIREMENTS OR THAT ANY RESULT OR OUTCOME CAN BE ACHIEVED.

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PLATFORM, AND ANY COMPONENT THEREOF, INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLEMERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

20.0 NOTICES

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to County’s contract administrator or to CONTRACTOR’S responsible officer; (2) when personally delivered to the party’s principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party’s FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party’s office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

TO COUNTY:

Elsa Jimenez, Director of Health Services
County of Monterey, Health Department
1270 Natividad Road
Salinas, CA 93906
Tel. No.: (831) 755-4526
FAX No.: (831) 755- 4797
JimenezEM@co.monterey.ca.us

TO CONTRACTOR:

Elise Tatosian
200 State Street, 12th Floor
Boston, MA 02109
Tel. No. 508-740-8157
FAX No. _____
Email: elise@activatecare.com

21.0 GENERAL PROVISIONS

- 21.1 **Entire Agreement.** This Agreement (including all Exhibits) constitutes the entire Agreement, and supersedes all prior negotiations, understandings, or agreements (oral or written), between the parties about the subject matter of this Agreement.
- 21.2 **Counterparts & Copies.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but taken together constituting one and the same instrument. Execution of a facsimile copy (including PDF) shall have the same force

and effect as execution of an original, and a facsimile signature shall be deemed an original and valid signature.

- 21.3 **Modification.** No waiver, consent or modification of this Agreement shall bind either party unless in writing and signed by the party against which enforcement is sought.
- 21.4 **Retained Rights.** The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights.
- 21.5 **Unenforceable Provisions.** If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.
- 21.6 **No Third-Party Beneficiaries.** This Agreement creates rights and obligations between the parties, to each other, and in no other person or entity, nor shall any other person or entity have standing to enforce its provisions, for themselves, the parties thereto, or another.
- 21.7 **International Use.** CONTRACTOR makes no representation or warranty that the Service is appropriate or legally available for use in locations outside the United States, and accessing and using the Service is prohibited from places where doing so would be illegal. Accessing or using the Service from other locations may be done at Customer's own initiative and Customer shall be responsible for compliance with all local laws. Customer (for itself and its Users) expressly consents to CONTRACTOR's processing of personal information in accordance with this Agreement. Customer understands and agrees that personal information may be stored, processed, and transferred in the country where it was collected and in the United States, and that United States laws regarding the collection, storage, processing, and transfer of personal information may be less stringent than the laws where Customer is located. Customer agrees that each person who accesses or uses the Service through Customer's Account (or whose information is included in Service Data) has given express consent to the collection, storage, processing, transfer, distribution and use of his or her personal information as provided herein.
- 21.8 **Publicity.** County logos and any/all references to County shall not be used by CONTRACTOR without prior written authorization by County. County data shall only be used for the provision of services defined in this Agreement to include: technical support, troubleshooting, and performance improvement, and other reasons only for the sole purpose of providing support to County and County-designated purpose. Notwithstanding any of the foregoing and for the avoidance of doubt, in no event will CONTRACTOR monetize or otherwise derive independent economic benefit from the use of County data.
- 21.9 **Government.** The Activate Care Platform is a commercial product, developed solely at private expense and proprietary to Accountable Care Transactions, Inc. If Customer or any User of the Activate Care Platform is an agency, department, or other entity of the United States Government, then the use, duplication, reproduction, modification, release, disclosure or transfer of such software or documentation is restricted in accordance with FAR 12.212 for civilian agencies and DFAR 227.7202 for military

agencies. The software is "commercial computer software", the documentation is "commercial computer software documentations, and their use is further restricted in accordance with the terms of this Agreement.

- 21.10 **Interpretation of Conflicting Provisions.** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

THIS SECTION LEFT BLANK INTENTIONALLY

IN WITNESS WHEREOF, the County and CONTRACTOR execute this AGREEMENT as follows:

County of Monterey

CONTRACTOR: ACCOUNTABLE CARE TRANSACTIONS, INC. dba Activate Care

Contracts/Purchasing Officer

By: _____
Signature of Chair, President, or Vice-President

Dated:

Printed Name and Title

Approved as to Fiscal Provisions:

DocuSigned by:
Gary Giboney

D3834BFECTD849...
Deputy Auditor/Controller

Dated:

Dated: 1/5/2022 | 5:07 PM PST

By: _____
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

Approved as to Liability Provisions:

Risk Management

Printed Name and Title

Dated:

Dated:

Approved as to Form:

DocuSigned by:
Stacy Saetta

COECE1B99F447A9...
Deputy County Counsel

Elsa M. Jimenez, Director of Health

Dated: 1/5/2022 | 5:04 PM PST

Date

County Board of Supervisors' Agreement Number: _____.

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

EXHIBIT A - ACTIVATE CARE CORE FUNCTIONALITY

Activate Care Platform with core functionality with Monterey County and Activate Care's approved agreements to elements include:

Client Management/Community Care Record:

Dynamic member-centered care plans and project management functionality allow care teams to track member goals, activities, events and referrals. At its core, care planning is streamlined through care plans that are similar to a sectionable "wiki." Defined by user permissions, care team members can edit or contribute to the members plan of care, at any time and from any device. Any changes within the plan are updated and visible to the entire care team in real-time. Care plans have structure yet are individualized and flexible in nature.

Within Activate Care any user has the ability to quickly and easily create a patient record. To ensure that each plan created within your program is set up the same way from creation, and done so quickly and easily, the plan creation workflow uses a custom default enrollment template. Default enrollment templates are set up by your Activate Care implementation manager to meet your program's specific needs.

The system notifies the creator of potential matches before they create a record allowing them to verify the information and not create a duplicate record

Manage client Release of Information (ROI) forms, including:

- Tracking missing/incomplete forms; Activate Care currently does not have this capability.
- The platform allows for the creation of a library of most recent up to date documents that can be easily downloaded.
- When uploading an ROI to the Consents tab, an expiration date is required. The users can filter the entire panel by valid expiration date, expired expiration date, and expiring in the next thirty days.
- Monterey County will have the ability to manage access through our robust permission management system to provide each individual user the correct level of access to the record
- Activate can support entry of structured or standardized data fields
- Activate Care can support custom data fields
- Support batch creation and updating of new client profiles; Yes
- Activate Care is designed to allow for enrollment in various programs through workflows designed for each relevant program.
- The Record Header/Banner contains the clients/patient's demographics and custom fields (program administrators can configure what fields are shown for all program plans). The record header/banner also has a Share tab used to share a plan with others without access to Activate Care and an Assistant Menu for users to run a template or workflow on a plan. Program administrators can customize which custom fields and demographics appear on all Monterey County's record headers/banners in their program.

The Client Summary page offers a high-level comprehensive summary of everything going on in an individual record. It can be a useful reminder or snapshot of the individual you're caring for, including recent activity in their record.

For care coordination programs, the Summary page displays an About section visible only to program staff, a full overview of client demographic and contact information, as well as goals, upcoming tasks and events, recent outreaches and assessments, and data fields.

- Monterey County will have the ability to organize the clients information into sections.



- As stated above in Comprehensive care plan accessible to a single case manager or care teams across multiple organizations including the patient/family when appropriate
- Roles can be edited and reassigned temporarily or permanently at any time. And, individual actions can be easily reassigned to any staff member with permissions on the record.
- Our platform is permission based and as such you can add or remove a care team member and reassign roles and permissions.
- Easily accessible list of the members of a client's care team, including contact information and affiliated organization; Yes

Document and File Management

- Documents can be uploaded into a patient record, within this specific patient/client plan Monterey County will have the ability to assign documents, assessments and tasks.
- Activate Care currently does not have a file cabinet like structure but all stored documents are contained within a single tab called "Attachments".
- Search will return results for everything a user has permission to see. Patient Records, Sections, Tasks, Events, People, Content in Sections, Custom fields, date, etc.
- Activate Care's search will return results for everything you have permission to see including archived and inactive clients/patients.
- You have the ability to create a document library in a Project space that will allow for managing all current documents in an easily accessible tool.
- Any document with an expiration date can be stored under Consent.
- The platform allows for electronic signature capture on all care plan records.
- The platform captures a time/date stamp on all actions and who completed the action. This information is permanently stored within the database.

