

**Attachment F – BWell UCSB
Data Transfer and Use
Agreement FY 2022-26**

DATA TRANSFER AND USE AGREEMENT

Between

**THE COUNTY OF SANTA BARBARA DEPARTMENT OF BEHAVIORAL
WELLNESS**

And

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

This Data Transfer and Use Agreement (“Agreement”) is entered into on this 1st day of January 2023 (“Effective Date”) by and between THE COUNTY OF SANTA BARBARA on behalf of its DEPARTMENT OF BEHAVIORAL WELLNESS, a political subdivision of the State of California, having a principal place of business at 300 N. San Antonio Road, Building 3, Santa Barbara, California 93110, hereinafter called “PROVIDER,” and THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a California Constitutional corporation, on behalf of its Santa Barbara campus, hereinafter called “RECIPIENT” pursuant to the Health Insurance and Portability and Accountability Act (“HIPAA”), as amended, and related privacy, security, breach notification, and enforcement regulations defined at 45 C.F.R. Parts 160 and 164 (“HIPAA Rules”).

WHEREAS, RECIPIENT is a non-profit organization dedicated, in part, to engaging in high quality research activities for the advancement of knowledge and benefit of the public; and

WHEREAS, for use within the RECIPIENT’s mission of research and public service, RECIPIENT’s Investigator has requested from PROVIDER the DATA for the Research Use by the RECIPIENT’s Investigator as each term is defined below; and

NOW THEREFORE, in consideration of the supply of the DATA from PROVIDER to RECIPIENT, the parties agree as follows:

1. Definitions.

- a. “DATA”: the information and data delivered to RECIPIENT by PROVIDER, as identified in Appendix A attached hereto, and any portions thereof.
 - (i) If the DATA being provided is coded, the PROVIDER will not release, and the RECIPIENT will not request, the key to the code.
 - (ii) PROVIDER is a HIPAA Covered Entity, and the DATA will be a Limited Data Set as defined by HIPAA.
 - (iii) In accordance with Section 164.514(e)(2) of the HIPAA Privacy Rule, the DATA shall exclude the following direct identifiers of the individual or of relatives, employers, or household members of the individual:

- (i) Names;
 - (ii) Postal address information, other than town or city, State, and zip code;
 - (iii) Telephone numbers;
 - (iv) Fax numbers;
 - (v) Electronic mail addresses;
 - (vi) Social security numbers;
 - (vii) Medical record numbers;
 - (viii) Health plan beneficiary numbers;
 - (ix) Account numbers;
 - (x) Certificate/license numbers;
 - (xi) Vehicle identifiers and serial numbers, including license plate numbers;
 - (xii) Device identifiers and serial numbers;
 - (xiii) Web Universal Resource Locators (URLs);
 - (xiv) Internet Protocol (IP) address numbers;
 - (xv) Biometric identifiers, including finger and voice prints; and
 - (xvi) Full face photographic images and any comparable images.
- b. “RECIPIENT Investigator”: the university scientific investigator employed by RECIPIENT named in Appendix A.
- c. “Research Use”: the scientific Research Use specified in Appendix A.
- d. “Confidential Information”: portions of the DATA or other materials related to the DATA in written or other tangible form that are sensitive or proprietary and that are marked as confidential at the time of disclosure. Confidential Information that is first disclosed orally will be protected under this definition provided it is reduced to writing within fourteen (14) days of disclosure. Confidential Information does not include information which:
- (i) the receiving party can establish to have developed independently of disclosure by the disclosing party;
 - (ii) at the time of disclosure is, or subsequently becomes, public knowledge other than through acts or omissions of the receiving party in breach of this Agreement;
 - (iii) is lawfully obtained by the receiving party from sources other than the disclosing party;
 - (iv) the receiving party is required to disclose due to law or court action.
- e. Capitalized terms used and not otherwise defined in this Agreement shall have the meanings set forth in the HIPAA Rules.

2. Use.

RECIPIENT shall use the DATA solely for the Research Use and shall not otherwise use or disclose the DATA as permitted by this Agreement or unless required by law. RECIPIENT will not use the DATA on any human subjects, for commercial purposes, or for any other use other than the Research Use and will not make any attempt to identify or contact any specific individual whose information appears in the DATA.

3. Regulatory References and Compliance with Laws.

A reference in this Agreement to the HIPAA Rules or any other applicable law means the section as in effect or as amended, and with which RECIPIENT must comply. RECIPIENT agrees that it shall comply with applicable law, including HIPAA and the HIPAA Rules, in the performance of this Agreement.

4.. Confidentiality.

