



**Board of Directors Meeting Agenda
Tuesday, July 30, 2024
6:00 – 7:30 p.m.**

Kern Regional Center, 3200 N. Sillect Ave., Bakersfield CA 93308
Malibu Room

General Business			
1. Call to Order and Introductions		Tracey Mensch, President	6:00 – 6:05 p.m.
2. Approval of Agenda	Action	Tracey Mensch, President	6:05 – 6:07 p.m.
3. Approval of May 28, 2024 Board Minutes (Attachment 1)	Action	Tracey Mensch, President	6:07 – 6:10 p.m.
4. Appoint Board Member, Ruth Watterson, to second term.	Action	Tracey Mensch, President	6:10 - 6:15 p.m.
5. Appoint Board Member, Donald Tobias to second term.	Action	Tracey Mensch, President	6:15 - 6:20 p.m.
6. Appoint Board Member, Ryan Jones to third term.	Action	Tracey Mensch, President	6:20 - 6:25 p.m.
7. Appoint Board Member, Mark Tolentino to third term.	Action	Tracey Mensch, President	6:25 - 6:30 p.m.
8. Request Approval for Direct Procurement for Level 4 Care Home >\$500,000 (Attachment 2)	Action	Enrique Roman, KRC Director of Community Services	6:30 – 6:40 p.m.
9. Request Approval for Contract for Maxim Healthcare >\$250,000 Financial Management Services (Attachment 3)	Action	Enrique Roman, KRC Director of Community Services	6:40 – 6:50 p.m.
10. Public Input	Info		6:50 – 7:00 p.m.
Reports			
11. Board President Report	Info.	Tracey Mensch, President	7:00 – 7:10 p.m.
12. Executive Director Report	Info.	Dr. Michi Gates, Executive Director	7:10 – 7:20 p.m.
13. Financial Reports a. POS Report for May 2024 (Attachment 4) b. Operations Report for May 2024 (Attachment 5)	Info.	Tom Wolfgram, CFO	7:20 – 7:25 p.m.
14. Vendor Advisory Committee Report	Info.	Tamerla Prince, VAC Representative	7:25 – 7:30 p.m.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89833310469?pwd=dk5zeERwekdmaXZlIdVBmbFdHbHpwUT09>

Webinar ID: 898 3331 0469 Passcode: 106717

Dial-In Number: (213) 338-8477

The next KRC Board of Directors meeting is August 27, 2024, 6:00 – 7:30 PM

3200 N. Sillect Avenue • Bakersfield, California 93308 (661) 327-8531 • Fax (661) 324-5060 • TDD (661) 327-1251

www.kernrc.org



Kern Regional Center Board of Directors Meeting July 30, 2024

This meeting was conducted as a hybrid meeting at Kern Regional Center, 3300 N. Sillect Ave., Bakersfield, California in the Malibu Room and using remote teleconferencing technology provided by Zoom.

Board of Directors Present:

Ana Alonso, Vice President; Carlos Isidoro, Board Member; Ryan Jones, Board Member; Tracey Mensch, President; Tamerla Prince, Vendor Advisory Representative; Donald Tobias, Board Member; Mark Tolentino, Board Member; Martin Vasquez, Secretary; Simon Verdugo, Board Member. A quorum (9) was established.

Board of Directors Absent:

Fernando Fermin, Treasurer; Ruth Watterson, Board Member

Kern Regional Center Staff Present:

Denise Arreguin, SC; Tomas Cubias, Assistant Director, Service Access & Equity; Michi Gates, Executive Director; Yesenia Mackie, Assistant Director, Client Services; Karey Morris, HR; Darlene Pankey, Executive Assistant; Celia Pinal, Director of Client Services; Enrique Roman, Director, Community Services; Eduardo Soriano, IT; Omelia Trigueros, PM; Tom Wolfgram, CFO

Attendees:

Maribel Baez; Raynel Beggs; Yesenia Bojorquez; Norma Carrillo; Socorro Carrillo; Jill Green; Cindy Cox, Support for Donald Tobias; Maria (no last name); Cynthia Marquez; John Noriega, Support for Simon Verdugo; Kristi, Positive Purpose; Susana Montoya; Teresa Olivares; Edwin Pineda, DDS; Jeffrey Popkin, Bakersfield ARC; Scott Rice; Maria Robles; Rene Sandoval; Norma Tuiasosopo; Sandra Van Scotter, SDP Advisory Committee; Manuel Velasquez; Mitzi Villalon; 661-205-8347 (no name given).

Interpreters: Nidya Madrigal-Navia, Spanish; Tera Thrasher, ASL; Jessica Alvarado Saravia, ASL

CALL TO ORDER: Tracey Mensch, President, called the meeting to order at 6:25 p.m. and introductions were made.

AGENDA APPROVAL: President Mensch asked for a motion to approve the agenda:

Moved by Prince and seconded by Tobias to:

Accept the agenda for the meeting of July 30, 2024.

PASSED: 9

APPROVAL OF MINUTES: President Mensch asked for a motion to approve the minutes of the board meeting held on May 28, 2024.

Moved by Prince and seconded by Verdugo to:

Approve the Kern Regional Center Board of Directors Meeting Minutes for May 28, 2024, as written.

PASSED: 9

APPOINT BOARD MEMBER, RUTH WATTERSON, TO SECOND TERM

Board Member, Ruth Watterson's first term ended on 4/27/24. President Mensch asked the Board Members for discussion and, if no objections, to approve Ruth Watterson for her second term as a board member, retroactive beginning 4/27/24 through 4/27/27.

Moved by Alonso and seconded by Verdugo to:

Approve that Ruth Watterson be instated for a second term as board member, retroactive beginning 4/27/24 through 4/27/27.

PASSED: 9 NAYES: 0 ABSTENTIONS: 0

APPOINT BOARD MEMBER, DONALD TOBIAS, TO SECOND TERM

Board Member, Donald Tobias's first term as a board member ended on 4/27/24. President Mensch asked the Board Members for discussion and, if no objections, to approve Donald Tobias for a second term as a board member, retroactive beginning 4/27/24 through 4/27/27.

Moved by Alonso and seconded by Tolentino to:

Approve that Donald Tobias be instated for a second term as board member, retroactive beginning 4/27/24 through 4/27/27.

PASSED: 9 NAYES: 0 ABSTENTIONS: 0

APPOINT BOARD MEMBER, RYAN JONES, TO THIRD TERM

Board Member, Ryan Jones's second term as a board member will end on 8/28/24. President Mensch asked the Board Members for discussion and, if no objections, to approve Ryan Jones for a third term as a board member, 8/28/24 through 8/28/25.

Moved by Verdugo and seconded by Tobias to:

Approve that Ryan Jones be instated for a third term as board member, 8/28/24 through 8/28/25.

PASSED: 9 NAYES: 0 ABSTENTIONS: 0

APPOINT BOARD MEMBER, MARK TOLENTINO, TO THIRD TERM

Board Member, Mark Tolentino's third term as a board member will end on 8/28/24. President Mensch asked the Board Members for discussion and, if no objections, to approve Mark Tolentino for a third term as board member, 8/28/24 through 8/28/25.

Moved by Alonso and seconded by Prince to:

Approve that Mark Tolentino be instated for a third term as board member, 8/28/24 through 8/28/25.

PASSED: 9 NAYES: 0 ABSTENTIONS: 0

REQUEST APPROVAL FOR DIRECT PROCUREMENT FOR LEVEL 4 CARE HOME > \$500,000

Mr. Roman presented a request to waive the RFP requirement to develop an adult, level 4I residential facility. A memo was presented to the Board of Directors a week prior to this meeting for review and details a request by Crestmont Loft and the operators of Le Petite Loft (children's level 4I facility) to develop an adult level 4I facility. The memo is attached to these minutes, labeled as Attachment 2.

Moved by Alonso and seconded by Tobias to:

Approve the waiver of the RFP requirement to develop an Adult, level RI residential facility and allow Crestmont Loft to begin development of a new adult, level 4I residential facility.

PASSED: 7 NAYES: 0 ABSTENTIONS: 2 (Tamerla Prince and Mark Tolentino)

REQUEST APPROVAL FOR CONTRACT FOR MAXIM HEALTHCARE >\$250,000 FINANCIAL MANAGEMENT SERVICES

Mr. Roman presented a contract for approval to the Board of Directors concerning the development of a new Financial Management Services (FMS) provider, Maxim Healthcare Services. A memo and draft contract between Kern Regional Center and Maxim Healthcare Services was presented to the board members a week prior to this meeting for review and is attached to these minutes, labeled as Attachment 3.

Moved by Isidoro and seconded by Tobias to:

Approve the contract between Kern Regional Center and Maxim Healthcare Services, a contractor performing Financial Management Services for Kern Regional Center, to be in effect through June 30, 2027.

PASSED: 8 NAYES: 0 ABSTENTIONS: 1 (Tamerla Prince)

PUBLIC INPUT

Teresa Olivares asked for clarification about the Financial Management Services and her questions were answered by Dr. Gates.

Sandra Van Scotter congratulated all the folks appointed to additional terms to the board. How does the public find out if there are openings on the board and how do they apply? Requests for applications can be sent to Darlene Pankey at dpankey@kernrc.org or requests for applications can also be obtained by logging onto the Kern Regional Center website at KRC.org.

PRESIDENT'S REPORT

President Mensch has been appointed as the Chairperson of the State Client Advisory Council and recently attended a meeting in Sacramento. She has also participated in KRCs New Hire Orientation, welcoming new KRC employees to their new positions. President Mensch thanked and welcomed all the board members to their new terms.

EXECUTIVE DIRECTOR REPORT

Dr. Michi Gates gave a report to the board on the following topics:

- Kern Regional Center received the final report on our HCBS services review. KRC did very well. There were a few minor findings; KRC scored 100% in most categories. She thanked Celia Pinal, Enrique Roman, and Ana Leheny for their dedication to bring excellence to this program.
- KRC is preparing for a DDS review of our Family Home Agencies (FHA). FHAs are living arrangements for adults, age 18 and older, who prefer to live in a family setting rather than in a group setting or living alone. KRC has three FHA providers – each provider is responsible for several FHAs. We are looking forward to working with DDS on this audit.
- KRC and Developmental Support Services Foundation (DSSF) recently worked together to conduct an art contest for our clients. It was a great success. A winner was chosen in each age category and awarded \$100. An overall “best in show” was awarded \$500. This project was well received, and plans are to have another art contest next year.
- KRC is working with DDS as a pilot regional center to implement the standardized Individual Program Plan (IPP) format. Service coordinators will start using the new standardized IPP template in January 2025.

FINANCIAL REPORT

Tom Wolfram, CFO, provided the Financial Report for Purchase of Services and Operations as of May 31, 2024.