Contract Management

- One care record with multiple providers who can be managed as individuals, groups of individuals or as totally separate entities utilizing our Affiliations tool
- One care record with multiple contracts can be managed utilizing our Affiliations tool.

Support contract management, including:

- Within the project space utilizing consents, Monterey will have the ability to track dates.
- Within the project space utilizing consents, Monterey will have the ability to track requirements.
- Creating associated performance metrics (e.g., total number or percentage of tasks/activities to be completed by service provider partner and program; Yes 5
- Establish completion deadlines; Yes
- By virtue of our strength in data integration, we offer similar strengths in analytics and reporting. Activate Care offers access to all your community's operational, population, and process data in the following ways:



- **In-tool downloads, exports, and reports**
- **Standard Exports**
- **Reporting Database:**
- **Robust Standard Report Library:**
- **Custom reporting (via integration with industry-leading reporting tool, Looker):**

Management dashboard

The Analytics tab is located on the top navigation bar of the Activate Care platform. If you have access to Analytics for multiple programs, you will see a list of those programs from which you can select. After landing on the navigation page, you can select the report you would like to view by clicking the appropriate link.

- The Client/Patient Panel shows you all the patient records that you have access/permission to view and offers a robust filtering capability
- Progress against performance metrics in real-time; Analytics view on platform real time - reporting on over due and completed tasks
- Outstanding tasks and activities can be found in the Home dashboard showing the case manager all outstanding tasks and activities for their entire panel or in the patient plan as shown above in individual client/patient plan
- We can filter on any dimensions in the report, including the patient's unique ID
- On the Activate Care platform you have the ability to set alerts and reminders on tasks and activities
- Monterey County's program administrators will have the ability to limit permission and access. Administrator access can be given to contracted service organizations.

Standardized Assessments

- Activate Care allows for robust data capture through standardized and customized forms, assessments, and surveys. These assessments, surveys, and forms are typically created during implementation but can be customized on the fly or customers can leverage our library of 15 standard assessments including PHQ-9 and PRAPARE assessments.

➤ External sources are pushed through a csv download or an external integration. y to find answers to their questions in our collection of help articles. This help content is also accessible from our in-app help widget, so users do not need to navigate away from the platform.

- Activate Care currently does not have the ability to work offline.

Comprehensive Care Plan

● Care Plans inside Activate Care's Community Care Record

Activate Care's comprehensive care plan tools are designed for ease of use and convenient access in a living real time document. Monterey County users will have access to client records with shared plans of care that are accessible across departments, so that users can see client status across departments. Access levels and permissions are configurable based on your programs' and departments' unique requirements. In addition to care plans, task management tools, screening and assessment tools, Monterey County users can also see who else is on a specific person's care team, can communicate with



other members of the care team, and can track their communications with the patient/client they are serving. If it is part of your service model, you can also invite your clients to join the platform alongside you, with permissions/access levels set according to your preferences, in order to engage clients in their care.

- Quickly and easily access/create a care plan
- This is a living care plan that is inclusive of all activity and assessments
- Ability to assign an expiration date to goals and create corresponding alert/reminders (e.g., expiration in 30d, expired - needs to be updated)
- “Living” document with real-time information and support for multi-user collaboration
- Ability to easily update care plan or create notes
- Activate care offers permission based authorship and appending of notes. Notes are not locked but all editing is time stamped and tracked.
- Ability to search for notes by various criteria (e.g., date range, author)
- Organized to provide easy access to a care plan and all associated notes, conversations, etc. in single, comprehensive view and easily initiate key tasks
- Access to part of or entire care plan based on care team member’s role or permissions
- A Care Plan can be downloaded and shared as a pdf to someone outside of the Activate Care platform. Note that restricted sections are defaulted to not be shared. If you have permissions on these sections and would like to include them in the PDF, you can drag and drop them in the share column.
- The Activate Care platform allows program administrators to export structured data and delivered in multiple formats (eg. CSV, PDF) to multiple destinations (email, SFTP, in-app).
- Care plans can be securely shared.

Team-based Care Coordination and Case Management

- Activate Care does not currently have spreadsheet like functionality, however many standard reports can be exported as a CSV for external manipulation.
- Activate Care does not currently have spreadsheet like functionality, however many standard reports can be exported as a CSV for external manipulation.
- Activate Care offers patient and task lists that can be dynamically sorted and filtered. ● Where we support dynamic sorting/filtering, multiple care team members can concurrently work within that space.
- Activate Care does not currently have spreadsheet-like functionality. Within analytics Monterey County can export reports as CSV files that will give you clients and key attributes and from there you will be able to manipulate and manage.
- The tasks dashboard is a detailed view of all tasks assigned to you or your team members across your program’s patient panel. Tasks are listed in reverse chronological order with overdue tasks at the top. Within the task dashboard, you can search for a task or filter tasks by: Progress, Assigned to, Created By, Due Date, Custom due date range. You can also save and access task filters by clicking. Monterey County will also have the ability to update care team members assignment of tasks due to caseload, staff turnover, or vacation, Ability to change filter information based on due date, Tools to facilitate team-based communication and accountability of tasks, Streamline care processes/ interventions and iterate easily as you build out your programs.
- Ability to assign tasks to an individual or care team (and reassigned as needed); Yes
- Setup customizable rules for alerts and reminders (e.g., overdue items only, tasks due within 30d, etc.)
- Configurable task templates and workflows
- Activate Care platform can send secure emails with direct links to log into the platform. After the user logs into the platform, they will be taken directly to the location of the task.
- Display alerts/reminders in client summary page or banner



- Generate reports (e.g., all outstanding tasks, breakdown of tasks by assigned care team member or group, tasks due in 30d, overdue tasks, etc.)
- Ability to be exportable manipulated or managed in excel or other files

Alerts and notifications, including:

- Automated distribution based on key events (hospital admit/discharge), change in status (housing crisis), due/overdue tasks, etc.; Yes, this can be accomplished through ADT alerts
- Contents of alerts and notifications are customizable; Yes, each user controls how they want to receive notifications and alerts
- All communication is sent through the Activate Care's Platform, the person receiving the message will receive an email to log into the platform to view the message.
- Notification preferences are configurable at the user level but not at the organizational level.

Communication, including:

- Easily and quickly message care team members with/without need to reference specific client
- Ability to message groups (similar to email distribution groups)
- All communication is sent through Activate Care's platform; the person receiving the message will receive an email to log into the platform to view the message.
- Activate Care can support a message board forum through our project work space.
- Activate Care currently does not have an integration with Slack.
- Activate Care is embedded with the HIPAA Compliant video conferencing tool, Zoom, allowing teleconferences to be scheduled within the platform.
- Ability to communicate in the platform and upload communication documents to the platform as attachments.
- Activate Care works hard on making maintenance work undetectable by the user. In the rare instance that scheduled downtime is necessary it is announced two weeks prior to the actual downtime.
- Activate Care supports all modern browsers including the latest updated versions of Chrome, Safari, Firefox, Microsoft Edge and Opera. Our iOS and Android mobile apps are available in the Apple App Store and Google Play.

Data Management, Integration, and Reporting.

Activate Care believes that data integration is key to the success of bridging the gap between healthcare, DHHS, and community-based organizations. We believe in open interoperability. We have designed the platform to integrate with and ingest from a broad range of systems.

A big part of our value to our clients is sharing appropriate data across teams and organizations so that they can have the appropriate information to support prioritizing work, and inform care. We support making appropriate elements of clinical information (such as hospital discharges, condition lists, or medication lists) and community derived information (community developed behavioral health assessments, a participant's actual compliance to a care plan) available to appropriate members of the care team - both clinical and community based. We have several approaches to support this data-friendly technology approach: FHIR, SSO, HL7, Flat file imports, OpenReferral, and more.