Any Confidential Information disclosed by the disclosing party to the receiving party shall be treated as confidential and maintained in confidence by the receiving party. The receiving party shall not disclose any Confidential Information of the disclosing party except to its own personnel who have a need to know. Without limiting the foregoing, the receiving party shall take at least the same steps and use the same methods to prevent the unauthorized use or disclosure of Confidential Information of the disclosing party as it takes to protect its own confidential or proprietary information.

5. Data Security and Distribution.

RECIPIENT will ensure that any Confidential Information included in the DATA is stored on computers and storage media accessible only by RECIPIENT Investigator and employees of RECIPIENT with a need to use those portions of the DATA, and that only the minimum number of copies reasonably necessary to accomplish the Research Use will be made. With regard to all DATA, whether Confidential Information or not, RECIPIENT shall not, and will inform all users that they may not:

- a. Disclose any portions of DATA that are individually identifiable or that otherwise identifies persons, directly or indirectly, except as permitted under this Agreement;
- b. Use the DATA to learn the identity of any person or entity included in the DATA or to contact any such person or entity for any purpose;
- c. Make any statements suggesting that conclusions or interpretations of the RECIPIENT Investigator are those of the DATA or of PROVIDER; and
- d. Redistribute the DATA to anyone other than to one who works under the direct supervision of the RECIPIENT Investigator within the Research Use without the

prior written consent of PROVIDER. RECIPIENT will refer any requests for the DATA to PROVIDER.

RECIPIENT must use appropriate safeguards as defined under the HIPAA Rules and related Department of Health and Human Services guidance to prevent any use or disclosure of the DATA other than as provided for by this Agreement and required by the HIPAA regulations 45 C.F.R. § 164.514(e)(4).

RECIPIENT must ensure that any agents or other third parties to whom it discloses the DATA each agree to the same restrictions and conditions that apply to RECIPIENT regarding the DATA.

6. Warranty.

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. To the extent legally permitted, RECIPIENT assumes all liability for claims for damages against it by third parties that may arise from RECIPIENT's use of the DATA.

7. Publication of Research Results.

- a. RECIPIENT may publish or present research results relating to its use of the DATA. RECIPIENT agrees to supply PROVIDER with a copy of any proposed manuscript, abstract, or presentation at least thirty (30) days prior to such publication or presentation to allow PROVIDER an opportunity to review and request removal of Confidential Information if present.
- b. RECIPIENT agree to acknowledge PROVIDER as the source of the DATA in any publications reporting the use of the DATA as follows:
COUNTY OF SANTA BARBARA
- c. RECIPIENT shall not use PROVIDER's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. RECIPIENT shall not use PROVIDER's name or logo in any manner that would give the appearance that the PROVIDER is endorsing RECIPIENT. RECIPIENT shall not in any way contract on behalf of or in the name of PROVIDER. RECIPIENT shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the PROVIDER or its projects, without obtaining the prior written approval of PROVIDER.
- d. The retention and destruction requirements in Section 15 (Retention and Return or Destruction) apply to any DATA contained in derived works.

8. Interpretation.

Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with applicable law, including HIPAA and the HIPAA Rules.

9. Independent Contractor.

It is mutually understood and agreed that RECIPIENT (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to PROVIDER and not as an officer, agent, servant, employee, joint venturer, partner, or associate of PROVIDER. Furthermore, PROVIDER shall have no right to control, supervise, or direct the manner or method by which RECIPIENT shall perform its work and function. However, PROVIDER shall retain the right to administer this Agreement so as to verify that RECIPIENT is performing its obligations in accordance with the terms and conditions hereof. RECIPIENT understands and acknowledges that it shall not be entitled to any of the benefits of a PROVIDER employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. RECIPIENT shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, RECIPIENT shall be solely responsible and save PROVIDER harmless from all matters relating to payment of RECIPIENT's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, RECIPIENT may be providing services to others unrelated to the PROVIDER or to this Agreement.

10. No Third-Party Beneficiaries.

Nothing express or implied in this Agreement is intended to or shall confer any rights, remedies, obligations, or liabilities on any person other than the parties and their respective successors or assigns.

11. Term and Termination

- a. Date. This Agreement shall be effective when executed by both parties, and shall terminate on the earlier of the following dates:
 - (i) June 30, 2026; or
 - (ii) upon written notice of PROVIDER to RECIPIENT at any time with or without cause.
- b. Return of DATA. As directed by PROVIDER, RECIPIENT shall stop using the DATA and shall return or destroy the DATA as set forth in Section 15 (Retention and Return or Destruction) on the termination of this Agreement.

12. Amendment.

The parties will cooperate to amend this Agreement as necessary from time to time to reflect changes in circumstances or applicable law, including HIPAA and the HIPAA Rules. All amendments to this Agreement must be in writing and signed by authorized representatives of both parties.