Purchase of Services

Total spent for month ending May 31, 2024: \$16,638,307

YTD: \$234,297,256

Considering there are approximately \$5 Million in unbilled services, and an expected expenditure in June of \$21 Million, Mr. Wolfram anticipates a total expenditure of approximately \$260 Million spent this year for services. The vendors have up to 2 more years to bill.

Operations Report

Total expenses for month ending May 31, 2024: \$2,499,324

YTD: \$28,774,472

We have spent \$27.9 Million on general operations. We will end the year with approximately \$2 Million in unspent funds. We have 2 years to spend the surplus and out of these funds we will be purchasing furniture for the building expansion.

Copies of the Purchase of Services and Operations Reports are attached to these minutes and labeled as Attachments 4 and 5.

The Atrium building is almost complete. All the furniture is in. The IT wiring is done, phones are being connected, and an evacuation plan is being created. We are waiting for fire extinguishers and defibrillators to arrive. There are 75 new workstations for staff in the new building.

The Bishop office is almost ready. The wiring is all done and the furniture is in. There is some electrical work that is still pending, along with fire extinguishers and an evacuation plan. Tom will attempt to get more information from the contractors working on the project to help estimate an approximate timeline for being able to move into the office.

VENDOR ADVISORY COMMITTEE

Tamerla Prince reported

- Planning meetings are taking place for the Vendor Luncheon on November 8.
- Positive Purpose and KRC are working together on backpack donations and organization for our clients for "Back to School." The goal is to provide 500 backpacks. Donations of school supplies are being accepted at Positive Purpose and Kern Regional Center.

With nothing else to discuss, President Mensch adjourned the meeting at 7:35 p.m.

The next public Board of Directors meeting will be held on August 27, 2024, at 6:00 p.m.

Respectfully submitted,



Darlene Pankey
Executive Assistant

Attachment 1



**Kern Regional Center
Board of Directors Meeting
May 28, 2024**

This meeting was conducted as a hybrid meeting at Kern Regional Center, 3300 N. Sillect Ave., Bakersfield, California in the Malibu Room and using remote teleconferencing technology provided by Zoom.

Board of Directors Present:

Fernando Fermin, Treasurer; Carlos Isidoro, Board Member; Ryan Jones, Board Member; Tracey Mensch, President; Tamerla Prince, Vendor Advisory Representative; Donald Tobias, Board Member; Simon Verdugo, Board Member. A quorum was established.

Board of Directors Absent:

Ana Alonso, Mark Tolentino; Martin Vasquez, Ruth Watterson

Kern Regional Center Staff Present:

Lulu Calvillo, Assistant Director, Early Childhood; Tomas Cubias, Assistant Director, Service Access & Equity; Ky Duyen, IT Department; Michi Gates, Executive Director; Kristine Khuu, Assistant Director, Intake; Yesenia Mackie, Assistant Director, Client Services; Cindy Martinez, Service Coordinator; Jamie Patino, Director of Employment Services; Celia Pinal, Director of Client Services; Isis Rasmussen, Executive Assistant; Enrique Roman, Director, Community Services; Jose Santana, IT; Eduardo Soriano, IT; Tom Wolfgram, CFO

Attendees:

Maureen Fitzgerald, Jacqueline Gaytan, DDS; Jill Green; Daniela Hernandez, Maxim Healthcare; Jason, Bakersfield E-Sports; Joni, KAP; Breeanne Kolston, 24-Hour Care; Mona Lisa, KAP; John Noriega, Support for Simon Verdugo; Christina Rockwell; Sandra Van Scotter, SDP Advisory Committee; Mitzi Villalon.

Interpreters: Nidya Madrigal-Navia, Spanish; Kimberly Cantwell, ASL; Sabrina Geoghegan, ASL

CALL TO ORDER: Tracey Mensch, President, called the meeting to order at 6:05 p.m. and introductions were made.

AGENDA APPROVAL: President Mensch asked for a motion to approve the agenda with the change of chairperson from Ana Alonso to Tracey Mensch:

Moved by Prince and seconded by Tobias to:

Accept the agenda for the meeting of May 28, 2024.

PASSED: 7

APPROVAL OF MINUTES: President Mensch asked for a motion to approve the minutes of the board meeting held on March 26, 2024.

Moved by Prince and seconded by Verdugo to:

Approve the Kern Regional Center Board of Directors Meeting Minutes for April 23, 2024, as written.

PASSED: 7

EMPLOYMENT

Enrique Roman, Director of Community Services at Kern Regional Center and Jamie Patino, Director of Employment Services at Kern Regional Center introduced John Noriega from Kern Adult Services and Mona Lisa from KAP to talk about Mona Lisa's new business venture. She has relaunched a Gift Cart at the Bakersfield Heart Hospital and everyone there is very excited about it. Bakersfield Heart Hospital is finalizing a lease for Kern Adult Services to implement the Gift Cart permanently. Tamerla Prince offered donations from her personal business and Tracey Mensch offered donations of her handmade cards as well. The board wished Mona Lisa great success in her new business.

Enrique Roman also gave a short presentation about a new pilot program at KRC called Coordinated Career Pathways (CCP). The pilot is scheduled to run for 3 years, with the goal of achieving competitive, integrated employment for our individuals. The expectations of the goal will be a minimum wage, or higher, and integration alongside their nondisabled peers. A copy of the PowerPoint presentation will be filed with these minutes.

PERFORMANCE CONTRACT DISCUSSION

Enrique presented the draft of KRC's Performance Contract for the board's review and approval. The performance contract was drafted and presented to the public on May 7 and May 8. The purpose of presenting to the community was to obtain community feedback on the activities that were planned by Kern Regional Center to achieve the DDS's measurement criteria. Through community feedback at the meetings, KRC received public agreement with the activities outlined in the plan. Mr. Roman asked if there were any questions or discussion from the board. As there were none, he then asked for approval to submit the draft Performance Contract to DDS.

Moved by Isidoro and seconded by Prince to:

Approve the Kern Regional Center Performance Contract Draft and submit to DDS for approval.

PASSED: 7

PUBLIC INPUT

Jason, from Bakersfield eSports Center, came before the board to introduce himself and provide information about Bakersfield eSports, a new social recreation vendor with KRC. For any service coordinators who don't know about eSports, he invites them to come visit anytime beginning at 12 P.M. every day at 7104 Golden State Highway.

Christina Rockwell, SDP Independent Facilitator, came before the board to share her difficulties interpreting how services are defined, i.e., personal assistance, independent living services, supported living services, and adaptive skills training.

Sandra Van Scotter read a personal statement pertaining to some difficulties she has encountered. Sandra perceives that, at times, there is a disconnect between some regional center staff and the individuals served. She specifically referred to a lack of understanding of the lived experiences of people we serve and the understanding of those lived experiences by regional center employees.

Dr. Gates commented that all service coordinators are now being trained in Person-Centered Thinking. John Noriega announced that a training is coming up on June 24-25. There will be two more trainings before the end of the year. Interested parties can contact Shannon Lueck at Kern Regional Center.

PRESIDENT'S REPORT

President Mensch shared a video from our Community Spring Vendor Fair on April 30. Thank you to all the vendors. It was a great day, and we look forward to next year! A special thank you to Tamerla Prince and the Community Services Department at KRC.

EXECUTIVE DIRECTOR REPORT

Dr. Michi Gates gave a report to the board on the following topics:

- June's KRC Board of Director's Retreat is being planned at the Padre Hotel. She asked, and received, board approval for the date of June 25 at 6:00 p.m. at the Padre Hotel in Bakersfield.
- The Governor's May revise was released earlier this month. The proposed delay on the vendor rate increase is unfortunately, still appearing in the revise. There are lots of legislators who are behind us in support of the July 1 rate increase to go forward; we will have to wait for the decision.
- The El Arc Summit was held in Kern County. KRC staff and the community attended. It was a great event.

FINANCIAL REPORT

Tom Wolfram, CFO, provided the Financial Report for Purchase of Services and Operations as of March 31, 2024.

Purchase of Services

Total spent for month ending March 31, 2024: \$17,689,751

YTD: \$191,132,472

The report reflects an estimated \$24 Million more has been paid out to vendors for client services this year than at this time last year. Considering there are approximately \$4 Million in unbilled services, Mr. Wolfram anticipates a total expenditure of approximately \$195 Million.

Operations Report

Total expenses for month ending March 31, 2024: \$2,987,742

YTD: \$23,788,197

Mr. Wolfram reminded the board that he expects the operating expense balance will reduce due to furniture and IT purchases for the new workspaces in Bakersfield and Bishop. A copy of the Purchase of Services Report and the Operations Report for the month ending March 31, 2024, are attached to these minutes.

VENDOR ADVISORY COMMITTEE

Tamerla Prince reported. The Vendor Advisory Committee meeting was held today at 10:00 a.m.

- Jeff Popkin gave a good overview of the HCBS grants that are available. Positive Purpose has been able to visit 12 out of the 25 vendors they were given.
- A planning meeting will be held on June 4 for the 2024 Vendor Luncheon. The date planned for the Vendor Luncheon is November 8, 2024. They are working on a theme of the history of our services and looking forward to the future with HCBS.

Tamerla felt the Vendor Fair was the best ever! All the feedback was positive. Inviting vendors and families was a new and very successful experience. Everyone was excited and there was a good

representation of vendors, families, and the community. The Kern Museum area was a much better location, and she hopes we can have more events at there.

With nothing else to discuss, President Mensch adjourned the meeting at 7:30 p.m.

The board retreat, for board members only, will be held on June 25, 2024, at the Padre Hotel.

The next public Board of Directors meeting will be held on July 30, 2024, at 6:00 p.m.

Respectfully submitted,

Darlene Pankey
Executive Assistant

Attachment 2

MEMORANDUM

TO: BOARD OF DIRECTORS, KERN REGIONAL CENTER

FROM: ENRIQUE ROMAN, DIRECTOR OF COMMUNITY SERVICES

SUBJECT: WAIVE REQUEST FOR PROPSAL (RFP) REQUIREMENT FOR DEVELOPMENT OF LEVEL 4I RESIDENTIAL HOME

APPLICABLE BOARD OF DIRECTOR'S POLICY: USE OF RFPS TO ADDRESS SERVICE NEEDS

DATE: JULY 23, 2024

Board of Directors,

I present to you today a request to waive the RFP requirement to develop an adult, level 4I, residential facility.

The owners of Crestmont Loft, and operators of La Petite Loft (Childrens level 4I facility), have proposed the development of an adult level 4I facility to allow for clients living in this children's home the opportunity to transition to an adult home as they come of age.

Crestmont Loft is not asking for start-up funds for this development, they simply want to provide these residents, who have lived together for over five (5) years, with the opportunity to continue living with peers of their choice.

Of the four (4) residents of their children's home, two of the residents will be ready to transition to an adult facility in the next couple of years; Crestmont Loft would like to start development of this adult residential facility to have it ready for occupancy as these folks come of age.