- **FHIR** - Activate Care has a FHIR API to integrate and exchange data with Electronic Health Records like Epic, Cerner, and NextGen.
 - **SSO** - We can launch Activate Care, in patient context, from other applications, so users do not need to reauthenticate and search for a patient to access a record.
 - **HL7** - We can ingest patient cohorts, including demographic and other key EHR information, such as medication lists, problem lists, diagnoses, etc. that participants use to inform the work of care coordinators.
 - **Flat file imports** - Activate Care customers use a range of data from health technology platforms, and other community resources, such as Homeless Management Information systems (HMIS), criminal justice systems, population health tools, etc.
 - **OpenReferral** - Open Referral <https://openreferral.org/> is an emerging standard that makes it easier to share, find and use information about health, human, and social services. This integration makes it easy for Activate Care to leverage information in existing resource directories, such as state and county 211 systems, UniteUs, Aunt Bertha, and NowPow.
- Able to bi-directionally integrate with a variety of third-party systems; for example, electronic health record (EHR) systems, homeless management information systems (HMIS), behavioral health, social services referral, correctional systems, etc.
 - In our standard integrations, we support real time integration using RESTful FHIR endpoints. We are also able to support custom adapters for other integration formats at additional cost.
 - We support HL7 and FHIR based data exchange as part of our standard offering. We can support other integration formats as custom work for additional cost.
 - Able to import/export data in a variety of formats (e.g., .csv, .xlsx, .xml, .json)
 - Support import/export of bulk or batch data
 - Able to migrate data from existing care management system into new system as part of overall product migration
 - Support for single sign-on (e.g., SAML, SMART on FHIR) and establish context(e.g., HL7 CCOW or similar)

Data Management

- Able to ensure the quality and integrity of data
- Activate Care does have a master patient list but we do not currently have master person index capabilities.
- Activate Care identifies duplicate records, and the user can merge these records and manually create new entries.
- An Activate Care data integration can be configured to match incoming data to client records in several ways - using unique identifiers, health record ids, or patient demographics as necessary.
 - The Activate Care platform is configurable to ensure required data fields are complete and accurate.
 - Data provenance; Activate Care has limited functionality in this area.
 - Support for and management of standard terminologies, ontologies, and code sets; Activate Care has limited functionality in this area.

Reporting and Analytics

- As a customer of Activate Care, there are no limitations on accessing your data. Our customers own all of the data stored within the platform and it can be easily exported. By virtue of our strength in data integration, we offer similar strengths in analytics and reporting. Activate Care offers access to all your community's operational, population, and process data in the following ways:



- **In-tool downloads, exports, and reports**
- **Standard Exports** ● **Reporting Database** ● **Robust Standard Report Library:**
- **Custom reporting (via integration with industry-leading reporting tool, Looker)**
 - Able to generate a standard set of reports “out of the box,” such as case load, task management (all open tasks, tasks due in 30d, overdue tasks), system administration (list of users, last user activity, user activity history), etc.; Yes
 - Able to generate service provider organization-centric and/or program-centric reports to support performance monitoring and billing/payment; for example:
 - Client panel
 - Activities completed to date (assessments, care plans, interactions)
 - Current progress towards meeting performance goals or contractual requirements
 - Outstanding tasks/activities
 - Case manager productivity
 - Client-centric reports (current progress towards meeting care goals, history of encounters or services received, etc.)
 - Population-level reports (clients who have specific conditions/needs, received specific services, etc.) by race/ethnicity
 - Able to customize existing and create new reports without requiring assistance of and contracting with vendor
 - Able to create user- and organization-level dashboards to support case manager productivity, organizational performance monitoring, population management, program tracking, etc.
 - Able to export data in structured format for analysis in MS Excel, Google Sheets, or other analysis tool
 - We currently integrate with and leverage the third party visualization tool Looker. We have the ability to integrate your database into a third-party visualization tool.

Case Management

Activate Care has a comprehensive, granular permission, role-based system limiting access to clients/patients/plans/data etc. Our permission leveling allows the administrator to override and change permissions to view only or revoke permission access so client/patient and plans can not be viewed by the user.

- **View on access only**
- **View only**
- **Discusso**
- **Collaborator**
- **Administrator**
- **Permission restrictions**

Within each record it is possible to create restricted sections that override the permissions users have on a patient plan. For example, it is possible to ensure that only a subset of people who have plan level permissions have access to this section and all of its content. Similarly it is possible for a person to create a restricted section in which a plan level administrator only has view-only access

Example of Functions

- Create and maintain multiple role based security groups/classes such as community-based organization (CBO) segregated access
- Able to assign highly granular, easily configurable permissions based on role or need
- Limiting search results when looking up a client (including returning only certain data elements in search results to “hiding” client altogether)
- Controlling access to all or parts of a client's record (including care plans, notes, communications, uploaded documents, etc.)
- Establishing authorship rules for care plans, notes, forms, etc. (including ability to create, edit, lock/unlock, finalize, and amend); Activate Care currently does not have this capability , however we can lock tasks, goals and assessments. Any user with appropriate permissions is allowed to edit, which is fully tracked with a time stamp.
- Flagging and controlling access to sensitive client information (e.g., SUD Treatment or behavioral health information)

EXHIBIT B – ACTIVATE CARE PRIVACY POLICY

Last updated and effective June 16, 2017.

Scope

Accountable Care Transactions, Inc. ("Activate Care," "we," "us," "our") believes that everybody engaged in the healthcare system - clinicians, patients, families, and communities - can act together to make health happen, wherever they are. Our products and services offer a better approach to managing many of healthcare's complex tasks.

This Privacy Policy describes the information we collect when you and others interact with us through our products and services, including our web-based Activate Care Care Coordination Platform; our websites; applications; definitions, protocols, and tools for building applications; documentation; and training materials (collectively, the "Services"). It also explains how we use and share that information, the measures we take to secure the information, and the choices you have with respect to information about you.

Consent

Please read this Privacy Policy carefully. You agree to this Privacy Policy by using the Services.

If you are using the Services on behalf of a company, organization, government, or other legal entity, or through an association or affiliation with one of these entities, your use certifies to us that an authorized person from your organization has accepted this Privacy Policy on your behalf, that you are authorized to use the Services, and that your use is within the scope of that relationship.

Changes to the Privacy Policy

We may revise this Privacy Policy from time to time. Unless stated otherwise, the most current version of the Policy, which is posted at <https://go.act.md/pages/privacy>, applies to all information covered by this Policy. We will try to notify you of material revisions, for example via a Service notification or an email if you have an Account. We will also keep prior versions of this Privacy Policy in an archive for your review. By continuing to access or use the Services after those revisions become effective, you agree to be bound by the revised Policy.

Children

We respect and endorse laws that protect and limit the collection of information from children under the age of 13. Therefore, our Services, including our websites, are not targeted or directed at children under 13. Any information we receive about children under 13 must come from someone authorized by law or consent to give it to us, such as parents, guardians, legal representatives, health care clinicians & providers, hospitals, and insurance companies.

Privacy Laws

Some of the information we collect and use is subject to specific state and federal privacy laws. For example, many of our customers in the United States health care industry are subject to regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Among other things, HIPAA outlines the ways health care providers, health plans, certain data processors, and companies they hire to perform certain functions on their behalf (such as Activate Care) may use and share personally identifiable information about a patient. When we receive information that is subject to privacy laws, such as HIPAA, we may be legally or contractually obligated to follow those laws. If there is a conflict between this Privacy Policy and privacy laws to which we are bound, the privacy laws shall govern.

Information We Collect

We collect both personally identifiable and non-identifiable information as part of our Services. Personally identifiable information means information that identifies you, such as your name, address, birthdate, phone number, e-mail address, social security number, and medical or health record number.

We collect information from a variety of sources.

Information you Provide

We collect information from you when you create a Service Account, or provide information as part of our identity verification process. This information may include personally identifiable information, as well as account authentication information like username, password, and security questions.

We collect the information that you upload or enter when you use the Services. For example, you may enter information, which may include personally identifiable information, about you or others as part of:

- An individual care plan;
- A referral request; or
- A consultation with an outside health care provider.

Information We Collect When You Access our Services

We collect information about the Services you use and how you use them. This information includes:

Log Files and Device Information

Log files include information such as your IP address (a number that identifies your computer or other device connected to the internet), internet browser type, pages visited, and search terms. We may also collect information about the device you use to connect to our Services, including your device type and operating system.

Cookies

We use Cookies (small text files placed on your device) to provide our Services and help collect data. We use Cookies for four main purposes: (1) confirmation of your identity during sign-in to access your account; (2) security and Service integrity, (3) store your preferences and settings; and (4) analyzing how our Services are performing.

Information We Receive from Other Sources

We receive and store information, which may include information about you, including personally identifiable information, from our customers and third parties.

