

**AMENDMENT I TO AGREEMENT**

THIS AMENDMENT, hereinafter referred to as Amendment I, is made and entered into this ~~1st~~ 19<sup>th</sup> day of ~~August~~ September, 2006, by and between the **COUNTY OF FRESNO**, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and **UNILAB CORPORATION dba QUEST DIAGNOSTICS** a California Corporation, whose address is 3714 Northgate Boulevard, Sacramento, CA 95834, hereinafter referred to as "CONTRACTOR" (collectively the "parties").

WHEREAS, the parties entered into that certain Agreement, identified as COUNTY Agreement No. A-05-282, effective July 1, 2005 whereby CONTRACTOR agreed to provide certain toxicology and clinical laboratory testing services to certain Fresno County departments; and

WHEREAS the parties desire to amend the Agreement as identified below and restate the Agreement in its entirety.

NOW, THEREFORE, in consideration of their mutual promises, covenants and conditions, hereinafter set forth, the sufficiency of which is acknowledged, the parties agree as follows:

1. That the existing COUNTY Agreement No. A-05-282, Page One (1), beginning on Line Ten (10) with the word "WHEREAS" and ending on Page One (1), Line Fourteen (14), with the word "and" be deleted and the following be inserted in its place:

"WHEREAS, CONTRACTOR through its Department of Behavioral Health (DBH), Department of Children and Family Services (DCFS), Department of Community Health (DCH) and Department of Employment and Temporary Assistance (ETA), has need for toxicology and clinical laboratory services including, but not limited to, supplies for specimen collections; phlebotomy services; specimen pick-up and delivery; laboratory testing; critical value reporting; and routine laboratory orders for health and mental health programs; and"

2. That the existing COUNTY Agreement No. A-05-282, Page One (1), beginning with Paragraph One (1) Line Twenty-Three (23) with the letter "B." and ending on Line Twenty-Five (25), with the word "herein" be deleted and the following be inserted in its place:

"B. CONTRACTOR shall also perform all services and fulfill all responsibilities for DBH, DCFS, DCH, and ETA, as identified in Revised Exhibit B, attached hereto and by this reference

1 incorporated herein.”

2 3. That the existing COUNTY Agreement No. A-05-282, Page Three (3), beginning with  
3 Paragraph One (1), Line Ten (10) with the letter “F.” and ending on Line Fifteen (15) with the word  
4 “COUNTY facility” be deleted and the following be inserted in its place:

5 “F. For services provided to facilities of COUNTY’s DBH, DCH, DCFS and ETA,  
6 all routine test results shall be returned to the requesting COUNTY facility within twenty-four (24)  
7 hours of collection of specimen or specimen pick up. Collection includes, but is not limited to,  
8 administering the taking of a urine specimen or the drawing of blood. DBH, DCH, DCFS and ETA  
9 may require routine blood draws to be completed by 6:00 a.m. daily or at a time mutually agreed to by  
10 CONTRACTOR or when STAT Testing is required by the requesting COUNTY facility.

11 G. As it relates to DBH, the DBH Director or designee shall ensure that in  
12 accordance to Exhibit F, attached hereto and incorporated herein, each DBH physician, who is  
13 authorized by DBH Director or designee and CONTRACTOR to have access to CONTRACTOR’s  
14 Portal Services shall be made know to CONTRACTOR by submission of Exhibit F.”

15 4. That the existing COUNTY Agreement No. A-05-282, Page Four (4), beginning with  
16 Paragraph Four (4), Line Twenty-Six (26) with the number “2)” and ending on page Five (5), Line  
17 Twenty-Two (22) with the word “Agreement.” be deleted and the following be inserted in its place:

18 “2) DBH, DCFS, DCH and ETA

19 Compensation paid by COUNTY’s DBH, DCFS, DCH and ETA to  
20 CONTRACTOR shall be as follows:

21 a. All fees shall be as specified in the “QUOTATION SCHEDULE OF  
22 FEES FOR DBH, DCFS, DCH, & ETA” Revised Exhibit D, attached hereto and incorporated herein.  
23 In no event shall services provided during the period July 1, 2005 through June 30, 2006 exceed Nine  
24 Hundred Thousand and No/100 Dollars (\$900,000.00) for this Agreement. In no event shall the total  
25 maximum compensation amount paid to CONTRACTOR by COUNTY for actual services rendered  
26 exceed One Million Fifty Six Thousand Six Hundred Forty Four and No/100 Dollars (\$1,056,644.00)  
27 during each twelve-month period thereafter of this Agreement.