KRC requests your approval to waive the RFP requirement to have Crestmont Loft begin development of this new adult, level 4I, residential facility.

Respectfully,

Enrique Roman
Director of Community Services

POLICY

TITLE: Use of RFPs to Address Service NeedsPOLICY NO. C-9

DATE APPROVED: 09/28/21

PAGE 1 OF 2

PURPOSE: To provide guidelines under which RFP procedures shall be used.

POLICY: Kern Regional Center (KRC) has maintained procedures on the use of Request for Proposals (RFPs) for resource development purposes since 1999. This Board Policy provides guidelines under which KRC shall implement RFP procedures.

1. KRC shall use the RFP process for identified resource development needs under each of the following circumstances (subject to Sections 5 and 6 below):
 - a. Any development where Start Up funds are available;
 - b. When KRC determines that the billings from a vendor are expected to exceed \$500,000 during the first 12 months after the vendor commences providing services; and
 - c. The development of residential facilities.
2. If an applicant delivers an unsolicited proposal for services to KRC, then KRC may vendorize such applicant as long as it meets all applicable Title 17 vendorization requirements. However, per Title 17, KRC has no legal obligation to enter into contracts with any vendor, since vendorization alone does not guarantee utilization of such vendor's services. However, if KRC desires to enter into a contract with a new applicant who has submitted an unsolicited proposal for services, KRC may do so without complying with the RFP process, as long as KRC determines that the billings from such applicant during the first 12 months of service are expected to be less than \$500,000.
3. RFPs shall be posted on the KRC website, shared with other Regional Centers for distribution, sent out to all interest lists via email and circulated using the KRC all provider email lists. The RFP provides specific details on proposal requirements and review processes.
4. This Board Policy and any current RFPs shall be posted and maintained on the KRC website.
5. Under unusual circumstances, when the RFP process has been implemented but has not been successful in adequately identifying vendor resources to meet the need, KRC may contract with a vendor on a case-by-case basis to secure needed resources through direct procurement. KRC may use direct procurement in any of the following circumstances:
 - a. KRC has not identified a qualified vendor through the completion of the RFP process;
 - b. The service need may be for consumer populations considered difficult to serve, which may include but not be limited to consumers exiting from or at risk of entering a State Developmental Center, or for services where resources are scarce; or
 - c. The services to be procured are based on specific KRC contract requirements.

6. If KRC identifies an emergency need for services, such as emergency vendorization under Title 17 Section 54324, KRC may authorize the service without following the RFP process, provided the vendor contract is approved by KRC's Executive Director.

Attachment 3

MEMORANDUM

TO: BOARD OF DIRECTORS, KERN REGIONAL CENTER

FROM: ENRIQUE ROMAN, DIRECTOR OF COMMUNITY SERVICES

SUBJECT: \$250,000 (PLUS) CONTRACT APPROVAL

DATE: JULY 15, 2024

Board of Directors,

I present to you today a request for a contract approval concerning the development of a new Financial Management Services (FMS) provider.

Financial Management Services are crucial for the success of the Self-Determination Program, Participant Directed Services, and employer of record services for clients pursuing paid internships. Unfortunately, there aren't enough FMS providers to support these service modalities and thus, creating barriers for our clients concerning service access.

In the Spring of 2024, the Directors of Community Services (divided into three regions: North, Central, and Southern) petitioned the Department of Developmental Services (Department) for monies to develop/expand Financial Management Service providers with the goal of creating FMS providers capable of providing the following: all three models of FMS under the Self-Determination Program; all services under Participant Directed Services (nine [9] in total); and employer of record services for those clients pursuing a paid internship.

The Department awarded six (6) million dollars for this endeavor. Of this total, Kern Regional Center (along with the regional centers in the Central Region) were awarded seven hundred thousand dollars (\$700,000) which, after the competitive bidding process, have awarded the contract to Maxim Healthcare Services.

KRC requests your approval of this contract to allow for the development of this much needed service.

A draft of the proposed contract is included for your review.

Respectfully,

Enrique Roman
Director of Community Services

KERN REGIONAL CENTER
Vendor # TBD
START-UP FUNDS AGREEMENT
Financial Management Services (FMS) – Central Region
(Maxim Healthcare Services)

This Start-Up Funds Agreement for **Financial Management Services (FMS)** (this “**Agreement**”), dated for reference purposes as of June 30, 2024, is entered into by and between **Kern Regional Center**, a California nonprofit public benefit corporation (“**KRC**”), and **Maxim Healthcare Services** (“**Contractor**”). KRC and Contractor are sometimes collectively referred to herein as the “**Parties**”. The Parties enter into this Agreement with reference to the following facts:

RECITALS

A. Regional Centers provide services to individuals with developmental disabilities (“**clients**” or “**consumers**”), under a contract with the State of California Department of Developmental Services (“**DDS**”). DDS has allocated certain purchase of service (POS) monies to be reallocated to expand and increase the State’s capacity to provide FMS to regional center clients (the “**Service**”) for the Self-Determination Program (to include all three SDP FMS models and service types), Participant Directed Services (all service codes under this model), Restored Services (to include, but not limited to social recreation), and employer of record services to provide consumers with employment opportunities through Competitive Integrated Employment (CIE) and Paid Internship Program (PIP).

B. Contractor agrees to provide the Service throughout the central region (the “**Region**”). The Region includes KRC (lead), CVRC, TCRC, IRC, VMRC, and SARC (collectively known as “**Central Region**” or “**Regional Center**”).

C. Contractor agrees to increase the capacity of FMS throughout the Region and become vendored with the regional center for which the Contractor is physically located with user regional center vendorizations established with the other regional centers within the Region.

D. Contractor will be vendored with KRC for the start-up funding (Service Code 999) but have a direct vendorization with the regional center (the “**host**” regional center) which Contractor has a physical location.

NOW THEREFORE, on the basis of the foregoing Recitals and in consideration of the following mutual covenants, the Parties agree as follows:

1. TERM OF THE AGREEMENT. Subject to the provisions for earlier termination or rescission as provided herein, the term of this Agreement shall commence on June 30, 2024 and terminate on June 30, 2027. All start-up funds shall be reimbursed no later than May 15, 2026.

2. OVERVIEW OF SERVICES TO BE PERFORMED BY CONTRACTOR.

2.1 Local office. Contractor shall have an office for which the Service can be delivered and monitored and be located in the host regional center's catchment area.

2.2 Vendorization.

2.2.1 Contractor shall become vendorized with KRC for under service code 999 ("Start up Funds"), and meet and maintain all applicable vendor requirements pursuant to Title 17 Subchapter 2. Contractor must attend KRC's Vendor Orientation and Special Incident Reporting training.

2.2.2 Contractor shall become vendorized with the respective regional center which the Contractor is located under service codes 315, 316, 317, 455, 460, 465, 470, 475, 456, 457, 458, 459, 490, and 491 and establish user vendorizations with the other regional centers within the Central Region.

2.3 Development of a Service Delivery Plan. Contractor agrees to develop service delivery plan for the on-going delivery of the Service (the "Service Delivery Plan"). Contractor's Service Delivery Plan will detail how the Service will be delivered and monitored. Once approved, Contractor agrees to provide the Service in accordance with the approved Service Delivery Plan at all times.

2.3.1 Training Curriculum. Contractor agrees to collaborate with KRC and/or the host regional center to develop a comprehensive training curriculum for all Contractor's staff (the "**Training Curriculum**"). Contractor shall incorporate the Training Curriculum into its Program Plan. Contractor agrees to provide the approved Training Curriculum to all its employees.

2.4 Start-up Funds Budget. Contractor must develop a budget for the start-up funds (Exhibit "A") it will receive, which must be approved by KRC. Contractor to Contractor shall provide KRC with "Start-Up Budget" (Exhibit A) within thirty (30) working days of the execution of this contract. Payment of start-up funds are made upon compliance with Section 5. Any changes to this budget requested by Contractor, as listed in Exhibit A, will require prior approval from KRC. KRC may request or require changes to this budget at any time during this agreement.

2.5 Service Provider Agreement for on-going services. Prior to becoming vendored as an FMS provider, Contractor shall enter into a mutually agreeable service agreement with KRC and/or host regional center for on-going FMS.

2.6 Service Quality. Contractor shall provide the Service to the best of its ability, in a manner that optimizes clients access to services. Contractor shall develop quality assurance systems to ensure Service outcomes are achieved.

2.7 Background Checks and Fingerprint Clearances. As applicable, Contractor agrees to submit to a background check(s) and a DOJ fingerprint clearance(s) for staff (its own staff or co-employer). Contractor will assist the participant with said clearances for sole employer.

2.8 Hiring Staff to Meet Demand. Contractor agrees to hire the amount of staff necessary to meet the demand through out the region, to include remote areas served by the Central Regions Regional Centers.

2.9 Other Requirements. Contractor shall meet any and all qualifications and requirements to provide the Service.

3. DOCUMENTATION; REPORTS

3.1 Reporting. Contractor shall submit monthly reports to KRC regarding progress made regarding the Service and fulfillment of this agreement. Parties may also schedule in-person or virtual meetings at the request of either party.

4. COMPENSATION: THE START UP FUNDS

4.1 KRC agrees to remit certain funds to Contractor in consideration for services to be provided by Contractor under this Agreement. The total amount of funds payable by KRC to Contractor under this Agreement shall not exceed Seven Hundred Thousand Dollars (\$700,000.00) (the “**Start Up Funds**”). Contractor acknowledges that the Start Up Funds may not cover all of Contractor’s start-up costs related to development and providing the Service, and that any additional funds, if needed, must be provided by the Contractor in order for services to be delivered and perform the obligations described in this Agreement. Start Up Funds are available for reimbursement to Contractor through May 15, 2026.

4.2 KRC’s payment to Contractor of the Start Up Funds shall be the sole compensation of Contractor’s expenses incurred in the performance of its obligations and services under this Agreement.

5. PAYMENT OF START UP FUNDS

5.1 Payment of Start Up Funds. Upon execution of this agreement and becoming vendorized under service code 999, Contractor may request and KRC shall remit 25% of the total Start-up amount (\$175,000.00). Subsequent Start-Up fund disbursements, up to the amount stated in section 4.1, will be made in accordance to milestone attainment, as outlined in Exhibit B of this contract. Contractor shall provide KRC with “Performance Milestones” (Exhibit B) within thirty (30) working days of the execution of this contract. Contractor shall submit reports and receipts/invoices or other documentation supporting expenditures and supporting milestone attainment.. Reimbursement of start-up costs will only apply to actual expenditures as approved by KRC.

5.2 Contractor may use Start Up Funds for the following items.

- (a) Hiring additional staff
- (b) Equipment, office/program supplies.
- (c) Office lease/rent.
- (d) Personnel/administrative overhead.
- (e) Training and training material.
- (f) Travel expenses
- (g) Other expenses directly related to fulfilling the terms of this agreement and delivering the Service.