Our Customers

We may receive information about you from our customers. For example, many of our customers are health care providers who use our Services to help coordinate their patients' care. Thus if you are a patient of one of our customers, we may receive information about you when the customer enters or uploads patient information into the Services.

Third Parties

We may receive information about you from third parties. For example, we may receive information about you from:

- government agencies, such as the Centers for Medicare and Medicaid Services, that is used to improve health care decisions.
- an identity provider/authenticator when you enable single sign-on to access your account (such as using your Google account to sign in to our Services).

How We Use Information We Collect

We may use the information we receive to:

- provide, operate, maintain, improve, extend, and test the Services;
- provide and create documentation, training, and professional services related to the Services;
- fulfill our legal and contractual obligations;
- create and deliver analyses of data;
- develop de-identified data analyses for our own, or our customer's quality improvement purposes; and
- develop, test, defend, use, and publish standards for the effective creation and engagement of clinical teams and patients, in coordinating care.

Examples of ways we use the information for the reasons described above include:

- to display your account information;
- to ensure that Service users only see the information they are authorized to see;
- monitoring our systems to ensure that they are working as intended and to detect and fix errors;

- accessing log information to investigate problems or unauthorized use; and
- analyzing data and usage patterns to make the Services easier to use.

We may use the information we collect to contact you. For example, we may send you:

- Notifications and reminders when you are mentioned or assigned an action in the Services;
- Appointment reminders;
- News & information about the Services or your account; and
- Requests to conduct surveys & provide feedback.

We may also use the information we collect to:

- protect our rights or property, or the security or integrity of our Services;
- enforce the terms of the Terms of Service;
- verify your identity;
- protect us, users of our Services or the public from harm or potentially prohibited or illegal activities;
- investigate, detect, and prevent fraud, security breaches; or
- comply with any applicable law, regulation, legal process, or governmental request.

Information We Share

Some of our Services are designed to facilitate communication and information sharing among the people and organizations involved in a patient's health care, and who are legally permitted to receive the information. In some cases, we may share this information without the patient's explicit authorization. For example, as part of our Services, we may share patient information, including personally identifiable information:

- Among members of that patient's care team for treatment purposes;
- With others involved in that patient's health care for treatment, payment, or health care operations purposes;
- With others who are legally permitted to receive the information, such as consulting health care providers, certain public health authorities, health oversight and government agencies;
- For judicial and administrative proceedings, and law enforcement purposes;
- As part of legally authorized research studies;
- For other purposes allowed or required by law; and

We may also share information after obtaining the patient's authorization to others who are part of that patient's non-medical community care team, such as family members or friends, schools, social service agencies, utility companies, and government agencies not otherwise permitted to receive patient information.

More broadly, and subject to applicable confidentiality requirements and privacy laws, we may also share the information we collect:

- At the request of one of our customers, but only to the extent that the request is legal, and pertains to information the customer is authorized to control;

- With any of our parent, subsidiary, or affiliate companies for the uses outlined in this policy;
- With third parties to provide, maintain, and improve our Services, including service providers who access information about you to perform services on our behalf, such as:
 - hosting (data processing and storage) services,
 - identity verification services,
 - e-mail and text messaging services,
 - providers of data analyses services.
- In connection with corporate transactions, for example, if we:
 - Purchase another company;
 - are purchased by another company;
 - raise funds or borrow money; or
 - if we go out of business or file for bankruptcy.
- If we believe it is necessary to:
 - protect our rights or property, or the security or integrity of our Services;
 - enforce the terms of the Terms of Service;
 - verify your identity;
 - protect us, users of our Services, or the public from harm or potentially prohibited or illegal activities.
 - investigate, detect, and prevent fraud and security breaches; or
 - comply with any applicable law, regulation, legal process, or governmental request.
- For other purposes after obtaining your authorization.

We do not sell, lease, or share the personally identifiable information we collect to third parties for marketing purposes.

We may share aggregated de-identified information with third parties.

Your Choices

You have choices with respect to your information.

Your Account Information

If you have an account, you may access, change, or correct your personal account information at any time by logging into your account. You may also make the request to us using the contact details below, in which case we may need to verify your identity before granting access or otherwise changing or correcting your information.

Deactivating Your Account

If you wish to deactivate your account, you may make the request to us using the contact details below. We generally retain information about you only as long as reasonably necessary to provide you the Services. However, even after you deactivate your account, we may retain archived copies of information about you for a period of time that is consistent with applicable law, or as we believe is reasonably necessary to comply with applicable law, regulation, legal process, or governmental request, to prevent fraud, to collect fees owed, to resolve disputes, to address problems with our

Services, to assist with investigations, to enforce our Terms of Service, for analytics purposes, or to take any other actions consistent with applicable law.

Your Personal Information

If you believe that we have information about you that should be changed or corrected, you may make the request to us using the contact details below, in which case we may need to verify your identity before granting access or otherwise changing or correcting your information. However, due to legal, contractual, and technical restrictions, we may not be able to make the change or correction. For example,

- If we received the information about you from one of our customers, and that information is subject to HIPAA, then we are both legally and contractually required to refer your request to the customer.
- In the event of legal action or dispute, we may be prohibited from altering any information.
- We maintain regular backups and archives of our data, and changing archived data may be impracticable.

Cookies

Most web and mobile device browsers are set to automatically accept cookies by default. However, you can change your browser settings to prevent automatic acceptance of cookies, or to notify you each time a cookie is set.

You also can learn more about cookies by visiting <http://www.allaboutcookies.org>, which includes additional useful information on cookies and how to block cookies on different types of browsers and mobile devices. Please note, however, that by blocking or deleting cookies used in the Services, you may not be able to use, or take full advantage of the Services.

Do Not Track

Do Not Track ("DNT") is an optional browser setting that allows you to express your preferences regarding tracking across websites. We currently do not respond to DNT signals. We may continue to collect information in the manner described in this Privacy Policy from web browsers that have enabled DNT signals or similar mechanisms.

Security

We work hard to maintain the security, reliability, accuracy, and completeness of our Services and the information we hold. In particular, we:

- Implement administrative, technical, and physical safeguards, to protect your information from loss, theft, misuse, and unauthorized access, disclosure, alteration, and destruction.
- Use security technologies, such as encryption.
- Review our information collection, storage, and processing practices, including physical security measures, to guard against unauthorized access to systems.

- Restrict access to personal information to employees, contractors and agents who need to know that information to process it for us, and who are subject to strict contractual confidentiality obligations and may be disciplined or terminated if they fail to meet these obligations.
- Only use third-party service providers to store and transmit personal information in compliance with this Policy, and who agree to appropriate confidentiality and security measures, and undergo industry recognized independent third party data security audits.

Since much of the information we collect is provided by our Users, we cannot guarantee the authenticity or accuracy of any data that these Users provide.

Links to Other Services

While using the Service, you may be directed through links to third party websites or services. For example, you may be linked to:

- A third-party authentication site;
- Applications from the following third parties that we have integrated into the Services:
 - Zoom Video Communications, Inc. (video conferencing): <https://zoom.us>
 - SendGrid (electronic communications): <https://sendgrid.com/>
 - MaxMD (electronic communications): <https://www.maxmdirect.com/>
 - InterFax (facsimile service): <https://www.interfax.net/en>
 - Scrypt Corporation (SFax facsimile service): <https://www.scrypt.com/sfax/>

We are not responsible for the terms of service or privacy policies of those websites or services. You are responsible for reading and understanding the third party terms of service and policies before using their services.

Contact

If you have questions or comments about our privacy policy, please email us at help@activatecare.com, with "Privacy Policy" in the subject line or contact us at:

EXAMPLE ORDER FORM

Activate Care Order Form



Activate Care Order ID: 07272021-01
 Order Form Type: New Business
 Order Form Date: Month/Date/Year
 Order Expiration: Month/Date/Year
 Order Total: \$

Sales Representative

Customer

Primary Contact

1. SCOPE OF USE

The Activate Care Platform may be used as a Community Care Record and Collaboration platform to enable an efficient, effective, and measurable care journey, pursuant to the Deployment Attributes and restrictions defined on this Order. Use of the Activate Care Platform for any other purpose not stated in this Order will require a separate Order.

The parties acknowledge and agree that the Professional Services (if applicable) ordered hereunder shall be performed in accordance within this Order.