28 b. CONTRACTOR shall be paid only for those services provided with

1 regard to individuals certified by the Medically Indigent Adult/Medical Services Program and/or by  
2 the program called the Uniform Method to determine Ability to Pay (hereinafter, "Certified  
3 Individuals"). Except for Certified Individuals, CONTRACTOR shall seek compensation directly  
4 from individuals for whom the services were rendered, or from third-party payers (*i.e.* Medicare,  
5 Medi-Cal or private health insurance) as applicable, and CONTRACTOR agrees COUNTY shall have  
6 no financial liability for services provided to such non-certified individuals. CONTRACTOR further  
7 agrees that in the event any Certified Individual subsequently becomes eligible for Medi-Cal or other  
8 third party insurance, then CONTRACTOR shall have no right to receive or retain compensation from  
9 COUNTY for services provided for such individuals.

10 c. With regard to individuals for whom CONTRACTOR provides services  
11 at the request of DBH, DCFS, DCH, or ETA, for which services COUNTY is not required to pay,  
12 CONTRACTOR agrees to charge the same prices as specified in Revised Exhibit D, attached hereto."

13 5. That the existing COUNTY Agreement No. A-05-282, Page Six (6), beginning with  
14 Paragraph Five (5), Line Seven (7) with the letter "B" and ending on Line Sixteen (16) with the word  
15 "Analyst" be deleted and the following be inserted in its place:

16 "B. DBH, DCFS, DCH, and ETA

17 The invoices shall be submitted to Fresno County Human Services Accounting  
18 Office, P.O. Box 24055, Fresno, CA 93779 and an additional invoice copy to each of the departments  
19 detailing the department, appropriate cost center, patient's full name, date of birth, Fresno County  
20 Medical Record number, date of service and name of laboratory test to the following addresses:

21 Department of Behavioral Health, 4441 E. Kings Canyon Road, Fresno, CA  
22 93702, Attention: Principal Staff Analyst.

23 Department of Children and Family Services, 2011 Fresno Street, Suite 301,  
24 Fresno, CA 93721, Attention: Principal Staff Analyst.

25 Department of Community Health, 1221 Fulton Mall, Fresno, CA 93775,  
26 Attention: Principal Staff Analyst.

27 Department of Employment and Temporary Assistance, 4499 E. Kings Canyon  
28

1 Road, Fresno, CA 93702, Attention: Principal Staff Analyst.”

2 6. That the existing COUNTY Agreement No. A-05-282, Page Eight (8), beginning with  
3 Paragraph Seven (7), Line Five (5) with the letter “B.” and ending on Line Twelve (12) with the word  
4 “Agreement” be deleted and the following be inserted in its place:

5 “B. Notwithstanding the above, minor changes, as determined by CONTRACTOR or  
6 COUNTY or the respective Director of DBH, DCFS, DCH or ETA may be made to Section 1, entitled  
7 “Services” of this Agreement or Revised Exhibit B with the written approval of COUNTY or the  
8 respective Director of DBH, DCFS, DCH or ETA and CONTRACTOR. Minor changes may include,  
9 but are not limited to, the addition of clinical laboratory tests, the addition or deletion of a urine/blood  
10 collection/draw or pick-up site, the addition of a new program designated to receive services, the  
11 addition or deletion of physicians authorized to use “Portal” Services, and changes in addresses to  
12 which notices or invoices are to be sent. Such minor changes shall not affect the maximum  
13 compensation allowable under this Agreement.”

14 7. That the existing COUNTY Agreement No. A-05-282, Page Ten (10) beginning with  
15 Paragraph Ten (10), Line Seven (7) with the word “Within” and ending online Twenty Five (25) with  
16 the word “better” be deleted and the following inserted in its place:

17 Within thirty (30) days from the date CONTRACTOR signs this Agreement,  
18 CONTRACTOR shall provide certificates of insurance and endorsements as stated above for all of the  
19 foregoing policies, as required herein, to the County of Fresno, Probation Department, 1100 Van Ness  
20 Avenue, Fresno, CA 93721, Attention: Greg Reinke, stating that such coverages have been obtained  
21 and are in full force; that the County of Fresno, its officers, agents and employees will not be  
22 responsible for any premiums on the policies; that Commercial General Liability insurance names the  
23 County of Fresno, its officers, agents and employees, individually and collectively, as additional  
24 insured, by only insofar as the operations under this Agreement are concerned; that such coverage for  
25 additional insured shall apply as primary insurance and any other insurance, or self-insurance,  
26 maintained by COUNTY, its officers, agents and employees, shall be excess only and not contributing  
27 with insurance provided under CONTRACTOR’s policies herein; and that this insurance shall not be  
28 cancelled or changed without a minimum of thirty (30) days advance, written notice given to

1 COUNTY.

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

5 All policies shall be with admitted insurers licensed to do business in the State of  
6 California. Insurance purchased shall be from companies possessing a current A.M. Best, Inc. rating  
7 of A FSC VII or better."