5.3 Consequence of Contractor's Failure to Satisfy Requirements.

Contractor's failure to satisfy any of its requirements shall constitute Contractor's default under this Agreement. Notwithstanding the foregoing, if Contractor's failure to satisfy any of the above requirements is due solely to KRC's refusal or failure to timely approve an item submitted by Contractor in good faith then KRC's refusal or failure shall, constitute the failure of a contingency under this Agreement. Upon the failure of a contingency, this Agreement shall be rescinded, and neither party shall have any further rights or obligations to the other, except for those obligations that are intended to survive such rescission (such as, for example, Contractor's obligation to return Start Up Funds to KRC as provided in Paragraph 11.3 below).

5.4 KRC's Review of Documents and Disbursement of Funds.

KRC will endeavor to review all documents provided by Contractor within fifteen (15) working days of receipt. Documents shall include but are not limited to any costs incurred during the start-up phase including receipts of purchase. After KRC approves Contractor's documentation for each applicable claim described above, KRC shall send an authorization for payment to its accounting department. KRC's accounting department shall make payment to Contractor within thirty (30) days of receipt of all required documentation in sections 5.1.2.

5.5 Expenditures in Accordance with Agreement.

KRC is under no obligation to reimburse Contractor for any expenditure that is not in accordance with this Agreement or any expenditure in KRC's reasonable judgment are unnecessary.

6. MONITORING BY KRC. KRC reserves the right to monitor Contractor's progress under this Agreement, including its progress in developing the Service pursuant to this Agreement. As part of such monitoring, KRC may at any time (1) perform inspections/audits, (2) determine whether Contractor's performance complies with State law and applicable regulations and (3) determine whether KRC's expenditure of funds pursuant to this Agreement is within its program priorities, allowable expenditures and appropriate allocations.

7. CONTRACTOR'S RECORDS; INSPECTION AND AUDIT RIGHTS

7.1 Contractor agrees to maintain and make available to KRC accurate books, invoices, receipts and accounting records relative to its costs and expenses, to the extent and in such detail as will properly reflect all of Contractor's direct and indirect net costs of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which Contractor requests funds from KRC under this Agreement. The books and records shall indicate the relationship of the applicable expense to Contractor's development of the Service.

7.2 Contractor shall also maintain and make available to KRC all books, records, documents, and other evidence pertaining to all income and services relating to and connected with the performance of this Agreement at all times during the Agreement. Contractor agrees to hold KRC harmless from any administrative or legal actions occurring because of the failure of the Contractor to maintain personnel records and practices in accordance with the provisions of this Agreement and state or federal laws.

7.3 All of the books, records and other documents described in this Section 7 are hereinafter referred to as Contractor's "**Records.**" Contractor will permit KRC and any authorized agency representative to audit, examine and make excerpts, reproductions and transcripts from the Records with respect to related to all matters covered by this Agreement. Contractor shall maintain its Records in an accessible location and condition for a period of not

less than five years after the end of the term of this Agreement or until after KRC resolves its final audit of the Contractor, whichever is later. However, Contractor's Records that relate to litigation or the settlement of claims arising out of the performance of this Agreement shall be retained by Contractor until disposition of such appeal, litigation, claim or exception.

7.4 KRC shall conduct all audits in accordance with the provisions of Section 50606 of Title 17 of the CCR. Contractor shall be bound by Section 50700, *et seq.*, of Title 17 of the CCR should Contractor elect to appeal any audit finding or recommendation.

7.5 Contractor shall accept financial liability for any and all audit findings and/or recommendations disclosed by any audit and promptly repay amounts owed; provided, however, during such period as Contractor may appeal such findings and/or recommendations so that collection is stayed pursuant to 17 CCR Section 50705, Contractor shall have the rights and obligations as set forth in such regulations.

7.6 Subject to KRC's audit and inspection rights as described herein, Contractor shall maintain the confidentiality of client records in accordance with the provisions of Welfare and Institutions Code §§ 4514, 5328, and 14100.2. Contractor and all of its employees shall respect the confidentiality of all client information they receive. All Parties shall at all times remain in compliance with the mandatory provisions of the HIPAA Privacy Rule (Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A & E).

7.7 The State of California, and any federal agency having an interest in the subject of this Agreement, shall have the same rights as conferred upon KRC by this Section 7.

8. VENDOR STATUS. Contractor must comply with all vendorization requirements and must obtain and preserve its vendor status at all times during the term of this Agreement.

9. OFFICIALS NOT TO BENEFIT. No member of or delegate to the U.S. Congress or the State Legislature shall be entitled to any share or part of this Agreement, or to any benefit that may arise there from, except as otherwise allowed by law.

10. NONDISCRIMINATION IN SERVICES, BENEFITS, FACILITIES AND PROGRAMS

10.1 During the performance of this Agreement, Contractor shall not deny the Agreement's benefit to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40), or sex. Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

10.2 Contractor shall comply with the provisions of the California Fair Employment and Housing Act (Government Code, Section 12900 and following), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 and following), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code, entitled "Discrimination" (Government Code, Section 11135 and following) and the regulations and standards adopted thereunder.

10.3 Contractor shall permit access to its Records and other books, accounts, sources of information, and its Facility, by KRC, representatives of the Department of Fair Employment and Housing and other applicable state agencies, upon reasonable notice and at any time during the normal business hours, but in no case less than 24 hours notice (unless otherwise permitted by law), to insure Contractor's compliance with the terms of this Section 10.

10.4 Contractor and its subcontractor(s) shall give written notice of their obligations, where applicable, under this Section 10 to labor organizations with which they have a collective bargaining or other agreement.

10.5 Contractor shall include the nondiscrimination and other provisions of this Section 9 in all subcontracts to perform work under this Agreement.

10.6 By its signature on this Agreement, Contractor swears under penalty of perjury that either (i) it has never been out of compliance with an order of the Federal National Labor Relations Board; or (ii) no more than one final non-appealable finding of contempt of court by a federal court has been issued against Contractor within the two-year period immediately preceding the date of this Agreement because of Contractor's failure to comply with a federal court order that Contractor comply with an order of a Federal National Labor Relations Board. KRC may rescind this Agreement if Contractor falsely swears to the truth of the above statement.

10.7 If Contractor does not comply with the discrimination provisions of this Agreement or with any similar federal rule, regulation, or order, KRC shall have the right and option to cancel, terminate or suspend this Agreement in whole or in part, in which event Contractor may be declared ineligible for further KRC and State contracts, to the extent provided by law.

11. TERMINATION

11.1 Contractor's Default; Cure Notice; KRC's Right to Terminate. KRC shall have the right to suspend or terminate this Agreement for cause upon Contractor's breach of this Agreement. Contractor shall be deemed in breach of this Agreement if Contractor defaults in the performance of any of its obligations herein and fails to cure the default within 15 days after KRC's delivery of notice to do so. Contractor's defaults include, but are not limited to, the following:

11.1.1 Contractor's failure or refusal to perform or do any act herein required.

11.1.2 Contractor's failure to perform the obligations in Section 2 .

11.1.3 Evidence of Contractor's or its agents', employees' or subcontractors' mistreatment of any client, or of unsafe or hazardous practice in the provision of services or performance under this Agreement.

11.1.4 Contractor's loss of any License(s), accreditation(s), or certification(s) required for the lawful operation of the Service.

11.1.5 Contractor's failure to maintain practices consistent with good management, such as, but not limited to: (a) failure to make payments of payroll tax and

contribution payments; (b) failure to adhere to established accounting and fiscal practices designed to meet other regular financial obligations of the program or agency; and (c) failure to meet the services to be performed by Contractor listed in this Agreement, including but not limited to Section 2.

11.2 Contractor's Automatic Breach. Any misconduct by Contractor or its agents, employees or consultants that results in an imminent threat to the health and/or safety of regional center clients shall be deemed an automatic and material breach of this Agreement. Elements which may constitute imminent threat to client health and safety consist in part, but are not limited to: physical, emotional, or mental abuse, sexual misconduct, client abandonment or neglect, theft of clients' money or property, violation of client's rights under the law, placing clients in physical danger, or any other circumstance that may bring physical or emotional harm to the client. In this particular situation, (1) Contractor's default shall be noncurable, (2) KRC shall not have any obligation to provide a 15-day cure notice (or any cure notice) and (3) Contractor shall be deemed in breach of this Agreement upon default.

11.3 Contractor's Return of Start Up Funds to KRC.

11.3.1 Contractor acknowledges that it is receiving Start Up Funds to assist development and/or expansion of FMS. As such, Contractor further acknowledges that the Start Up Funds are not deemed earned by Contractor until the completion of the Start-Up work and activities specified in this Agreement in section 2 above. Thus, if this Agreement terminates or is rescinded before FMS is vendorized as specified in section 2.2 for any reason (other than KRC's breach of this Agreement), then Contractor shall immediately refund to KRC 100 percent of those Start Up Funds that it has received through the date of such termination or rescission.

11.3.2 Additionally, Contractor agrees to keep the Service in operation for at least 5 years following the date of vendorization as specified in section 2.2. If the Contractor does not maintain the Service for at least 5 years, then KRC will require the Contractor to refund the Start Up Funds to KRC, pro-rated by a percentage equal to the following formula: 100% minus the number of months in operation divided by 60 months. Example: Operations cease in the 36th month. $100\% \text{ minus } (36/60) = 40\%$ of paid Start Up Funds to be refunded to KRC. In the event that a refund of Start-up Funds is due to KRC, Contractor agrees KRC shall have the right to recover said start-up funds by offsetting any Purchase of Service payments due to contractor for services provided through the program developed under this agreement. In the event that a refund of Start Up funds is obtained by KRC, the Contractor may maintain ownership of any material items and purchased assets. If, and only if, Contractor timely refunds all of the disbursed Start Up Funds to KRC, KRC shall waive its right to recover consequential damages and punitive damages arising out of Contractor's breach of this Agreement, whether arising out of contract or tort.

11.4 Exceptions. Notwithstanding the provisions in Section 11.3, Contractor shall not be required to refund Start Up Funds if Contractor ceases performing its obligations under this Agreement due to one of the following events:

1. KRC is in material breach of this Agreement after notice and the expiration of all applicable cure periods.

2. KRC is in material breach of the Service Provider Agreement after notice and the expiration of all applicable cure periods.
3. The failure of a Funding Contingency (as defined in Section 12 of this Agreement) during the term of this Agreement causes KRC to cease remitting Start Up Funds that are otherwise due to Contractor.
4. The failure of a Funding Contingency (as defined in the Service Provider Agreement) during the term of such agreement causes KRC to cease remitting payments that are otherwise due to Contractor under the Service Provider Agreement.