2. DEPLOYMENT ATTRIBUTES

Product	Description / Quantity	Qty	Annual	Years	Total
CareHub™	_____ Program	1		3	
	Program Fee includes:				
Professional Services: One-Time Fees					
Product	Description	Qty	One-Time ees	--	Total
					\$
					\$

EXHIBIT A: Activate Care Order Form

Total One-Time Fees	\$
Total for CareHub™ _____ Program	\$
Total Cost of Contract	\$

3. DEPLOYMENT TERM

The term of this Order shall commence on the Start Date and continue through the End Date. Thereafter, the Term will renew for successive one (1) year periods annually for three (3) years at the price and rate then in effect, as determined by Activate Care, unless either party refuses such renewal by written notice 30 or more days before the renewal date.

Start Date	End Date
Master Agreement dated _____, 2021	_____, 2024

4. PAYMENT AND BILLING DETAILS

The parties agree to billing frequency as outlined below.

Payment Terms: Net 30 Days

Client Billing Contact Email:

Setup / One-Time Fees	\$
Year 1 Annual Software Licensing Fee	\$
Year 2 Annual Software Licensing Fee	\$
Year 3 Annual Software Licensing Fee	\$

This Order is entered pursuant to and governed by that Agreement dated _____, 2021 (the "Agreement"). All terms not otherwise defined in this Order shall have the meanings ascribed thereto in the Agreement. By executing this Order, Customer agrees to the terms of this Order, effective as of the Master Agreement Date. For the avoidance of doubt, in the absence of a stated above, the platform use start date is the effective date of the Master Agreement.

EXHIBIT A: Activate Care Order Form

IN WITNESS WHEREOF, the parties hereby execute this Order effective as of the effective Master Agreement date.

Client

Activate Care

Signature

Signature

Print Name

Print Name

Title

Title

CHANGE ORDER FORM

Activate Care Change Order Form



Activate Care Order ID: 07262021-01

Order Form Type: Existing Business
Order Form Date: Month/Date/Year
Order Expiration: Month/Date/Year
Order Total: \$

Sales Representative

Customer

Primary Contact

1. SCOPE OF WORK

2. FEES and PAYMENT DETAILS

One-Time Fees				
Service	Description / Quantity	Qty	One-Time Fee	Total
Total One-Time Fees Due Upon Signature				

The information contained in this Change Order was prepared expressly for (Customer Name). Activate Care considers this information to be proprietary and confidential.

This Change Order is entered pursuant to and governed by the Agreement dated _____. By executing this Change Order, Customer agrees to the terms, effective as of the date signed below.

Client

Activate Care

Signature

Signature

Print Name

Print Name

Title

Title

EXHIBIT E – ACTIVATE CARE TERMS OF SERVICE

Last updated and effective June 16, 2017.

Scope

Accountable Care Transactions, Inc. ("Activate Care," "we," "us," "our") believes that everybody engaged in the healthcare system - clinicians, patients, families, and communities - can act together to make health happen, wherever they are. Our products and services offer a better approach to managing many of healthcare's complex tasks.

These Terms of Service ("Terms") govern your access to, and use of our products and services, including our web-based Activate Care Care Coordination Platform; our websites; applications; definitions, protocols, and tools for building applications; documentation; and training materials (collectively, the "Services").

Consent

Please read these Terms carefully. You agree to these Terms by using the Services.

If you are using the Services on behalf of a company, organization, government, or other legal entity, your use certifies to us that an authorized person from your organization has accepted this Policy on your behalf, and that you are authorized to use the Services.

Changes to these Terms

We may revise these Terms from time to time. The changes will not be retroactive, and the most current version of the Terms, which will always be at <https://go.activatecare.com/pages/terms>, will govern. We will try to notify you of material revisions, for example via a Service notification or an email if you have an Account. We will also keep prior versions of this Privacy Policy in an archive for your review. By continuing to access or use the Services after those revisions become effective, you agree to be bound by the revised Terms.

Access to and use of the services

Accounts

Some portions of the Services, such as our public websites, may be accessed without a user account ("Account"). For most Services, users are required to create an Account to use the Services. An Account may include your username, password, and other personally identifiable information. You are responsible for all activity that occurs via your Account. Please notify your Account administrator or Activate Care immediately if you become aware of any unauthorized Account use.

Types of Users

Users fall into four categories.

- You are an **Invited Patient User** if you are a healthcare patient of an Activate Care Customer who invites you to use the Services to participate in your own healthcare.
- You are an **Invited Guest User** if you are a family member, friend, health care agent, or surrogate of a Patient, and the Patient, Customer or team administrator invites you to use the Services to participate in the Patient's healthcare.
- You are a **Customer User** if you are an employee or agent of a business that is an Activate Care Customer, and you are required to use the Services as part of your job.
- You are an **Invited Team Members User** if you provide healthcare or related services, and a Customer, Patient (or their proxy), or care team administrator invite you to participate in a Patient's healthcare. Examples of Invited Team Member Users include healthcare providers,

payers, social service organizations, government agencies, school nurses, home health aides, medical equipment suppliers, and their employees and agents.

Account Control

User Accounts are linked to Customers who pay us subscription fees. In general, Customers decide who may establish User Accounts under their control. Customers may delegate Account control to care team administrators. Customers may allow others, such as a Patient, or care team administrator, to invite others to the Services. If you receive an invitation to establish an Account, it is because an authorized person wants you to participate in a Patient's healthcare. Customers determine your Account permissions and User type.

Minors

If you are under eighteen (18) years old, you must have permission from your parent or guardian to use the Services.

User Data

Some Service components allow you to upload, submit, store, send, or receive content (referred to as "User Data" throughout the rest of these Terms). User Data may include personal information about you or others.

Team Activity

Some Services allow Team Activity. Team Activity means the interactions between different Users to create and administer patient-specific care teams and care plans, as well as to undertake, perform, and report on those activities.

Use of the Services

We grant you the non-exclusive, non-assignable, royalty free, worldwide, limited right to use the Services and access its content, so long as you comply with these Terms, and for users who have an Account, so long as (a) your Account is linked to a Customer with an active subscription or contract, (b) that Customer authorizes your continued use, and (c) your Account has not been terminated as described later in these Terms.

Our Intellectual Property

Using our Services does not give you ownership of any intellectual property rights in our Services, or to any content you access that is not yours.

The Services are protected by copyright, trademark, and other laws. Nothing in these Terms gives you a right to use the Activate Care name or any of our trademarks, logos, domain names, and other distinctive brand features. All right, title, and interest in and to the Services (excluding User Data) are and will remain the exclusive property of Activate Care and our licensors. Any feedback, comments, or suggestions you may provide regarding the Services is entirely voluntary and we will be free to use such feedback, comments, or suggestions as we see fit and without any obligation to you.

You agree to keep confidential any of our trade secrets, know-how, inventions, training materials, templates, workflows, information of a financial, business or technical nature, information marked as copyrighted or proprietary, and any other information about us that you know, or reasonably ought to know is confidential.

Acceptable Use

You agree to use the Services (a) consistent with these Terms, (b) solely for lawful business or clinical purposes, (c) in compliance with any laws, regulations, policies, and standards that apply to you.

You agree to keep User Data confidential, and to only use and share User Data as part of valid Team Activity.

Your use of the Services, or participation in a Patient's healthcare, may be subject to specific privacy

protections. For example, many of our Users are subject to the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191), and its implementing regulations at 45 CFR 160 and 164 ("HIPAA"). If you or your business are subject to privacy laws (including HIPAA), regulations, company policies, or professional standards, you agree that you will use the Services and any User Data consistent with those protections. This includes the obligation to obtain any required authorization or consent before using or disclosing User Data.

You also agree that you will:

- cooperate with us, and turnover any relevant information, in the event an audit, complaint, investigation, or similar matter;
- immediately notify us of any bugs and glitches, and cooperate with us in investigating and fixing bugs and glitches; and
- provide true, accurate, current, and complete information both about yourself, and in any content you contribute to the Services.