8 8. That the existing COUNTY Agreement No. A-05-282, Page Fourteen (14), beginning  
9 with Paragraph Fifteen (15), Line Two (2) with the word "CONTRACTOR" and ending on Line Six  
10 (6) with the word "facility" be deleted and the following be inserted in its place:

11 "CONTRACTOR shall provide DBH, DCFS, DCH and ETA with a quarterly report that  
12 shall include, but is not limited to, the number and type of tests conducted and the amount invoiced by  
13 cost center. In addition, CONTRACTOR shall provide the Probation Department with a quarterly  
14 report on the number of tests conducted at each rural and state-wide urine collection facility and the  
15 total amount invoiced for said tests by facility."

16 9. That the following be added to existing COUNTY Agreement No. A-05-282, Page  
17 Fourteen (14) Line Thirteen (13).

18 "17. **CONFLICT OF INTEREST**

19 No officer, agent, or employee of COUNTY who exercises any function or  
20 responsibility for planning and carrying out the services provided under this Agreement shall have any  
21 direct or indirect personal financial interest in this Agreement. In addition, no employee of COUNTY  
22 shall be employed by CONTRACTOR to fulfill any contractual obligations with COUNTY.  
23 CONTRACTOR shall also comply with all Federal, State of California, and local conflict of interest  
24 laws, statutes, and regulations, which shall be applicable to all parties and beneficiaries under this  
25 Agreement and any officer, agent, or employee of COUNTY."

26 10. That the existing COUNTY Agreement No. A-05-282, Page Fourteen (14), beginning  
27 with Paragraph Eighteen (18), Line Twenty Three (23) with the word "The" and ending on Page  
28 Fifteen (15), Line Nine (9) with the number "93721" be deleted and the following be inserted in its

1 place:

2 "The persons having authority to give and receive notices under this Agreement and  
3 their addresses include the following:

4 COUNTY

CONTRACTOR

5 Director, Fresno County  
6 Department of Community Health  
7 1221 Fulton Mall  
8 Fresno, CA 93775

Unilab Corporation dba Quest Diagnostics  
Regional Manager  
3636 N. First  
Fresno, CA 93711

8 Director, Fresno County  
9 Department of Children and Family Services  
10 2011 Fresno Street, Suite 301  
11 Fresno, CA 93721

11 Chief Probation Officer  
12 Probation Department  
13 1100 Van Ness Avenue  
14 Fresno CA 93721

14 Director, Fresno County  
15 Department of Employment and Temporary Assistance  
16 4499 E. Kings Canyon Road  
17 Fresno, CA 93702

17 Director, Fresno County  
18 Department of Behavioral Health  
19 4441 E. Kings Canyon Road  
20 Fresno, CA 93702"

20 11. That the existing COUNTY Agreement No. A-05-282 Paragraphs Seventeen (17)  
21 through Twenty (20) be renumbered to read Paragraphs Eighteen (18) through Twenty One (21).

22 12. That all references in existing COUNTY Agreement A-05-282 to "Exhibit B" be  
23 changed to read "Revised Exhibit B", attached hereto and incorporated herein, where appropriate.

24 13. That all references to Exhibit "D" be changed to read "Revised Exhibit D" attached  
25 hereto and incorporated herein, where appropriate.

26 14. Except as otherwise provided in this Amendment I, all other provisions of COUNTY  
27 Agreement No. A-05-282, shall remain unchanged and in full force and effect.  
28

1 This Amendment I shall become effective September 19, 2006.

2 ///

3 ///

4 ///

5 ///

6 ///

7 ///

8 ///

9 ///

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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

3 ATTEST:

4 CONTRACTOR:

5 UNILAB CORPORATION dba  
6 QUEST DIAGNOSTICS

7 By: 

8 Print Name: Dan Cordill, Jr.

9 Title: G.M. South Region

10 Chairman of Board, or President,  
11 or any Vice President

12 Date: 7/31/06

COUNTY OF FRESNO

By: 

Chairman, Board of Supervisors

Date: SEP 19 2006

BERNICE E. SEIDEL, Clerk  
Board of Supervisors

13 By: 

14 Print Name: JOHN SLUSKER

15 Title: CONTROLLER, No. CAAP

16 Secretary (of Corporation), or  
17 any Assistant Secretary, or  
18 Chief Financial Officer, or  
19 any Assistant Treasurer