11.5 KRC's Breach; Contractor's Remedies. KRC shall be deemed in breach of this Agreement if KRC defaults in the performance of any of its obligations herein and fails to cure the default within 30 days after Contractor's delivery of notice to do so. If KRC breaches this Agreement, Contractor's sole remedy shall be to (1) terminate this Agreement (in which case Contractor shall not be entitled to receive any additional Start Up Funds other than for those categories in Section 5 hereof that it had fully completed on the date of KRC's default) or (2) keep this Agreement in place and bring an action against KRC for payment of any unpaid Start Up Funds. In any event, Contractor hereby waives its right to recover consequential damages, lost profits and punitive damages arising out of KRC's breach of this Agreement, whether based in contract or tort.

12. TERMINATION OR MODIFICATION RESULTING FROM FAILURE OF FUNDING CONTINGENCY

12.1 Notwithstanding anything in this Agreement to the contrary, the validity of this Agreement (including KRC's obligation to remit payments to Contractor) is conditioned on KRC's receipt of adequate funds from DDS to pay for the services described in this Agreement (the "**Funding Contingency**"). The Funding Contingency is a part of this Agreement because KRC's annual funding agreement with DDS provide that such funding agreements are subject to the appropriation of funds by the Legislature, and that if such funds are not appropriated for any fiscal year into which such funding agreements extends, the funding agreements are of no force and effect. KRC shall therefore have the right and option to terminate this Agreement without liability, and such termination shall be deemed a failure of the Funding Contingency, if (1) DDS for any reason fails to deliver funds to KRC for any period covered by this Agreement or (2) KRC receives funds from DDS for a period covered by this Agreement but determines that such funds are inadequate to pay for all of the vendor services and other expenses which KRC expects to incur in such fiscal year, and therefore elects to fund other services rather than the services identified in this Agreement or (3) KRC receives funds from DDS for a period covered by this Agreement and initially allocates a portion of such funds for the services in this Agreement, but thereafter elects to reallocate some or all of such DDS funds to fund services other than the services in this Agreement. When insufficient funds exist for KRC to pay for all potential services, KRC shall have the right (under clauses (2) and (3) above) in its sole and arbitrary discretion to fund services other than the services identified in this Agreement, based on which services KRC believes are in its best interests and the best interests of its clients as a whole. If there is a failure of the Funding Contingency, then (1) KRC shall have no liability

to pay any further funds whatsoever to Contractor or to furnish any other considerations under this Agreement and (2) neither party shall be obligated to further perform any provisions of this Agreement.

12.2 In addition to the above, if there are insufficient funds available from DDS to pay for all of Contractor's services and other expenses that KRC expects to incur in any fiscal year, as determined by KRC in its sole and arbitrary discretion, KRC shall have the option at any time, on thirty (30) days notice to Contractor, to reduce or change the scope of services being provided under this Agreement. In such event, KRC and Contractor will in good faith negotiate to attempt to agree on Contractor's new amount of Start Up Funds under the modified Agreement. If the Parties are unable to agree on Contractor's new amount of Start Up Funds for its modified services within such thirty (30) day period, KRC shall then either (1) terminate this Agreement, because of the failure of a Funding Contingency or (2) rescind its modification of Contractor's services, in which event this Agreement shall continue in full force and effect without such modification in services or compensation.

12.3 If this Agreement terminates as a result of the failure of a Funding Contingency, Contractor shall repay any unused or unexpended Start Up Funds to KRC.

13. COMPLIANCE WITH LAWS.

13.1 Applicable Law. Contractor shall render all services in accordance with the applicable provisions of federal and California laws, including Welfare and Institutions Code §§ 4500 *et seq.* and regulations promulgated there under including CCR, Title 17 commencing at § 50201 *et seq.* The terms of this Agreement shall not be construed to excuse compliance with existing statutes or regulations. Contractor shall at all times comply with contract requirements and Service Provider Accountability Regulations, including CCR Title 17 §§ 50601 through 50612.

13.2 Amendments by Law. Any provision of this Agreement in conflict with statutes or regulations is hereby amended to conform to the provisions of these statutes and regulations. Such amendment of the Agreement shall be binding on the Parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the Parties. KRC shall endeavor in good faith to notify Contractor upon its gaining notice of any amendment or new law which would affect this Agreement.

13.3 Severability. If any clause or provision of this Agreement is illegal, invalid or unenforceable, the balance of this Agreement shall remain in effect, and if any provision is inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstance

14. KRC ZERO TOLERANCE POLICY. KRC'S ZERO TOLERANCE POLICY. KRC has adopted a Zero Tolerance Policy for Client Abuse or Neglect (the "**Zero Tolerance Policy**"). The policy is posted on KRC's website, in the section entitled Transparency and Public Information, under "Policies" at: <https://kernrc.org/wp-content/uploads/2021/04/BoardPolicies.pdf>The Zero Tolerance Policy is incorporated herein by this reference (Exhibit "C"). Contractor shall comply with the Zero Tolerance Policy at all times.

15. INDEPENDENT CONTRACTOR

15.1 Contractor and its agents and employees, in performance of this Agreement, shall act in an independent capacity in the performance of this Agreement and not as officers or employees or agents of KRC or DDS.

15.2 Contractor shall be wholly responsible for the manner in which Contractor and its employees perform the services required of Contractor by the terms of this Agreement.

15.3 Contractor agrees to be solely responsible for all matters relating to payment of its employees, including compliance with Social Security withholdings and all other regulations governing such matters.

15.4 Contractor shall not be, or in any manner represent, imply or hold itself out to be an agent, partner or representative of KRC. Contractor has no right or authority to assume or create in writing or otherwise any obligation of any kind, express or implied, for or on behalf of KRC. The business to be operated by Contractor pursuant to this Agreement is separate and apart from the business operated by KRC. The only relationship between Contractor and KRC is that of independent contractors and neither shall be responsible for any obligations, liabilities or expenses of the other, or any act or omission of the other, except as expressly set forth herein.

16. ASSIGNMENT AND SUBCONTRACTING

16.1 Contractor shall not subcontract with any other entity or individual to perform the services described in this Agreement. However, the following are allowed, and are not considered subcontracts: professional consultants not hired by Contractor who may provide services to Contractor to fulfill its obligation under this agreement; licensed contractors who may make physical modifications to the office; and technical assistance providers who may provide staff training or general business advice to the Contractor. Neither this Agreement, nor any interest in this Agreement, may be assigned voluntarily or by operation of law, without the prior written approval of the Director of KRC, which may be withheld in his or her sole and absolute discretion. The experience, skill, knowledge, good judgment, discretion, capability and reputation of Contractor, its principals, officers, directors, owners and employees were a substantial inducement for KRC to enter into this Agreement. If Contractor is an entity, the assignment by Contractor of 25% or more of the voting interests in such entity shall constitute an assignment for which Contractor must obtain KRC's consent.

16.2 KRC shall not be responsible for any payments of any kind directly to any subcontractors under any circumstance and shall not have any liability for any actions of any subcontractors.

17. TIME OF THE ESSENCE. Given the nature of technology access insecurity, Contractor agrees to work diligently on the tasks and obligations described herein to completion. Thus, time is of the essence with respect to Contractor's performance of all of its obligations hereunder. Further, large gaps of time without progress seriously compromise the development of the service.

18. COOPERATION. Contractor shall at all times fully cooperate with KRC to effect the purposes of this Agreement. Thus, for example, Contractor will return as soon as possible all documents submitted by KRC which may be required by state or federal laws or regulations, including but not limited to the IRS W-9 form.

19. INDEMNITY AND HOLD HARMLESS AGREEMENT.

19.1 Contractor's Indemnity.

19.1.1 Contractor agrees to indemnify, defend and hold harmless KRC, DDS the State of California and their respective officers, agent and employees (collectively, the "**KRC Indemnitees**") from every claim or demand made by reason of:

(a) Any personal injury or property damage sustained by any person, or entity, caused by or resulting from any act, neglect, default, or omissions of Contractor or of any person, or entity performing any services in connection with this Agreement on behalf of Contractor; and

(b) Claims under workers' compensation laws or other employee benefit laws by Contractor's agents or employees; and

(c) Contractor's failure to fulfill its obligations under this Agreement in strict accordance with its terms, including Contractor's breach of any representations or covenants given in this Agreement; and

(d) A violation of any local, state, or federal law, regulation or code by Contractor or by any of Contractor's employees, agents, consultants or subcontractors in connection with the conduct of their activities performed in connection with this Agreement.

19.1.2 Contractor at his own expense and risk, shall defend any action, legal proceeding, or arbitration or other mediation proceeding, that may be brought against the KRC Indemnitees or any of them on any such claim or demand as set forth above. Contractor shall defend such matter by counsel reasonably satisfactory to KRC. The KRC Indemnitees need not have first paid any such claim in order to be so indemnified. Contractor shall also pay and satisfy any settlement, or any judgment which may be rendered against the KRC Indemnitees or any of them arising from any injuries described in this Section 19.1, including but not limited to those claims and demands resulting from the negligence of the KRC Indemnitees or any of them; provided, however, Contractor shall have no duty to indemnify any particular KRC Indemnitee for those injuries caused to Contractor or a third party by the gross negligence of such KRC Indemnitee.

19.2 KRC's Indemnity.

19.2.1 KRC agrees to indemnify, defend and hold harmless Contractor and its respective officers and employees (collectively, the "**Contractor Indemnitees**") from every claim or demand made by reason of:

(a) Any personal injury or property damage sustained by any person, or entity, caused by or resulting from any gross negligence of KRC or of any person, or entity performing any services in connection with this Agreement on behalf of KRC; and

(b) KRC's failure to fulfill its obligations under this Agreement in strict accordance with its terms, including KRC's breach of any representations or covenants given in this Agreement; and

(c) A violation of any local, state, or federal law, regulation or code by KRC or by any of KRC's employees, agents, consultants or subcontractors in connection with the conduct of their activities performed in connection with this Agreement.

19.2.2 KRC at his own expense and risk, shall defend any action, legal proceeding, or arbitration or other mediation proceeding, that may be brought against the Contractor Indemnitees or any of them on any such claim or demand as set forth above. KRC shall defend such matter by counsel reasonably satisfactory to Contractor. The Contractor Indemnitees need not have first paid any such claim in order to be so indemnified. KRC shall also pay and satisfy any settlement, or any judgment which may be rendered against the Contractor Indemnitees or any of them arising from any injuries described in this Section 19.2; provided, however, KRC shall have only have a duty to indemnify any particular Contractor Indemnitee for those injuries caused to Contractor or a third party by the gross negligence of KRC or its officers, agents or employees.

19.3 Survival. The indemnities set forth in this Section 19 shall apply during the term of this Agreement and shall also survive the expiration, rescission or termination of this Agreement, until such time as action against the KRC Indemnitees and the Contractor Indemnitees on account of any matter covered by each such indemnity is barred by the applicable statute of limitations.