Prohibited Use and Content

You may not use the Services in a way that violates (a) our rights, (b) the rights or privacy of others, (c) or the law. For example, you may not knowingly:

- allow others to use the Services using your Account information;
- access, or attempt to access, the Services using a method other than the interfaces we provide;
- attempt to get around any restrictions we put into place to prevent unauthorized access to and use of the Services;
- use or share Service data or User Data, or engage in behavior that: (a) violates anyone's privacy rights; (b) violates legal, contractual, or professional standards regarding the confidentiality, use, or sharing of private information; or (c) violates anyone's Intellectual Property Rights;
- upload or share any content that is unlawful, harmful, threatening, abusive, tortious, defamatory, libelous, vulgar, lewd, profane, invasive of another's privacy, or hateful;
- attempt to disable, impair, or destroy the Services;
- disrupt, interfere with, or inhibit any other user from using the Services (such as stalking, intimidating, or harassing others, inciting others to commit violence, or harming minors in any way);
- place advertisement of any products or services in the Services except with our prior written approval;
- use any data mining or similar data gathering and extraction methods in connection with the Services; or
- use the Services or data in a way that violates the law, subjects anyone else to criminal or civil liability or sanctions, or impairs their rights or obligations.

Data in the Services

License to User Data

By using the Services and agreeing to these Terms, you grant us (and those we work with) a non-exclusive, royalty-free, fully paid-up, worldwide, unconditional, non-terminable, transferable, and perpetual right and license to host, access, copy, store, archive, reproduce, distribute, modify, translate, compile, process, analyze, excerpt, display, disclose, aggregate with other data, create derivative works, and otherwise use the User Data you contribute for the purposes described in our Privacy policy and to:

- provide, operate, maintain, improve, extend, and test the Services;
- provide and create documentation, training, and professional services related to the Services;
- fulfill our legal and contractual obligations;

- create and deliver analytics;
- develop de-identified comparative analytics for our own, or our customer's quality improvement purposes; and
- develop, test, defend, use, and disseminate standards for the effective creation and engagement of clinical teams and patients, in coordinating care.

These rights continue even if you stop using the Services.

Your Representations

By using the Services, you represent and warrant that:

- you are authorized to use the Services;
- the information you provide both about yourself, and in any content you contribute to the Services is true, accurate, current, and complete; we may rely on its accuracy; and we have no obligation to verify its accuracy;
- you have obtained any required authorizations or consents before using or disclosing data, and (a) that the authorization is not expired, and (b) if necessary for continued use of the data within the Services, you will renew the authorization when it expires.
- If you are a clinical user, that you or your organization have implemented auditable policies, procedures, and systems to ensure that legally required authorizations and consents are obtained and not revoked.

Privacy

We are committed to protecting your information. Our Privacy Policy at <https://go.act.md/pages/privacy> describes the information we collect from you and others, how we use, share, and protect the information, and governs any personal information provided to us. By using the Services, you agree to the terms of the Privacy Policy.

OUR DISCLAIMER OF WARRANTIES

Unless stated otherwise in these Terms, the Services are provided "as-is" and "as-available," without representation or warranty of any kind.

We do not warrant that: (a) any information will be timely, accurate, reliable, or correct; (b) the Services will be error-free, uninterrupted, secure, or available at any particular time or place; (c) any defects or errors will be corrected; or (d) the Services will meet your business requirements, or that any result or outcome can be achieved.

To the fullest extent permitted by law, we hereby disclaim all other representations and warranties, express or implied, oral or written, with respect to the Services, including without limitation, all implied warranties of title, non-infringement, quiet enjoyment, accuracy, integration, merchantability, or fitness for any particular purpose, and all warranties arising from any course of dealing, course of performance, or usage of trade.

OUR LIMITATION OF LIABILITY

We will not be liable to you or any third party in relation to these Terms or the Services, for any cause whatsoever, regardless of the form of any claim, suit, proceeding, or action, other than for breach of these Terms, and then not for:

- any use of the Services in violation of these Terms;
- any matter beyond our reasonable control;
- any loss of data, loss or interruption of use, or cost to procure substitute technologies, goods, or services;

- any indirect, punitive, incidental, reliance, special, exemplary or consequential damages including, but not limited to, loss of business revenues, profits or goodwill, nor any penalty or sanction;
- any matter governed or affected by laws or regulations of any nation for which a private right of action does not exist at the time the agreement was entered into;
- the criminal, negligent, or illegal actions of third parties, including without limitation any User or User's contractors, employees, agents, or business associates;
- any use of the Services in any application, environment, service, or device for which it was not designed, or which use was contemplated;
- alterations, combinations, enhancements of the Services, or any component thereof not created by us;
- our reliance on data or information, including User Data, supplied by Customers or Users which was erroneous or incomplete;
- our acting on or following authorized User or Customer instructions;
- your handling, sharing, re-sharing, or distribution of User Data, including your own personal information; or
- harm or other consequences from a third party's use or re-sharing of User Data it received from you;
- aggregate damages in excess of five dollars (\$5), even if advised of the possibility of such damages.

We shall have no obligation to verify the accuracy of the information you provide, and may rely on it to perform our obligations.

We shall have no liability for costs or attorney's fees.

You accept and agree to these limitations and exclusions, and acknowledge that the consideration is adequate, in light of the benefits provided to you as a user, and the absence of any fees charged to you as a User. These limitations shall apply notwithstanding the failure any remedy provided herein.

TERMINATION

Termination by You

You may stop using the Services at any time.

Termination by Us

We may terminate your Account if (a) you violate these Terms, (b) if our contract with the Customer responsible for your Account ends, (c) if we're required to do so by law, or (d) if we decide to discontinue the Services, in whole or in part.

Termination by Customer

The Customer, or care team administrator responsible for your Account may terminate your Account at any time.

Patient Termination of Invited Guest Account

An Invited Patient may revoke authorization for an Invited Guest User who is participating in that Invited Patient's own care.

Termination of Invited Patient User Account

If an Invited Patient User's Account is terminated because a Customer stops using the Services, we may provide you with a period during which you can download your information, and/or convert your Account to a paid Customer subscription Account.

Survival

Any rights you have granted, our warranty disclaimers or limitations of liabilities, and dispute resolution provisions stated in these terms will survive the termination of your Account.

MISCELLANEOUS

Disputes

If a dispute arises out of, or in connection with these Terms or the Services, you and ACT.md agree to pursue resolution informally, and failing that, through a mutually-agreed upon alternative dispute resolution process (e.g., arbitration or mediation) before resorting to litigation. The laws of Massachusetts, U.S.A., excluding Massachusetts' conflict of laws rules, will apply to any disputes, and any litigation will be exclusively in the federal or state courts of Suffolk County, Massachusetts, and you and Activate Care consent to personal jurisdiction in those courts.

Injunctive Relief

Notwithstanding the foregoing, in the event of your or others' unauthorized access to or use of the Services or content in violation of these terms you agree that we are entitled to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

Conflicting Terms

As between our Customers and Activate Care, if there is a conflict between these Terms and the terms of agreements we have signed with our Customers, the Customer agreement terms will control for that conflict.

No Third Party Rights

These terms control the relationship between Activate Care and you. They do not create any third party beneficiary rights.

No Waiver of Rights

If you do not comply with these terms, and we don't take action right away, this doesn't mean that we are giving up any rights that we may have (such as taking action in the future).

Enforceability

If a particular term is not enforceable, this will not affect any other terms.

Force Majeure

We will not be liable for any delay or failure in performing our obligations under these Terms that arise out of any cause, condition, or circumstance beyond our reasonable control where performance would be inadvisable, commercially impracticable, illegal, or impossible. These events include (without limitation) acts of God, acts of government or regulatory authority, war, fire, flood, explosion, civil commotion, weather disruptions, cyber attacks, or disruptions to utilities, the Internet, and services provided by third-parties.

Government Users

If any User of the Services is an agency, department, or other entity of the United States Government, then the use, duplication, reproduction, modification, release, disclosure or transfer of such software or documentation is restricted in accordance with FAR 12.212 and DFAR 227.7202. The Services are deemed to be "commercial items," "commercial computer software," and "commercial computer software documentation" as those phrases are defined by FAR 2.101 and DFAR 252.227-7014.

Entire Agreement

Except as otherwise indicated in this Agreement, these terms constitute the entire agreement between us regarding the Services.

Contact

You may contact us at the following address: Activate Care, 200 State Street, 12th Floor, Boston, MA 02109, or by e-mailing help@activatecare.com

Powered by

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) effective January 25, 2022 (“Effective Date”), is entered into by and among between the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department (“Covered Entity”) and Accountable Care Transactions, dba Activate Care (“Business Associate”) (each a “Party” and collectively the “Parties”).