20 Date: 8/10/06

By: 

Date: SEP 19 2006

PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED

21 Tax I.D. No.: 71-0897031

22 Mailing Address:

23 3636 N. First

24 Fresno, CA 93711

25 Contact: Regional Manager



1 APPROVED AS TO ACCOUNTING FORM:  
2 VICKI CROW, C.P.A., AUDITOR-CONTROLLER/  
3 TREASURER-TAX COLLECTOR

4 By: Bobbie Ormonde

5 Date: 8-29-06

6 APPROVED AS TO LEGAL FORM:  
7 DENNIS A. MARSHALL, COUNTY COUNSEL

8  
9 By: Janelli E. Kelly

10 Date: 8-24-06

11 REVIEWED AND RECOMMENDED FOR  
12 APPROVAL:

13  
14 By: Julie Hornback  
15 Julie Hornback, Director  
16 Department of Employment and Temporary  
17 Assistance

18 Date: 8-17-06


19 REVIEWED AND RECOMMENDED FOR  
20 APPROVAL:

21 By: Giang T. Nguyen  
22 Giang T. Nguyen, RN, MSN, Director  
23 Department of Behavioral Health  
24  
25  
26  
27  
28

Date: 8/22/06

1 REVIEWED AND RECOMMENDED FOR  
2 APPROVAL:

3  
4 By:

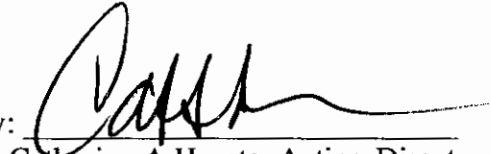
  
Edward L. Moreno, M.D., M.P.H.,  
Director-Health Officer, Department of  
Community Health

Date:

8-18-06

7  
8 REVIEWED AND RECOMMENDED FOR  
9 APPROVAL:

10  
11 By:


  
Catherine A. Huerta, Acting-Director  
Department of Children and Family Services

Date:

8/17/06

13  
14 REVIEWED AND RECOMMENDED FOR  
15 APPROVAL:

16  
17 By:

  
Linda Penner, Chief Probation Officer  
Department of Probation

Date:

8/21/06

**I. FOR HUMAN SERVICES DEPARTMENTS**

**Fund: 0001/10000**

Organization:	<u>5620 (\$52,044)</u>	<u>5630 (\$56,600)</u>	<u>5640 (\$10,000)</u>
	1620 (\$12,000.00)	1845 (\$ 3,000.00)	2229 (\$ 2,000.00)
	1649 (\$15,744.00)	2034 (\$ 2,400.00)	2230 (\$ 2,000.00)
	1650 (\$ 4,000.00)	2100 (\$22,000.00)	2240 (\$ 2,000.00)
	1660 (\$ 4,000.00)	2107 (\$ 5,000.00)	2242 (\$ 2,000.00)
	1683 (\$ 300.00)	2116 (\$ 1,000.00)	2255 (\$ 2,000.00)
	1684 (\$ 2,000.00)	2165 (\$ 1,000.00)	
	1685 (\$14,000.00)	2178 (\$ 500.00)	
		2185 (\$ 400.00)	
		2189 (\$ 5,000.00)	
		2311 (\$ 800.00)	
		2314 (\$ 350.00)	
	<u>5602 (\$30,000)</u>	2323 (\$ 3,000.00)	
	2093 (\$30,000.00)	2331 (\$ 800.00)	
		2334 (\$ 350.00)	
		2401 (\$ 1,000.00)	
		2491 (\$10,000.00)	

Account/Program: 7235/0

**Fund 0001/10000**

Organization: 5610 (\$ 8,000)  
7001 (\$8,000.00)