13. Non-Assignment.

RECIPIENT shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of PROVIDER and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

14. Reporting Unauthorized Use or Disclosure.

RECIPIENT must immediately report to PROVIDER any use or disclosure of the DATA not provided for by this Agreement of which it becomes aware. RECIPIENT must report any unauthorized use or disclosure of the DATA by email and telephone call.

15. Retention and Return or Destruction.

RECIPIENT must retain the DATA only for the reasonable duration of the RESEARCH USE, unless otherwise authorized by PROVIDER in writing. RECIPIENT will promptly return the DATA or securely destroy the DATA, using industry-accepted methods, on termination of this Agreement or completion of the RESEARCH USE, whichever occurs first. If RECIPIENT chooses to destroy the DATA, RECIPIENT shall promptly provide PROVIDER with a written certification of such destruction.

16. Indemnification.

RECIPIENT shall indemnify, defend, and hold harmless PROVIDER and its officers, officials, employees, agents, and volunteers from any claims, losses, damages, expenses, and costs (including attorneys' and court fees and expenses) arising out of the performance of this Agreement but only in proportion to and to the extent such claims, losses, damages, expenses, or costs are caused by or result from the negligent or intentional acts or omissions of RECIPIENT, its officers, employees, or agents.

17. Reserved.

18. Audits and Inspections.

RECIPIENT will grant PROVIDER, or its authorized representatives, reasonable access to its personnel, facilities, and the DATA to conduct audits, inspections, or otherwise to allow PROVIDER to verify compliance with the terms of this Agreement.

19. Whenever any notice is to be given hereunder, it will be in writing and sent to the attention of the authorized representative for the receiving party indicated below (“Authorized Representative”) or such different authorized representative as a party may later designate in writing by certified mail or overnight courier, at the following address:

PROVIDER: The County of Santa Barbara
 Department of Behavioral Wellness
 300 N. San Antonio Road
 Santa Barbara, CA 93110
 Attn: Director

RECIPIENT: University of California, Santa Barbara
 Office of Technology & Industry Alliances
 342 Lagoon Road – Mail Code 2055
 Santa Barbara, California 93106-2055
 Attn: Jenna Nakano, MTA/NDA Officer

Notices regarding the unauthorized use or disclosure of the DATA must follow the specific requirements listed in Section 14 (Reporting Unauthorized Use or Disclosure).

20. This Agreement will be governed by the laws of the State of California, United States of America, without regard to the conflict of laws provisions thereof.
21. If any term or provision of this Agreement shall be held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.
22. Neither party’s delay or omission in exercising any right or remedy under this Agreement will constitute waiver or prevent the applicable party’s ability to exercise any right or remedy in the future.
23. This Agreement may be executed in counterparts, all of which together shall constitute one agreement. Facsimile and electronically scanned signatures shall have the same effect as original signatures.
24. All provisions of this Agreement which is by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.
25. This Agreement constitutes the entire agreement and understanding between the parties and supersedes all previous agreements and understandings on the subject matter of this Agreement, if any.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

PROVIDER AUTHORIZED REPRESENTATIVE

Name: Antonette Navarro, LMFT
Title: Director
The County of Santa Barbara Department of Behavioral Wellness

DocuSigned by:
Antonette Navarro 6/24/2024
2095C5A16FE1474...
Signature _____ Date

RECIPIENT AUTHORIZED REPRESENTATIVE

Name: Jenna Nakano
Title: MTA/NDA Officer
University of California, Santa Barbara

DocuSigned by:
Jenna Nakano 6/24/2024
8CC2E7039D2F460...
Signature _____ Date

APPENDIX A

RECIPIENT Investigator: Jill Sharkey

DATA: A limited data set of human subjects' data for individuals who have or are at-risk for contact with the criminal justice system. Data will include information about the services delivered by Proposition 47 (Prop 47)-funded programming including, but not limited to:

- Co-Response Crisis Intervention Team (CIT) 1;
- Crisis, Recovery, Engagement, Diversion, and Outreach program (CREDO47) Stabilization Center;
- Step Down Housing; and
- Pre-Arrestment.

Such information will include engagement dates and information relevant to the individual's intervention or program enrollment. Data shared will also include outcome data matched to individuals engaged in Prop 47-funded services; such outcome data may include jail booking dates and a summary of the number of treatment services, types of service, and/or minutes that the individual engaged in.

Research Use: The RECIPIENT Investigator will use the DATA for the evaluation of CREDO-47, which diverts individuals with a history of mental illness and/or substance use from the criminal justice system to trauma-informed crisis stabilization and comprehensive mental health and substance use wraparound services.