RECITALS

A. WHEREAS, Business Associate provides certain services for Covered Entity that involve the Use and Disclosure of Protected Health Information (“PHI”) that is created, received, transmitted, or maintained by Business Associate for or on behalf of Covered Entity.

B. WHEREAS, the Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), and their implementing regulations, including the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, subparts A and E (the “Privacy Rule”), the Breach Notification Standards, 45 C.F.R. Part 160 and 164 subparts A and D (the “Breach Notification Rule”), and the Security Standards for the Protection of Electronic Protected Health Information, 45 C.F.R. Part 160 and Part 164, subparts A and C (the “Security Rule”) (collectively “HIPAA”), all as amended from time to time.

C. WHEREAS, the Parties are also committed to complying with the California Confidentiality Laws (defined below).

D. WHEREAS, to the extent that Business Associate is performing activities in connection with covered accounts for or on behalf of Covered Entity, the Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”).

E. WHEREAS, the Privacy and Security Rules require Covered Entity and Business Associate to enter into a business associate agreement that meets certain requirements with respect to the Use and Disclosure of PHI. This BAA sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”) shall be handled, in accordance with such requirements.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this BAA, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS

All capitalized terms used in this BAA but not otherwise defined shall have the meaning set forth in HIPAA.

May 2021

(a) “Breach” shall have the same meaning as “breach” as defined in 45 C.F.R. § 164.402; however, the term “Breach” as used in this BAA shall also mean the unlawful or unauthorized access to, Use or Disclosure of a patient’s “medical information” as defined under Cal. Civil Code § 56.05(j), for which notification is required pursuant to Cal. Health & Safety Code 1280.15, or a “breach of the security of the system” under Cal. Civil Code § 1798.29.

(b) “California Confidentiality Laws” shall mean the applicable laws of the State of California governing the confidentiality, privacy, or security of PHI or other personally identifiable information (PII), including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code § 56 *et seq.*), the patient access law (Cal. Health & Safety Code § 123100 *et seq.*), the HIV test result confidentiality law (Cal. Health & Safety Code § 120975 *et seq.*), the Lanterman-Petris-Short Act (Cal. Welf. & Inst. Code § 5328 *et seq.*), and California’s data breach law (Cal. Civil Code § 1798.29).

(c) “Protected Health Information” or “PHI” shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual; (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information that can be used to identify the individual, and (iii) is provided by Covered Entity to Business Associate or created, maintained, received, or transmitted by Business Associate on Covered Entity’s behalf. PHI, when used in this BAA, includes EPHI.

(d) “Services” shall mean the services for or functions performed by Business Associate on behalf of Covered Entity pursuant to an underlying services agreement (“Services Agreement”) between Covered Entity and Business Associate to which this BAA applies.

2. PERMITTED USES AND DISCLOSURES OF PHI

Unless otherwise limited herein, Business Associate may:

(a) Use or Disclose PHI to perform Services for, or on behalf of, Covered Entity, provided that such Use or Disclosure would not violate the Privacy or Security Rules, this BAA, or California Confidentiality Laws if done by Covered Entity;

(b) Use PHI to provide Data Aggregation Services for the Health Care Operations of Covered Entity, if required by the Services Agreement and as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(c) Use PHI if necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(d) Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as

May 2021

permitted under 45 C.F.R. § 164.504(e)(4)(ii), provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and be Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and that such person will notify the Business Associate of any instances of which such person is aware that the confidentiality of the information has been breached; and

(e) Use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1).

3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

3.1. Responsibilities of Business Associate. Business Associate shall:

(a) Notify the Privacy Officer of Covered Entity, in writing, of: (i) any Use and/or Disclosure of the PHI that is not permitted by this BAA; (ii) any Security Incident of which Business Associate becomes aware; and (iii) any suspected Breach. Such notice shall be provided within five (5) business days of Business Associate's discovery of such unauthorized access, acquisition, Use and/or Disclosure, Security Incident, or suspected Breach. Notwithstanding the foregoing, the Parties acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and unsuccessful log-in attempts. The Parties acknowledge and agree that this Section 3.1(a) constitutes notice by Business Associate to Covered Entity of such ineffective Security Incidents and no additional notification to Covered Entity of such ineffective Security Incidents is required, provided that no such Security Incident results in unauthorized access, acquisition, Use or Disclosure of PHI. For the avoidance of doubt, a ransomware attack shall not be considered an ineffective Security Incident and shall be reported to Covered Entity, irrespective of whether such Security Incident results in a Breach. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of PHI, or suspected Breach that it discovers and shall provide a summary of its investigation to Covered Entity, upon request.

(i) If Business Associate or Covered Entity determines that such Security Incident or unauthorized access, acquisition, Use, or Disclosure, or suspected Breach constitutes a Breach, then Business Associate shall provide a supplemental written report in accordance with 45 C.F.R. § 164.410(c), which shall 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 during the Breach, to Covered Entity without unreasonable delay, but no later than five (5) business days after discovery of the Breach;

(ii) In consultation with Covered Entity, Business Associate shall promptly mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper access, acquisition, Use, or Disclosure, Security Incident, or Breach;

(iii) Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the appropriate government agencies, and other persons required by law to be notified. Business Associate shall assist with any notifications, as requested by Covered Entity. Business Associate shall take prompt corrective action, including any action required by applicable State or federal laws and regulations relating to such Security Incident or non-permitted access, acquisition, Use, or Disclosure. Business Associate shall reimburse Covered Entity for its reasonable costs and expenses in providing notification to affected individuals, appropriate government agencies, and any other persons required by law to be notified (e.g., without limitation, the media or consumer reporting agencies), including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, attorney fees, and costs of mitigating the harm (which may include the costs of obtaining up to one (1) year of credit monitoring services and identity theft insurance) for affected individuals whose PHI or other PII has or may have been compromised as a result of the Breach;

(b) Implement appropriate administrative, physical, and technical safeguards and comply with the Security Rule and industry best practices to prevent Use and/or Disclosure of EPHI other than as provided for by this BAA;

(c) Obtain and maintain a written agreement with each of its Subcontractors that creates, receives, maintains, or transmits PHI that requires each such Subcontractor to adhere to restrictions and conditions that are at least as restrictive as those that apply to Business Associate pursuant to this BAA. Upon request, Business Associate shall provide Covered Entity with copies of its written agreements with such Subcontractors;

(d) Make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the Use and/or Disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity to the Secretary of the Department of Health and Human Services (“Secretary”) in a time and manner designated by the Secretary for purposes of determining Covered Entity’s or Business Associate’s compliance with HIPAA. Business Associate shall immediately notify Covered Entity of any such requests by the Secretary and, upon Covered Entity’s request, provide Covered Entity with any copies of documents Business Associate provided to the Secretary. In addition, Business Associate shall promptly make available to Covered Entity such practices, records, books, agreements, policies and procedures relating to the Use and Disclosure of PHI for purposes of determining whether Business Associate has complied with this BAA or maintains adequate security safeguards, upon reasonable request by Covered Entity. The fact that Covered Entity has the right to inspect, inspect, or fails to inspect Business Associate’s internal practices, records, books, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this BAA, regardless of whether Covered Entity detects or fails to detect a violation by Business Associate, nor does it constitute Covered Entity’s acceptance of such practices or waiver of Covered Entity’s rights under this BAA;

(e) Document Disclosures of PHI and information related to such Disclosure and, within twenty (20) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the Disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528 and the HITECH Act. At a minimum, the Business Associate shall provide Covered Entity with the following information: (i) the date of the Disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI Disclosed; and (iv) a brief statement of the purpose of such Disclosure which includes an explanation of the basis for such Disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) days, forward such request to Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(f) Subject to Section 4.4 below, return to Covered Entity in a mutually agreeable format and medium, or destroy, within thirty (30) days of the termination of this BAA, the PHI in its possession and retain no copies, including backup copies;

(g) Use, Disclose to its Subcontractors or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(h) If all or any portion of the PHI is maintained in a Designated Record Set:

(i) Upon ten (10) days' prior written request from Covered Entity, provide access to the PHI to Covered Entity, or to the individual, if so directed by Covered Entity, to meet a request by an individual under 45 C.F.R. § 164.524 or California Confidentiality Laws. Business Associate shall notify Covered Entity within five (5) days of its receipt of a request for access to PHI from an individual; and

(ii) Upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within five (5) days of its receipt of a request for amendment of PHI from an individual;

(i) If applicable, maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(j) To the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(k) Unless prohibited by law, notify Covered Entity as soon as possible and in no case later than five (5) days after the Business Associate's receipt of any request

May 2021

or subpoena for PHI. To the extent that Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with Covered Entity in such challenge; and

(l) Maintain policies and procedures materially in accordance with HIPAA and California Confidentiality Laws and industry standards designed to ensure the confidentiality, availability, and integrity of Covered Entity's data and protect against threats or vulnerabilities to such data.