Account/Program: 7870/0

**II. PROBATION DEPARTMENT**

Fund: 0001/10000  
Organization: 3430-3440-3445 (\$900,000.00)  
Account: 7295

QUOTATION SCHEDULE OF FEES  
FOR DBH, DCFS, DCH & ETA

<u>Laboratory Test</u>	<u>Unit Price</u>
<b><u>Pre-Treatment Work-up Panels</u></b>	
Comprehensive Metabolic Panel	\$ 7.00
Metabolic Panel (basic)	\$ 5.00
Baseline Lithium Screening	\$ 6.00
Electrolyte Panel	\$ 5.00
Hepatic Function Panel	\$ 5.00
CBC (With or Without Differential)	\$ 5.00
WBC	\$ 2.00
TFT (Thyroid Function Test)	\$ 7.00
Comprehensive Metabolic Panel with CBC	\$12.00
Comprehensive Metabolic Panel with Lipid	\$28.25
Comprehensive Metabolic Panel with CBC & Lipid	\$33.25
<b><u>Urine Tests</u></b>	
Urine Analysis	\$ 4.00
Urine Culture	\$11.20
Urine Sensitivity	\$ 9.60
Urine Culture and Sensitivity* * *	\$11.20
Urine Collection	\$15.00
STAT Urine	\$30.00
STAT Pick up Charges	\$15.00
HIV Screen only*	\$12.00
HIV with Western Confirmation	\$29.00
Hepatic Panel * *	\$ 5.00
Lipid Panel	\$ 5.25
LSP Liver Function Test	\$ 5.00
TSH (Thyroid Stimulation Hormone Test)	\$ 5.00
ALT (SGPT)	\$ 9.40
AST (SGOT)	\$ 9.40

0156edbh

Ammonia Plasma	\$15.00
Magnesium	\$15.00
STS (RPR)	\$ 5.00
Glucose Plasma/Serum	\$ 5.00
Triglycerides	\$10.65
Cholesterol	\$ 7.30
Throxyine, Direct Free	\$10.00
Creatnine	\$ 8.35
BUN	\$ 4.00
BUN/ Creatnine	\$ 5.00
Prolactin	\$61.00

**Therapeutic Medication Level Monitoring**

Valporic Acid Level	\$ 8.00
Lithium Level	\$ 6.00
Haloperidol Level	\$14.00
Carbamazepine Level	\$ 8.00
Tegretol Level	\$ 8.00
Phenobarbital Level	\$ 8.00
Phenytoin (Dilantin) Level	\$ 8.00
Digoxin Level	\$ 8.00
Dilantin Level	\$ 8.00
Depakote level	\$18.00
Zytrex <sup>a</sup> * * * *	\$47.00
Risperdal Level * * * * *	\$46.48
Proloctin	\$61.00

\* \* \* \* This test is not performed by Quest. Due to Federal Regulations, we are required to charge our client the same charge that we receive. There is a handling fee of \$15 which is redeemed in the bid price. This fee is subject to change if the Quest price changes.

\* \* \* \* \* This test is also a send-out and the same Federal Regulations applies.

**Toxicology Screening (Without Confirmation)\***

Urine Toxicology Screens \$ 8.00

Amphetamine (like substance)  
Barbiturates  
Benzodiazepine  
Cannabinoid  
Cocaine  
Opiate  
Phencyclidine  
Etoh (Alcohol) level

- \* Confirmation not required-only need to indicate if positive or negative.
- \* Confirmation testing done at additional cost of \$12.00 for each item listed above.

Drug Screen Serum \$100

**Pregnancy Screening**

Urine Pregnancy \$ 3.50

Serum Beta HCG \$14.00

**Other Tests**

Pap Smears (1 slide) (Conventional) \$ 9.00

Pathology Biopsies\* \* \* \* \* \$45.00

CD4 \$29.60

Vitamin B12 \$30.20

Testosterone \$53.77

T3 \$28.40

Toxoplasma Titer \$40.07

\* \* \* \* \* Biopsies are a send-out and the same regulations apply. This is subject to change if the price to Quest changes.

**Additional Pricing Information**

1.	Blood draw	\$ 8.00
2.	Stat Testing	\$30.00
3.	Stat Pick Up Charges	\$15.00
4.	Urine Screen Collection (Collections not observed)	\$15.00

## **STATE MENTAL HEALTH REQUIREMENTS**

### **1. CONTROL REQUIREMENTS**

COUNTY and its subcontractors shall provide services in accordance with all applicable Federal and State statutes and regulations.

### **2. PROFESSIONAL LICENSURE**

All (professional level) persons employed by the COUNTY Mental Health Program (directly or through contract) providing Short-Doyle/Medi-Cal services have met applicable professional licensure requirements pursuant to Business and Professions and Welfare and Institutions Codes.

### **3. CONFIDENTIALITY**

- A. CONTRACTOR shall comply with applicable laws and regulations, including but not limited to section 5328 et seq. of the California Welfare and Institutions Code regarding the confidentiality of patient information.
- B. CONTRACTOR shall protect, from unauthorized disclosure, names and other identifying information concerning persons receiving services pursuant to this contract, except for statistical information. This pertains to any and all persons receiving services pursuant to a Department of Mental Health funded program. CONTRACTOR shall not use such identifying information for any purpose other than carrying out the CONTRACTOR's obligations under this contract.
- C. CONTRACTOR shall not disclose, except as otherwise specifically permitted by this contract or authorized by the client/patient, any such identifying information to anyone other than the County or State without prior written authorization from the County or State in accordance with State and Federal laws.
- D. For purposes of the above paragraphs, identifying information shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print, or a photograph.