20. INSURANCE

20.1 Contractor shall at all times during the term of the Agreement maintain policies of insurance issued by insurance companies qualified to conduct business in California and insuring against the perils of bodily injury, personal injury, malpractice and property damage, including owned and non-owned and hired auto coverage. Contractor shall maintain such insurance with a limit of liability of at least One Million Dollars (\$1,000,000) per occurrence. Contractor also agrees to maintain Worker's Compensation with Employers' Liability insurance in a sum not less than One Million Dollars (\$1,000,000) each occurrence. The company issuing Contractor's commercial general liability policy shall be rated at least A- and X at all times in the most recent edition of Best's Insurance Guide. At all times during the term of this Agreement, Contractor shall name KRC as an additional insured on Contractor's liability insurance policy.

20.2 Upon the commencement of this Agreement, Contractor shall supply KRC the following: certificates of insurance evidencing coverage in amounts and for the perils listed above (and also showing KRC as an additional insured) that lists the Facility address, the policy number, the effective date and the expiration date of each policy. Contractor acknowledges that until KRC receives the Certificate of Insurance, no placement of a client at the Service can occur.

20.3 All insurance policies shall be endorsed to provide thirty (30) days advance written notice of to KRC of any cancellation, non-renewable or reduction in coverage, mailed to KRC at its address for notice set forth in this Agreement.

21. COPYRIGHTS AND PATENTS. To the extent any services or work performed by the Contractor under this Agreement results in the invention or development of copyrightable materials, the State of California has the right to freely manufacture, reproduce, publish, use and/or distribute all inventions and copyrightable materials which were developed by or for the Contractor using funds provided by the State of California. To the extent applicable,

Section 14 of Article I of the Regional Center Master Contract between KRC and the State of California is incorporated herein by this reference.

22. ARBITRATION; VENUE; CALIFORNIA LAW. Any controversy, claim or dispute arising out of this Agreement, or modification thereof, or the relationship between the Parties hereto shall be governed by the laws of California and settled by binding arbitration in Sacramento County, California, in accordance with the rules then obtaining of the American Arbitration Association for commercial arbitration. This Agreement is entered into in California and shall be interpreted according to its laws. California shall be the exclusive jurisdiction for all legal or administrative proceedings hereunder.

23. WAIVER. No waiver of a breach of any provision of this Agreement by KRC shall constitute a waiver of any other breach of such provision. Failure of KRC to enforce at any time, or from time to time, any provisions of this Agreement shall not be construed as a waiver thereof. No custom or practice which may develop between the Parties in the course of administering this Agreement will be construed to waive any party's right to insist upon the performance by the other party of any obligation in this Agreement. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

24. NOTICES. Any notices or payments required or permitted under this Agreement shall be in writing and shall be sufficiently given if either delivered in person or mailed by a nationally recognized overnight mail carrier or certified or registered mail, postage prepaid, to the Parties at such address set forth below, or to another address as each Party (by notice to the other, given in the manner described above), may designate from time to time. Any written document will be deemed delivered either (i) on the day of the delivery in person, (ii) the next business day if delivered by overnight carrier or (iii) two business days after the mailing of such document by certified or registered mail. All notices, requests and demands shall be delivered to the following addresses:

KRC:

Dr. Michi Gates
Executive Director
Kern Regional Center
3200 N. Sillect Avenue
Bakersfield CA, 93308
Phone: (661) 852-3301
Fax: (661) 873-4530
Email: mgates@kernrc.org

Contractor:

Jarett Love
Director of Financial Operations
Maxim Healthcare Services
7227 Lee Deforest Ave.
Columbia, MD 21046
Phone: (510) 910-1500
Email: jalove@maxhealth.com

25. JOINT AND SEVERAL LIABILITY. If Contractor consists of multiple individuals and/or entities, each such individual and entity shall be jointly and severally liable for all of Contractor's obligations under the Agreement, including but not limited to Contractor's obligation to repay the Start Up Funds upon the early termination or rescission of this Agreement.

26. ATTORNEYS' FEES. If any action or proceeding is commenced to enforce any provision or right under this Agreement, the successful and unsuccessful party to such action

or proceeding, as determined by the Arbitrator, or other tribunal in the event that Arbitration is waived or deemed waived by all Parties, shall pay their own, expenses, and attorneys' fees.

27. AUTHORITY TO SIGN. All Parties executing this Agreement acknowledge and warrant that they possess the authority to enter into this Agreement on behalf of their respective companies/organizations.

28. AMENDMENTS. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all the Parties. The execution of any amendment or modification to this Agreement shall comply with the requirements of applicable statutes, regulations and provisions of KRC's contract with DDS.

29. INTERPRETATION. The section headings in no way define, limit, extend or interpret the scope of this Agreement or any particular paragraph, and the masculine, feminine or neutral gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates.

30. COUNTERPARTS; ELECTRONIC COPIES. This Agreement may be executed in two or more counterparts, each which shall be deemed an original and all of which shall constitute one and the same instrument. Signed copies of this Agreement delivered by fax or in a PDF email file shall be deemed the same as an original.

31. CONTRACTOR AS ENTITY; FINANCIAL STATEMENT. At the request of the regional center, Contractor shall provide a copy of its most recent financial statement to KRC upon Contractor's execution of this Agreement.

Executed at Bakersfield, California on the dates set forth below.

KRC:

Kern Regional Center, a California
nonprofit public benefit corporation

By: _____

Name: Michi Gates
Title: Executive Director

CONTRACTOR:

Maximum Healthcare Services

By: _____

Name: Jarett Love
Title: Director of Financial Services

EXHIBIT A

Start-Up Funds Budget form

DRAFT

EXHIBIT B

Performance Milestones

DRAFT

KERN REGIONAL CENTER

BOARD OF DIRECTORS

POLICY

TITLE: Zero Tolerance Policy
A-6

POLICY NO.

DATE SUBMITTED: 9/24/13

PAGE 1 of 2

PURPOSE: Kern Regional Center will enforce a zero tolerance policy to address client abuse or neglect.

DEFINITION: abuse includes physical abuse, neglect, financial abuse, abandonment, isolation, abduction or other treatment which results in physical harm, pain or mental suffering; or deprivation, by a person providing care and supervision of goods and services which are necessary to avoid physical harm or mental suffering.

- **Physical Abuse:** means the use or attempt to use force on the person of another, unreasonable physical constraint or prolonged or continual deprivation of food, water, or sexual abuse. It also means the use of isolation, physical or chemical restraint, or psychotropic medication without medical authorization for punishment.
- **Mental Suffering:** is defined as fear, agitation confusion, severe depression or other forms of emotional distress that is brought about by threats, harassment or other forms of intimidating behavior.
- **Neglect:** is defined as the negligent failure of a person(s) having care or custody of a client to exercise a reasonable degree of care including, but not limited to, a failure to assist in personal hygiene and the provision of food, clothing and shelter or failure to provide medical care or protect the client from health and safety hazards.

POLICY: Client abuse committed by Kern Regional Center employees or employees of service providers or long term care facilities will not be tolerated. All such abuse or allegations of such abuse will be thoroughly investigated. Any Kern Regional Center employee found to have engaged in abuse against a client will be subject to severe discipline, up to and including discharge. Any abuse found to have been committed by a service provider or long term care facility employee will be referred to the appropriate authorities and the service provider may also be subject to sanctions up to and including removal from the list of those authorized to provide service for regional center clients.

All Kern Regional Center employees who are “mandated reporters” pursuant to the California Penal Code and all employees of service providers and long-term health care facilities who are mandated reporters shall strictly comply with the reporting laws at all times. A mandated reporter must (unless exempt under law) report all client abuse to the applicable governmental authorities immediately or as soon as practicable after his or her discovery or reasonable belief that client abuse has occurred.

Kern Regional Center and all Kern Regional Center service providers and long term health care facilities serving Kern Regional Center clients shall ensure their employees are fully informed upon hire and annually thereafter regarding Kern Regional Center's Policy on Client Abuse and Neglect and the mandatory abuse and neglect reporting laws. Each employee must be knowledgeable of their responsibility to protect clients from abuse and neglect, the signs of abuse and neglect, the process for reporting suspected abuse or neglect, and the consequences of failing to follow the law and enforce this policy.

If Kern Regional Center or a Kern Regional Center service provider or long-term health care facility becomes aware of client abuse, it shall take immediate action to the extent permitted by law, to ensure the health and safety of the affected client and all other clients receiving services and supports from Kern Regional Center. This obligation is in addition to those obligations required of mandated reporters to report client abuse under the reporting laws.

Review Date: 9/24/13
Revision Date:
Approval Date: 9/24/2013
KRC-110 (6/89)

**KERN REGIONAL CENTER
DIRECTORS**

BOARD OF

POLICY

TITLE: Whistleblower
POLICY NO. P-4

DATE SUBMITTED: 10/26/10
1 of 2

PAGE

PURPOSE: To be consistent with the State’s directive entitled “Department of Developmental Services Whistleblower Complaint Process” dated July 28, 2010.

POLICY: This Kern Regional Center Policy addresses “whistleblower” complaints and reporting of alleged improper regional center and/or vendor/contractor activities. The intent of this policy is to be consistent with the State’s directive entitled “Department of Developmental Services Whistleblower Complaint Process” dated July 28, 2010.

An “improper regional center activity” is defined as an activity by a regional center, or an employee, officer, or board member of a regional center, in the conduct of regional center business, that is a violation of a state or federal law or regulation; violation of contract provisions; fraud or fiscal malfeasance; misuse of government property; or constitutes gross misconduct, incompetency, or inefficiency.

An “improper vendor/contractor activity” means an activity by a vendor/contractor, or an employee, officer, or board member of a vendor/contract, in the provision of State funded services, that is a violation of a state or federal law or regulation; violation of contract provisions; fraud or fiscal malfeasance; misuse of government property; or constitutes gross misconduct, incompetency, or inefficiency.

Any employee, consumer or other related person, or any member of the general public may make a complaint or report. The following apply to all such complaints:

1. Any complaint or report addressing “improper activities defined as above may be made to any Kern Regional Center (KRC) manager or to the Board of Directors. The KRC Human Resources Director will coordinate investigation of the complaint unless such action would pose a conflict. If there were to be such a conflict, any other senior manager may coordinate the investigation. If that still leaves a conflict, the President of the Board of Directors shall coordinate the investigation. Appropriate actions shall be taken following the investigation. All complaints and reports including those of retaliation shall be investigated.

Complaints made to the Board of Directors may be made to the Board as a whole or to any officer of the Board individually.

2. There shall be no retaliation by the regional center or any of its employees or Board members against anyone who files a complaint or report.