3.2 Business Associate Acknowledgment.

(a) Business Associate acknowledges that, as between the Business Associate and Covered Entity, all PHI shall be and remain the sole property of Covered Entity.

(b) Business Associate is not permitted to Use PHI to create de-identified information except as approved in writing by Covered Entity.

(c) Business Associate further acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA. Business Associate shall comply with all California Confidentiality Laws, to the extent that such state laws are not preempted by HIPAA.

(d) Business Associate further acknowledges that Uses and Disclosures of PHI must be consistent with Covered Entity's privacy practices, as stated in Covered Entity's Notice of Privacy Practices. The current Notice of Privacy Practices can be retrieved online from the Covered Entity's webpage. Business Associate agrees to review the Notice of Privacy Practices at this URL at least once annually while doing business with Covered Entity to ensure it remains updated on any changes to the Notice of Privacy Practices Covered Entity may make.

3.3 Responsibilities of Covered Entity. Covered Entity shall notify Business Associate of any (i) changes in, or withdrawal of, the authorization of an individual regarding the Use or Disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.508, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI; or (ii) restrictions on Use and/or Disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

4. TERM AND TERMINATION

4.1 Term. This BAA shall become effective on the Effective Date and shall continue in effect until all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy PHI, protections are extended to such PHI, in accordance with the termination provisions in Section 4.4. Certain provisions and requirements of this BAA shall survive its expiration or other termination as set forth in Section 5 herein.

May 2021

4.2 Termination. If Covered Entity determines in good faith that Business Associate has breached a material term of this BAA, Covered Entity may either: (i) immediately terminate this BAA and any underlying Services Agreement without penalty; or (ii) terminate this BAA and any underlying Services Agreement within thirty (30) days of Business Associate's receipt of written notice of such breach, if the breach is not cured to the satisfaction of Covered Entity.

4.3 Automatic Termination. This BAA shall automatically terminate without any further action of the Parties upon the termination or expiration of all Services Agreements between Covered Entity and Business Associate that would necessitate having this BAA in place.

4.4 Effect of Termination. Upon termination or expiration of this BAA for any reason, Business Associate shall return or destroy all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) if, and to the extent that, it is feasible to do so. Prior to returning or destroying the PHI, Business Associate shall recover any PHI in the possession of its Subcontractors. Business Associate shall certify in writing that all PHI has been returned or securely destroyed, and no copies retained, upon Covered Entity's request. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall notify Covered Entity in writing of the condition that makes return or destruction infeasible. If Covered Entity agrees that return or destruction of the PHI is infeasible, as determined in its sole discretion, Business Associate shall: (i) retain only that PHI which is infeasible to return or destroy; (ii) return to Covered Entity the remaining PHI that the Business Associate maintains in any form; (iii) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains PHI; (iv) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions as set out in Sections 2 and 3 above, which applied prior to termination; and (v) return to Covered Entity the PHI retained by Business Associate when such return is no longer infeasible.

5. MISCELLANEOUS

5.1 Survival. The obligations of Business Associate under the provisions of Sections 3.1, 3.2, and 4.4 and Article 5 shall survive termination of this BAA until such time as all PHI is returned to Covered Entity or destroyed.

5.2 Amendments; Waiver. This BAA may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of HIPAA or California Confidentiality Laws is materially amended in a manner that changes the obligations of the Parties, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to the revised obligations. Further, no provision of this BAA shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile or email to the facsimile telephone numbers or email addresses listed below.

If to Business Associate, to:

Activate Care

Attn: Imre Fitos, Chief Security Office

Phone:

Fax:

Email: imre@activatecare.com

If to Covered Entity, to:

County of Monterey Health Department

Attn: Compliance/Privacy Officer

1270 Natividad Road

Salinas, CA 93906

Phone: 831-755-4018

Fax: 831-755-4797

Email: sumeshwarsd@co.monterey.ca.us

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 Counterparts; Facsimiles. This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile and electronic copies hereof shall be deemed to be originals.

5.6 Relationship of Parties. Notwithstanding anything to the contrary in the Services Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all Business Associate obligations under this BAA.

5.7 Choice of Law; Interpretation. This BAA shall be governed by the laws of the State of California. Any ambiguities in this BAA shall be resolved in a manner that allows Covered Entity and Business Associate to comply with HIPAA and the California Confidentiality Laws.

5.8 Indemnification. Business Associate shall indemnify, defend, and hold harmless the County of Monterey (the “County”), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including costs incurred by the County with respect to any investigation, enforcement proceeding, or third party action, arising out of, or in connection with, a violation of this BAA, HIPAA or California Confidentiality Laws, or a Breach that is attributable to an act or omission of Business Associate and/or its agents, members, employees, or Subcontractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the Parties to provide the broadest possible indemnification for the County. This provision is in addition to, and independent of, any indemnification provision in any Services Agreement between the Parties.

5.9 Applicability of Terms. This BAA applies to all present and future Services Agreements and business associate relationships, written or unwritten, formal or informal, in which Business Associate creates, receives, transmits, or maintains any PHI for or on behalf of Covered Entity in any form whatsoever. This BAA shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity involving the Use or Disclosure of PHI whether or not specifically referenced therein. In the event of any conflict or inconsistency between a provision of this BAA and a provision of any other agreement between Business Associate and Covered Entity, the provision of this BAA shall control unless the provision in such other agreement establishes additional rights for Business Associate or additional duties for or restrictions on Business Associate with respect to PHI, in which case the provision of such other agreement will control.

5.10 Insurance. In addition to any general and/or professional liability insurance required of Business Associate under the Services Agreement, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis, covering any and all claims, liabilities, demands, damages, losses, costs expenses, fines, and compliance costs arising from a breach of the obligations of Business Associate, its officers, employees, agents and Subcontractors under this BAA. Without limiting the foregoing, at a minimum, Business Associate’s required insurance under this Section shall include cyber liability insurance covering breach notification expenses, network security and privacy liability, with limits of not less than \$10,000,000 per claim and in the aggregate. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity’s request.

5.11 Legal Actions. Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law. This includes, without limitation, any allegation that Business Associate has violated HIPAA or other federal or state privacy or security laws.

May 2021

5.12 Audit or Investigations. Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliance review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA or the California Confidentiality Laws.

5.13 Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself, and any Subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under any Services Agreements, available to Covered Entity, at no cost to Covered Entity, to testify in any claim commenced against Covered Entity, its directors, officers, employees, successors, and assigns based upon claimed violation by Business Associate or its agents or subcontractors of HIPAA or other applicable law, except where Business Associate or its Subcontractor, employee, or agent is a named adverse party.

5.14 No Offshore Work. In performing the Services for, or on behalf of, Covered Entity, Business Associate shall not, and shall not permit any of its Subcontractors, to transmit or make available any PHI to any entity or individual outside the United States without the prior written consent of Covered Entity.

5.15 Information Blocking Rules. Business Associate shall not take any action, or refuse to take any action, with regard to Covered Entity’s electronic health information that would result in “information blocking” as prohibited by 42 U.S.C. § 300jj-52 and 45 C.F.R. Part 171 (collectively, “Information Blocking Rules”). Business Associate and Covered Entity shall cooperate in good faith to ensure Covered Entity’s electronic health information is accessed, exchanged, and used in compliance with the Information Blocking Rules.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

BUSINESS ASSOCIATE

COVERED ENTITY

By: _____

By: _____

Print Name _____

Print Name: Elsa M. Jimenez, MPH

Print Title _____

Print Title: Director of Health

Date: _____

Date: _____