### **4. NONDISCRIMINATION**

- A. CONTRACTOR shall not employ any unlawful discriminatory practices in the admission of patients, assignment of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual preference, or mental or physical handicap, in accordance with the requirements of applicable Federal or State Law.

- B. During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, mental or physical handicap, medical condition, marital status, age, or sex. CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act of 1990, the Fair Employment and Housing Act (Government Code, section 12900, et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285 et seq.). CONTRACTOR shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, section 12990, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. CONTRACTOR shall give written notice of its obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- C. CONTRACTOR shall comply with the provisions of section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Welfare Agency, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

5. **PATIENTS' RIGHTS**

CONTRACTOR shall comply with applicable laws and regulations, including but not limited to, laws, regulations, and State policies relating to patients' rights.



## CARE360 EMAXX PHYSICIAN PORTAL USER AGREEMENT

Client Name: Department of Behavioral Health

Acct. #8001782

This is an agreement ("Agreement") between MedPlus, Inc., a Quest Diagnostics company ("We", "Us" or "Our"), and the individual or group medical practice/entity executing this Agreement ("You" or "Your"). This Agreement sets forth the rights and obligations of both parties with respect to Your use of the Care360 eMaxx Physician Portal (the "Portal") and the services offered through such Portal ("Services").

**1. Access to Services; Changes in Services Offered; Portal Policies.**

(a) You and other Authorized Users shall be entitled to access and use the Services provided through the Portal. You shall not permit any person who is not an Authorized User to access or use the Services. "Authorized Users" means You and any of your personnel authorized by You. You may authorize personnel by notifying Us in writing or by utilizing the "Delegated Administration Authority" functionality available through the Portal.

(b) THE SERVICES AVAILABLE THROUGH THE PORTAL (BASE SERVICES) ARE BEING PROVIDED TO YOU AT NO CHARGE. Additional services are also available through the Portal on a fee for service basis. If you wish to learn more about these additional services, please contact Your sales representative. You are not obligated to utilize any particular Service(s) but by doing so You agree to be bound by the terms and conditions in this Agreement or the Portal Policies (defined in the next paragraph). We reserve the right to add, remove or alter the Services available through the Portal, any such change being effective upon notice to You in accordance with the terms of this Agreement. Certain fee-based services may require You and Authorized Users to execute additional documents with Us or third parties providing these Service(s). To the extent any special terms or conditions of a Service set forth in an additional document conflict with the terms and conditions of the main body of this Agreement, the terms of the additional document shall control.

(c) You agree to abide by all Portal policies and procedures (including, but not limited to the Terms and Conditions of Use of Care360 Lab Orders and Results, attached hereto as Exhibit "A") that may exist from time to time (the "Portal Policies"). Portal Policies may be attached to this Agreement or displayed on the Portal itself. Any future Portal Policies shall be effective as of the date of notice to You.

**2. Charges.** THE SERVICES PROVIDED THROUGH THE PORTAL ("BASE SERVICES") ARE PROVIDED TO YOU AT NO CHARGE. You are responsible, however, for the cost of all Internet connection charges and all necessary equipment. If You desire to use any of the fee-based Services, We will provide You with descriptions, terms of use and rates for these services in a separate document or exhibit.

**3. Term; Termination.** This Agreement shall commence upon its execution by You and remain in effect until terminated. Either You or We may terminate this Agreement and Your access to the Portal at any time, with or without cause. If this Agreement terminates for any reason, We will make arrangements for You to receive Your laboratory test results from Quest Diagnostics directly. Upon any termination of this Agreement, when requested, We shall return to You a copy of all patient information You have stored in the repository. We will extend the protections of this Agreement to the PHI that We maintain and limit any further uses and disclosures of the PHI to only authorized individuals or entities, as required by HIPAA.

**4. Patient Demographic Information.** The Portal system uses a matching algorithm ("matching tool") to link patient data and charts for Your patients. You are responsible for the accuracy and consistency of

Portal User Agreement – May 26, 2005  
Page 1 of 3

provided through another system. The accuracy and consistency of this information will directly impact how the eMaxx Portal system will match patient data and charts You create for patients served by Your practice and, if applicable, patient data and charts created by other physicians or providers to whom You or the patient gives access for treatment purposes. If, because of inadequate, inaccurate, or inconsistent data collection and/or data entry, the eMaxx matching tool produces multiple charts for an individual patient, it is Your responsibility to make the clinical decision whether to merge individual charts by utilizing the end user merge tool function available within eMaxx.