3. Kern Regional Center will do everything possible to maintain the confidentiality of a complainant making a whistleblower complaint if the complainant requests confidentiality. However, in the rare circumstances where KRC is unable to maintain confidentiality due to its statutory responsibilities (including ensuring the health and safety of consumers and regional center contract compliance), KRC will attempt to inform the complainant of its need to disclose certain information prior to releasing identifying information. Additionally, the identity of the complainant may be revealed to appropriate law enforcement agencies conducting a criminal investigation.

4. Filing a complaint with KRC:

We will need a clear and concise statement of the improper activity and any evidence you have to support the allegation. If you do not provide a name or other information (witnesses or documents) that clearly identifies the person you are alleging has acted improperly, and the regional center or vendor/contractor where that person works, we may not have sufficient information to investigate. Copies of documents, rather than originals, should be submitted, as they cannot be returned.

Although complaints may be filed anonymously, if insufficient information is provided and we have no means to contact you, we may not be able to investigate your allegations.

5. This KRC Board Policy becomes effective December 31, 2010. It, along with the State's Whistleblower Policy, shall be distributed to employees, board members, consumers/families and the vendor community within 30 days of the effective date and annually thereafter.
6. This KRC Board Policy along with the State's Whistleblower Policy shall be posted on the KRC website by January 15, 2011.
7. In addition to the provisions of this KRC policy, complainants may also utilize the State's Whistleblower Policy which is accessible on either the KRC website (kernrc.org) or the Department of Developmental Services website (dds.ca.gov).

Review Date:

Revision Date: 12/7/2010

Approval Date:

KRC-110

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (Hereinafter "Agreement") dated as of _____, is made by and between KERN REGIONAL CENTER (KRC) (Hereinafter "Covered Entity") and _____ (Hereinafter "Business Associate").

ARTICLE 1 INTRODUCTION

1.1 This Agreement governs the terms and conditions under which Business Associate will access Protected Health Information belonging to patients of Covered Entity in performing services for, or on behalf of, Covered Entity. Specifically, this Agreement governs the terms and conditions under which Business Associate *to make changes in order to meet the requirements of the federal Centers for Medicare & Medicaid Services (CMS) Home and Community-Based Services (HCBS) final regulations, or rules. DDS has awarded funds for Concept Proposals based on the contractor submission. Generally, HCBS settings must (i) be integrated in and facilitate a consumer's full access to the greater community; (ii) optimize consumer autonomy and independence in making life choices; (iii) be chosen by the consumer from among residential and day options, including non-disability specific settings; (iv) ensure the right to the consumer's privacy, dignity, respect and freedom from coercion and restraint; (v) provide each consumer an option to choose a private unit in a residential setting; and (vi) facilitate a consumer's choice of services and who provides them.* (Hereinafter, "Services").

1.2 Covered Entity and Business Associate intend to: (a) protect the privacy and provide for the security of Protected Health Information disclosed pursuant to this Agreement and (b) comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Public Law 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Public Law 111-5, and the regulations promulgated hereunder by the U.S. Department of Health & Human Services (Hereinafter, "HIPAA Regulations"), and other applicable federal and state laws. **HIPAA regulations require that each Regional Center, as a business associate of DDS, obtain satisfactory assurances from its subcontractors who create, receive, maintain, or transmit Protected Health Information (PHI) on behalf of the Regional Center that they will appropriately safeguard the consumer's PHI. Each Regional Center can meet this requirement by entering into a Business Associate Agreement (BAA) with each service provider who creates, receives, maintains or transmits PHI.**

ARTICLE 2 DEFINITIONS

2.1 Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Regulations.

2.2 For purposes of this Agreement:

- 2.2.1 “Breach” means the acquisition, access, use, or disclosure of PHI in a manner not permitted under Subpart E of 45 CFR Part 164 that compromises the security or privacy of the PHI (within the meaning of 45 CFR 164.402).
- 2.2.2 “Designated Record Set” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR 164.501.
- 2.2.3 “Electronic Protected Health Information” or “ePHI” means PHI that is transmitted by or maintained in electronic media as defined in 45 CFR 160.103.
- 2.2.4 “Individual” shall have the same meaning as the term “Individual” in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- 2.2.5 “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, subparts A and E.
- 2.2.6 “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 2.2.7 “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR 164.501.
- 2.2.8 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- 2.2.9 “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in regulations or other guidance issued under Section 13402(h)(2) of HITECH.

ARTICLE 3
OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

Business Associate agrees to:

- 3.1 Use and Disclosure. Not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law.
- 3.2 Appropriate Safeguards. Use appropriate physical, technical, and administrative safeguards (a) to prevent use or disclosure of PHI other than as permitted under this Agreement or as Required By Law and (b) to reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity.

- 3.3 Assurances. Provide Covered Entity with written assurances that any PHI placed on any type of mobile media, including, but by no means limited to, lap top computers, iPads and mobile phones, are encrypted in accordance with guidance issued by the Secretary.
- 3.4 Breach Reporting. Report in writing to Covered Entity within two (2) business days after discovery, any suspected or actual: (a) access, use or disclosure of PHI not permitted by this Agreement; (b) Breach of unsecured PHI in accordance with 45 CFR 164.410; (c) security breach or intrusion; (d) use or disclosure of PHI in violation of any applicable federal or state laws or regulations. Business Associate will implement a reasonable system for discovery of Breaches.
- 3.5 Mitigation. Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- 3.6 Agents and Subcontractors. Ensure that any agent, including a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate agrees to the same restrictions, conditions and requirements that apply through this Agreement to Business Associate with respect to such information.
- 3.7 Access to PHI. In the event that the Business Associate maintains PHI in a Designated Record Set, Business Associate agrees to provide access, within ten (10) days of a request by Covered Entity in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- 3.8 Amendment of PHI. In the event that the Business Associate maintains Protected Health Information in a Designated Record Set, Business Associate agrees to make any amendment(s) to Protected Health Information in a designated record set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, within ten (10) days of receipt of a request from Covered Entity and in the time and manner designated by Covered Entity.
- 3.9 Document Disclosures. Document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- 3.10 Accounting of Disclosures. Within ten (10) days of notice by Covered Entity of a request for an accounting of disclosures of PHI, provide to Covered Entity, in the time and manner designated by Covered Entity, information collected in accordance with Section 3.9, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

- 3.11 Compliance with Applicable Requirements. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
- 3.12 Electronic Transactions. If Business Associate conducts any Standard Transaction for or on behalf of Covered Entity, Business Associate shall comply with the requirements under the Electronic Transaction Rule (as those terms are defined in the Security Rule).
- 3.13 Government Access. Make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule. In the event such a request comes directly from the Secretary, Business Associate agrees to notify Covered Entity immediately of such request.
- 3.14 Inspection. Within ten (10) business days of a written request by Covered Entity, Business Associate and its agents or subcontractors, if any, shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of PHI pursuant to this Agreement for the purpose of determining whether Business Associate has complied with this Agreement; provided, however, that (a) Business Associate and Covered Entity will mutually agree in advance upon the scope, location and timing of such an inspection, and (b) Covered Entity will protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection.
- 3.15 Identity Theft. Implementation of an Identity Theft Monitoring Policy and Procedure, to protect any patient information that may be breached by the Business Associate to the extent applicable under the Federal Trade Commission's Red Flag Rules.
- 3.16 HITECH Compliance. Business Associate shall:
- 3.16.1 Not receive, directly or indirectly, any impermissible remuneration in exchange for PHI or ePHI, except as permitted by HITECH § 13405(d) or the HIPAA Regulations;
 - 3.16.2 Comply with the marketing and other restrictions applicable to business associates contained in HITECH § 13406 and the HIPAA Regulations;
 - 3.16.3 To the extent required under HITECH § 13404, fully comply with the applicable requirements of 45 CFR 164.502(e) (2) for each use or disclosure of PHI;
 - 3.16.4 To the extent required under HITECH § 13401, fully comply with 45 CFR

164.308, 164.310, 164.312, and 164.316;

- 3.16.5 To the extent required under HITECH §§ 13401 and 13404, comply with the additional privacy and security requirements that apply to covered entities in the same manner and to the same extent as Covered Entity is required to do so; and
- 3.16.6 To the extent required under the HIPAA Regulations, comply with the privacy and security requirements that apply to business associates.
- 3.17 State Privacy Laws. Business Associate shall understand and comply with state privacy laws to the extent that such state privacy laws are not preempted by HIPAA or HITECH. Without limiting the generality of the foregoing, all of Business Associate's uses and disclosures of PHI shall be consistent with: (a) the California Confidentiality of Medical Information Act ("CMIA"), Cal. Civ. Code Section 56 et seq.; and (b) Cal. Health and Safety Code Section 1280.15.

**ARTICLE 4
PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

Except as otherwise limited in this Agreement:

- 4.1 Business Associate may use or disclose Protected Health Information to perform functions, activities or services for, or on behalf of, Covered Entity, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- 4.2 Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, 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 used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

**ARTICLE 5
OBLIGATIONS OF COVERED ENTITY**

- 5.1 Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.
- 5.2 Permissible Requests. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

**ARTICLE 6
TERM AND TERMINATION**

- 6.1 Term. The obligations set forth in this Agreement shall be effective as of the date the first Protected Health Information is released to Business Associate pursuant to this Agreement, and shall terminate only when all of the Protected Health Information 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 Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Article 6.
- 6.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. Covered Entity may terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity.
- 6.3 Effect of Termination.
- 6.3.1 Except as provided in Section 6.3.2, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- 6.3.2 In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

ARTICLE 7 MISCELLANEOUS

- 7.1 Indemnification. Business Associate agrees to indemnify, defend, and hold harmless Covered Entity, its directors, officers, employees, contractors and agents, against, and in respect of, any and all claims, losses, expenses, costs, damages, obligations, penalties, and liabilities which Covered Entity may incur by reason of Business Associate's breach of or failure to perform any of its obligations pursuant to this Agreement. Further, Business Associate agrees to indemnify, defend, and hold harmless Covered Entity, its directors, officers, employees, contractors and agents, against all costs and expenses, including but not limited to, reasonable legal expenses, which are incurred by or on behalf of Business Associate in connection with the defense of such claims.

