

**COVERED CALIFORNIA NCQA & THE JOINT COMMISSION
CONFIDENTIALITY AGREEMENT**

This Confidentiality and Non-Disclosure Agreement (this “Agreement”), is executed and entered into as of the date of last signature hereto (the “Effective Date”) by the California Health Benefits Exchange dba Covered California (herein, “Covered CA”), located at 1601 Exposition Blvd, Sacramento, CA 95853 and _____ (“QHP Applicant”) located at _____ (each “Party” and, collectively, the “Parties”).

RECITALS

- A. Covered CA has been authorized by Affordable Care Act (“ACA”) regulations to develop certification standards and to certify qualified health plans for participation in the Exchange.¹
- B. The Joint Commission and the National Committee for Quality Assurance (“NCQA”) have developed recognition programs which, respectively, certify or recognize healthcare providers who meet certain standards for either Primary Care or Patient-Centered Medical Home (“PCMH”) care.
- C. QHP Applicant is currently in the process of completing its application for Exchange participation, which includes various questions related to PCMH’s within their network.
- D. Covered CA has recently entered into a license and other arrangements (the “Agreements”) with NCQA and The Joint Commission for the use of various reports which list the recognized providers who comply with NCQA and Joint Commission accreditation standards (collectively, the “Reports”).
- E. Covered CA would like to provide and QHP Applicant would like to receive a copy of the Reports, as may be amended or updated from time-to-time, for the purpose of facilitating QHP Applicant’s application for participation in the Exchange subject to the terms and conditions of the License Agreement.

NOW THEREFORE, in consideration of the foregoing, the Parties each mutually agree as follows:

- 1. Non-Disclosure. In consideration of the right to access and utilize the Reports, QHP Applicant agrees that it shall at no time disclose or permit the disclosure of the Reports to any third-party, including but not limited to contractors, affiliates or subsidiaries, and shall take reasonable measures to ensure that the Reports are only used for the purpose of facilitating QHP Applicant’s application for participation in the Exchange.
- 2. Intellectual Property Ownership. QHP Applicant acknowledges and agrees that the Reports provided by Covered CA are being provided under and are subject to the terms of the

¹ 45 CFR §155.100 et. seq.

Agreements between Covered CA, NCQA and The Joint Commission and that NCQA and The Joint Commission shall at all times retain any and all intellectual property ownership, including but not limited to copyright ownership, in and to their respective Reports.

3. No Additional Rights. Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to confer any ownership interest, license or other rights upon either Party as to the Reports.

4. Term and Termination.

4.1. This Agreement shall begin on the Effective Date and shall end upon the earlier of either (1) year thereafter. All Sections of this Agreement that by their nature would survive the expiration or termination of this Agreement shall so survive.

4.2. Following the termination of this Agreement for any reason, QHP Applicant shall return or destroy any and all copies of the Reports within its custody or control.

4.3. Upon reasonable request, QHP Applicant shall likewise provide Covered CA with a written certification that any and all copies of the Reports have been returned or deleted.

4. Compliance with Applicable Laws. Covered CA represents and warrants that it has the lawful right to disclose and distribute the Reports to QHP Applicant under the terms of its Agreements with NCQA and the Joint Commission and applicable federal and state laws, including but not limited to intellectual property laws.

5. Entire Agreement; Modifications. This Agreement contains the complete agreement of the Parties with regard to the subject matter hereof and cannot be changed or amended except by written agreement executed by the Parties.

6. Waiver. The waiver by any Party of a breach of any provision of this Agreement shall not be construed as a waiver of a subsequent breach of the same or any other provision of this Agreement. The delay or failure of a party to exercise any right or remedy under this Agreement shall not constitute a waiver by the Party of any breach of this Agreement. Any waiver of any breach under this Agreement must be in writing.

7. Severability. If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

8. Headings. All section headings in this Agreement are included solely for the convenience of the parties and shall not be construed to define, limit, extend, or describe the scope of this Agreement or the intent of any of its provisions.

9. Governing Law. Unless otherwise specified herein, this Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of laws principles.

10. Counterparts; Electronic Signatures. This Agreement may be executed in facsimile or PDF format in one or more counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

QHP APPLICANT

**CALIFORNIA HEALTH BENEFIT
EXCHANGE dba COVERED CALIFORNIA**

By: _____
(print)

(signature)

Title: _____

Date: _____

By: _____
(print)

(signature)

Title: _____

Date: _____