**5. Your Responsibility For Authorized Users and Security of Your Equipment and Network; Use Restrictions.** All of Your obligations pursuant to this Agreement shall also apply to all Authorized Users. You will promptly inform Us, in writing, of the need to deactivate an ID or password for an Authorized User due to security concerns or for any other reason (or complete such deactivation on Your own if You are utilizing the Delegated Administration Authority available through the Portal). You are responsible for the security of Your information system(s), including its network and related equipment and peripherals ("Information System(s)"). Without limiting the preceding sentence, while certain Services may be formatted by Us to function with wireless networks or handheld devices, You agree that it is Your responsibility to comply with all Applicable Laws and ensure adequate security of Your Information System(s). You are responsible for notifying Us, immediately, of any threatened, suspected or actual violation of data security of which You become aware. You are responsible for obtaining and maintaining all necessary consents, permissions or authorizations, required or advisable in connection with the transmission, storage, retrieval, viewing and/or disclosure of Your patient's PHI through the Portal.

**6. HIPAA Provisions.** You are a "Covered Entity" as defined by and in accordance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). You and Authorized Users will have the ability to transmit, store, and retrieve certain Protected Health Information through the Portal. In addition, You will have the ability to grant access to information in the repository through the Portal arrangement. You agree to use Patient Data consistent with permitted and required uses under HIPAA and in accordance with other Applicable Laws. You may disclose to Us and We will use, disclose and/or create Protected Health Information (hereinafter called "PHI") on behalf of You for Treatment, Payment, or Your Health Care Operations purposes, as required or as permitted by the Privacy and Security Regulations, and as permitted under the Privacy and Security

Regulations: i) for Our proper management or administration, ii) to carry out Our legal responsibilities, and iii) to provide data aggregation services related to Your Health Care Operations. We are acting as Your Business Associate for purposes of compliance with HIPAA and will provide Our services in compliance with the Privacy and Security requirements of HIPAA, including but not limited to the requirements of §164.504(e)(2)(ii) and (iii). The provisions of this Paragraph will survive any termination of this Agreement.

**7. Ownership Rights in or to the Portal.** As between You and Us, We own all rights, title, and interest in and to all copyright, trademark, service mark, patent, trade secret, or other intellectual property and proprietary rights worldwide in and to the Portal.

**8. Advertisements and Links.** The Portal contains advertisements and links to third party services/applications and web sites. Neither the advertisers, nor any third party Service providers or web sites, are under Our control and We are not responsible for any such parties' products or services, or the content of any third party web site, or any link contained in a third party web site. Any of Your dealings with any advertiser, third party web site or any other third party is solely between You and such advertiser, third party web site or other third party.

**9. Disclaimer.** We do not and will not provide medical information, advice or services to You or Your patients. The content available through the Portal (other than laboratory test results from Us or third parties) is solely for informational and educational purposes and is not a substitute for professional judgment of healthcare providers in diagnosing and treating patients. *The Portal and Services provided through the Portal are provided "as is" without warranty of any kind, except as otherwise expressly provided herein. We disclaim all warranties and conditions with regard to the Portal and the Services, including all implied warranties and conditions of merchantability and fitness for a particular purpose.* We cannot guarantee that Your access to the Portal or Services will be uninterrupted or error-free.

**10. Consequential Damages and Limitation of Liability.** *In no event shall We be liable for any indirect, punitive, incidental, special, or consequential damages including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the use or performance of the Portal or the Services.* Should We have any liability to You or any third party for any direct loss, harm or damage, You agree that such liability shall under no circumstances exceed the greater of the aggregate amount of the fees You have paid to Us for Services during the twelve months immediately preceding the day the act or omission occurred that gave rise to the claim or Five

Thousand (\$5,000.00) Dollars. You understand and acknowledge that absent your agreement to this limitation of liability, We would not provide You access to the Portal or the Services. **This limitation of liability shall not apply to claims for laboratory testing errors resulting solely from the negligence of Quest Diagnostics.**

**11. Miscellaneous.** All communications from either party shall be in writing and shall be sent by either email or registered or certified mail, return receipt requested. We may also give notices or other communications by posting, displaying, or providing links to notices or other communications on the Portal. The effective date of any permitted change to the terms of this Agreement, including Portal Policies, shall be the date the applicable email was sent or notice posted on the Portal or, in the case of registered or certified mail, the date of Your receipt of the mail.