- 7.2 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA, HITECH, or the HIPAA Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- 7.3 Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself, and any subcontractors, employees, affiliates or agents assisting Business Associate in the performance of its obligations under this Agreement, available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon a claimed violation of HIPAA, HITECH, the HIPAA Regulations, or other laws relating to security and privacy, except where Business Associate or its subcontractor, employee or agent is named adverse party.
- 7.4 Survival. The respective rights and obligations of Business Associate under this section shall survive the termination of this Agreement.
- 7.5 Ownership of Information. Covered Entity holds all right, title, and interest in and to the PHI and Business Associate does not hold and will not acquire by virtue of this Agreement or by virtue of providing goods or services to Covered Entity, any right, title, or interest in or to the PHI or any portion thereof.
- 7.6 Right to Injunctive Relief. Business Associate expressly acknowledges and agrees that the breach, or threatened breach, by it of any provision of this Agreement may cause Covered Entity to be irreparably harmed and that Covered Entity may not have an adequate remedy at law. Therefore, Business Associate agrees that upon such breach, or threatened breach, Covered Entity will be entitled to seek injunctive relief to prevent Business Associate from commencing or continuing any action constituting such breach without having to post a bond or other security and without having to prove the inadequacy of any other available remedies. Nothing in this paragraph will be deemed to limit or abridge any other remedy available to Covered Entity at law or in equity.
- 7.7 Regulatory References. A reference in this Agreement to a section in HIPAA, HITECH or the HIPAA Regulations means the section as in effect or as amended.
- 7.8 Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA Regulations.
- 7.9 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Regulations.
- 7.10 Severability. In the event any part or parts of this Agreement are held to be unenforceable, the remainder of this Agreement will continue in effect.
- 7.11 California HIPAA Rule. Understand and Comply with California Senate Bill 541 and AB 211 to the extent applicable which requires health facilities, clinics,

hospices and home health agencies to prevent unlawful or unauthorized access to, or use or disclosure of, a patient's medical information. This requirement creates a stricter standard than any currently in effect under existing state law or HIPAA because facilities are required under this bill to "prevent" unauthorized access, not merely to take reasonable steps to try to monitor and stop inappropriate access.

SB 541 also authorizes administrative penalties on the facility of up to \$25,000 per patient per violation, and up to \$17,500 for each subsequent accessing, use or disclosure of that information, and increases existing penalties for violations that result in immediate jeopardy of patients.

Assembly Bill 211 requires that every health care provider implement specified safeguards to protect the privacy of a patient's medical information, and establishes an Office of Health Information Integrity (OHII) within the California Health and Human Services Agency, which will assess and impose fines for violations of privacy laws. Penalties may be assessed: against any person or provider of health care, whether licensed or unlicensed up to \$250,000 as set forth in CMIA and requires referral from DPH for assessment of fines.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first written above.

COVERED ENTITY:

By: KERN REGIONAL CENTER (KRC), a California Non-Profit Corporation

Signature: _____
Enrique Roman, Director, Community Services

BUSINESS ASSOCIATE:

By: _____

Signature: _____

Attachment 4

KERN REGIONAL CENTER
PURCHASE OF SERVICE
FY 2023-2024
AS OF MAY 31, 2024

PURCHASE OF SERVICES	July 2023	August 2023	September 2023	October 2023	November 2023	December 2023	January 2024	February 2024	March 2024	April 2024	May 2024	June 2024	2023-2024 Total
OUT-OF-HOME													
Community Care Facility	5,674,497	5,673,725	5,916,249	6,018,336	6,153,700	5,960,154	5,976,790	5,886,974	5,933,695	5,842,589	5,484,973	5,484,973	64,521,622
ICF/SNF Facility	261,173	267,743	259,571	273,195	280,046	302,404	362,587	347,283	392,739	313,322	197,764	197,764	3,257,827
TOTAL OUT OF HOME	5,935,670	5,941,468	6,175,820	6,291,531	6,433,746	6,262,558	6,339,377	6,234,257	6,326,434	6,155,911	5,682,737	5,682,737	67,779,449
DAY PROGRAMS													
Day Care	36,058	44,246	45,167	47,256	43,182	45,912	47,703	46,873	46,282	31,336	5,545	5,545	439,570
Day Training	3,416,682	3,824,325	3,517,531	4,038,918	3,702,078	3,466,734	3,793,664	3,604,524	3,790,883	3,994,105	2,884,565	2,884,565	40,058,009
Supported Employment	393,647	427,780	400,396	431,470	383,746	402,605	478,043	401,559	412,711	402,557	369,681	369,681	4,504,197
Work Activity Program		9,399	8,780		6,275	6,527	7,682	6,810	6,726	7,766			59,965
SUBTOTAL DAY PROGRAMS	3,848,387	4,305,750	3,971,874	4,517,644	4,135,283	3,941,778	4,327,092	4,059,766	4,256,612	4,435,764	3,259,791	3,259,791	45,059,741
OTHER SERVICES													
Non Medical Services Prof	360,378	352,891	310,881	323,146	278,800	267,458	264,375	264,014	263,300	242,916	219,567	219,567	3,147,726
Non Medical Services Prog	1,643,780	1,819,309	1,790,525	1,997,271	1,760,855	1,682,716	1,916,755	1,983,031	1,953,665	2,029,941	1,723,819	1,723,819	20,301,667
Home Care Services Prog	19,689	21,146	21,041	26,121	39,444	32,322	22,325	22,636	7,219	19,102			231,015
Transportation	454,130	519,813	460,909	515,292	464,535	478,020	522,109	472,800	473,263	518,151	466,278	466,278	5,345,400
Transportation Contracts	862,892	991,079	867,375	964,789	876,562	842,623	599,874	891,384	617,336	890,685	582,149	582,149	9,006,748
Prevention Services	764,087	866,230	774,013	863,503	809,259	755,451	837,089	811,516	798,984	801,778	259,480	259,480	8,341,420
Other Authorized Services	3,763,421	3,947,362	3,979,742	4,096,558	4,068,015	3,912,456	4,060,145	4,026,629	3,910,728	4,237,298	3,316,541	3,316,541	43,318,905
P & I Expense	9,943	9,775	9,943	10,447	9,775	9,641	10,645	10,822	10,570	9,633	10,164	10,164	111,358
Hospital Care													-
Medical Equipment	7,915	5,115	18,026	5,126	2,056	4,924	21,199	9,134	2,314	4,657	2,530	2,530	82,996
Medical Services Prof	221,391	233,336	199,182	230,069	235,483	223,914	199,465	216,075	233,157	159,376	96,790	96,790	2,248,238
Medical Services Prog	37,694	37,741	30,611	39,396	41,883	37,978	39,295	41,133	36,066	40,005	30,283	30,283	412,085
Respite Care - In Home	2,563,919	2,655,053	2,659,597	2,731,789	2,791,386	2,814,156	2,936,487	2,847,048	2,869,914	1,731,685	862,022	862,022	27,463,056
Respite Care - Out of Home	29,703	22,506	18,137	15,359	27,895	32,077	45,621	20,344	26,377	34,574	22,256	22,256	294,849
TOTAL OTHER SERVICES	10,738,952	11,481,376	11,159,982	11,818,966	11,406,048	11,093,596	11,475,394	11,616,566	11,202,903	10,719,801	7,591,879	7,591,879	120,305,463
TOTAL PURCHASE OF SERVICES	20,523,009	21,728,594	21,307,676	22,628,141	21,975,077	21,297,932	22,141,863	21,910,589	21,785,889	21,311,476	16,534,407	16,534,407	233,144,653
COMMUNITY PLACEMENT PLAN													
Community Care Facility	96,759	96,759	96,759	96,759	96,759	96,759	96,613	96,613	98,699	98,699	98,699	98,699	1,069,877
ICF/SNF Facility													-
Day Training													-
Non-Medical Services													-
Non-Medical Services-Programs	4,724	5,348	5,170	5,438	8,424	9,805	10,251	8,424	10,639	9,302	5,201	5,201	82,726
Transportation													-
Other Authorized Services													-
Other Services													-
Medical Care - Prof													-
TOTAL COMMUNITY PLACEMENT PL	101,483	102,107	101,929	102,197	105,183	106,564	106,864	105,037	109,338	108,001	103,900	103,900	1,152,603
TOTAL PURCHASE OF SERVICE	20,624,492	21,830,701	21,409,605	22,730,338	22,080,260	21,404,496	22,248,727	22,015,626	21,895,227	21,419,477	16,638,307	16,638,307	234,297,256

Attachment 5

KERN REGIONAL CENTER
 OPERATIONS
 FY 2023/2024
 AS OF MAY 31, 2024

	PROPOSED EXPENDITURE S	YEAR TO DATE BUDGET	07/31/23	08/31/23	09/30/23	10/31/23	11/30/23	12/31/23	01/31/24	02/28/24	03/31/24	04/30/24	05/31/24	06/30/24	TOTAL	COVER/UNDER
OPERATIONS																
Salaries & Benefits	27,164,701	25,075,109	1,889,926	2,581,320	1,934,030	1,496,236	1,898,468	1,859,150	1,860,282	2,567,992	2,074,777	2,011,986	1,644,714	2,011,986	21,818,891	3,256,217
Operating Expenses	6,932,500	6,354,792	798,702	195,452	785,069	376,454	481,878	521,215	431,499	554,576	843,980	394,930	770,406	394,930	6,154,180	200,612
SUBTOTAL OPS	34,097,201	31,429,900	2,688,628	2,776,772	2,719,119	1,872,690	2,380,345	2,380,365	2,291,781	3,122,568	2,918,757	2,406,925	2,415,120	2,406,925	27,973,071	3,456,829
COMMUNITY PLACEMENT PLAN																
Salaries & Benefits	1,312,553	1,211,567	-	-	-	-	-	50,890	48,337	66,098	39,945	26,044	21,649	26,044	252,965	958,623
Operating Expenses	1,049,203	961,769	-	-	-	-	-	75,210	24,119	74,810	(9,813)	18,814	28,673	18,814	211,814	749,955
SUBTOTAL CPP	2,361,756	2,173,357	-	-	-	-	-	126,100	72,457	140,908	30,133	44,858	50,323	44,858	464,779	1,708,578
FOSTER GRANDPARENT PROGRAM																
Salaries & Benefits	95,176	87,855	6,461	8,385	6,974	6,998	7,210	7,053	7,113	9,673	7,091	7,191	7,498	7,191	81,648	6,206
Operating Expenses	182,301	167,109	5,976	8,288	11,706	13,782	11,112	10,748	12,884	10,907	12,943	13,382	13,357	13,382	125,083	42,026
SUBTOTAL FGP	277,477	254,964	12,437	16,673	18,680	20,780	18,322	17,801	19,997	20,580	20,033	20,573	20,856	20,573	208,732	48,232
SENIOR COMPANION PROGRAM																
Salaries & Benefits	71,800	66,277	4,308	6,890	5,261	5,281	5,439	5,322	5,368	7,297	5,349	5,425	5,657	5,425	61,597	4,680
Operating Expenses	138,797	127,231	4,048	3,304	6,389	7,730	7,658	6,060	4,831	4,265	7,470	9,170	7,369	9,170	68,293	58,937
SUBTOTAL SCP	210,597	193,508	8,355	10,194	11,650	13,011	13,097	11,382	10,199	11,562	12,819	14,595	13,026	14,595	129,890	63,617
TOTAL OPERATIONS	96,947,031	34,051,729	2,709,421	2,803,640	2,749,450	1,906,480	2,411,765	2,535,648	2,394,435	3,295,618	2,981,742	2,486,951	2,499,324	2,486,951	28,774,472	5,277,256