You may not assign or otherwise transfer this Agreement to any other person or entity without our written consent.

This Agreement is entered into solely for the benefit of the parties to this Agreement and their affiliates. Nothing in this Agreement shall be construed to create any duty, liability, or benefit to any person or entity not a party to this Agreement.

**12. Entire Agreement.** Both parties agree that they have read this agreement, and agree to be bound by its terms. Both parties further agree that they have the authority to bind the entire group, practice or entity covered by this Agreement. The parties further agree that this Agreement is the complete and exclusive agreement related to the Portal and Services offered through the Portal, and supersedes any proposal(s), or prior agreement(s), whether written or oral, relating to the subject matter of this Agreement.

**13. Compliance with Laws.** Each of the parties agrees that it will comply with all applicable laws, rules or regulations ("Applicable Laws"), including, but not limited to, the federal Physician Self-Referral Law, 42 U.S.C. 1395nn, and the regulations promulgated thereunder (together, the "Stark Law"), similar state physician self-referral laws and regulations (together with the Stark Law, the "Self-Referral Laws"), the federal Medicare/Medicaid Anti-kickback Law and regulations promulgated thereunder (the "Federal Anti-kickback Law") and similar state Anti-kickback laws and regulations (together with the Federal Anti-kickback Law, the "Anti-kickback Laws") and the Health Insurance Portability and Accountability Act ("HIPAA") regulations, including the standard transactions regulations.

This Agreement shall become effective on the date of Your signature below provided You have not made any revisions to the form. Any revisions shall require Our written consent before it is effective. The person signing below on Your behalf attests that he/she is duly authorized to sign and bind You as a party to this Agreement.

\_\_\_\_\_  
(Your Full Legal Entity Name)

By \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Date: \_\_\_\_\_

8001782 Quest Diagnostics Account Number

0156cdbh

**Exhibit A**

**Terms and Conditions for Use of Care360 Lab Orders and Results**

The Care360 eMaxx Physician Portal will include a graphical user interface(s) designed to enable You to order laboratory tests and view and print laboratory results reports in a secure fashion from Quest Diagnostics Incorporated. In addition to the provisions of the Care360 eMaxx Physician Portal User Agreement, the following terms and conditions apply to use of the Care360 Lab Orders and Results system (the "System"):

**SERVICES.** Quest Diagnostics will provide You access to a web browser-based graphical user interface for You and Your approved personnel to view and print Quest Diagnostics laboratory result reports for Your patients via the public Internet. The web browser based graphical user interface requires access to the Internet. If you are using the system's automatic printing feature, the printing of results constitutes delivery of laboratory test results to you. In the event you do not use the system's automatic print feature, or the printer is disabled for any reason, our posting of the test results to eMaxx constitutes delivery of the test results to You. When you are not receiving results by the automatic printing feature, You understand that it is your responsibility to routinely access the Portal to retrieve laboratory results reports for your patients. You agree to notify Quest Diagnostics, immediately, in the event that You elect to discontinue using the Portal services so that Quest Diagnostics can provide laboratory results reports to You by another delivery method.

**ERROR REPORTING/DATA CORRECTION/VIRUS REPORTING.** You agree to report to Quest Diagnostics, immediately, the discovery of any type of discrepancies, anomalies, or errors, detected in result reports obtained via the System. You further agree that Quest Diagnostics may make any corrections to demographics and insurance data within the System based upon

information provided to Quest Diagnostics (e.g., by patients and insurance companies). If you are using Quest Diagnostics' hardware, You shall immediately report to Quest Diagnostics the discovery of any virus or other system corruption (whether it be on Quest Diagnostics' system or on Your system if it is connected with Quest Diagnostics').

**PROPRIETARY INFORMATION.** You acknowledge and agree that the System (which includes all software and written documentation related to it) is the proprietary property of Quest Diagnostics. You agree that the System embodies substantial creative rights, confidential and proprietary information, copyrights, trademarks and trade secrets, all of which shall remain the exclusive property of Quest Diagnostics. You may not copy, reproduce, modify, reverse engineer or decompile any portion of the System and You may use it only for internal purposes, as provided in this Agreement.

**DIAGNOSIS INFORMATION PROVIDED BY YOU.** You acknowledge and agree that, when Quest Diagnostics submits a claim for payment, if any, for any order by you, Quest Diagnostics may associate any diagnosis information that you provide with a test order to any individual test within the order. An "order" may contain requests for one or more individual tests.

1

[illegible]