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**AGREEMENT FOR PROVISION OF  
ADULT MENTAL HEALTH INPATIENT SERVICES**

BETWEEN  
COUNTY OF ORANGE  
AND  
«PROVIDER\_NAME»  
JULY 1, 2018 THROUGH JUNE 30, 2024<sup>2</sup>

THIS AGREEMENT ~~is~~ to Master Agreement No. MA-042-19010140 for Adult Mental Health Inpatient Services is made and entered into ~~this 1st day of July 2018 (effective date), is by and on July 1, 2021~~ (“Effective Date”) between ~~the COUNTY OF ORANGE~~ PROVIDER NAME (“Contractor”), with a place of business at PROVIDER ADDRESS, and the County of Orange, a political subdivision of the State of California (~~COUNTY~~), and ~~«PROVIDER\_NAME», a «CORP\_STATUS» (CONTRACTOR).~~ COUNTY (“County”), through its Health Care Agency, with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Contractor and ~~CONTRACTOR~~ County may sometimes be referred to ~~herein~~ individually as “Party” or collectively as “Parties.” ~~This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).”~~

**W I T N E S S E T H:**

WHEREAS, ~~COUNTY wishes to contract~~ the Parties executed Master Agreement No. MA-042-19010140 (“Contract”) with ~~CONTRACTOR~~ various providers for ~~the provision of~~ Adult Mental Health Inpatient Services ~~described herein to the residents of Orange County~~, effective July 1, 2018 through June 30, 2021, in an aggregate amount not to exceed \$ 8,357,619, renewable for two additional one-year terms; and

WHEREAS, ~~CONTRACTOR is agreeable to~~ the Parties now desire to enter into this Amendment No. 1 to amend Paragraphs II-XXVIII; and Exhibit A of the ~~rendering of such~~ Contract and to renew the Contract for one year for County to continue receiving and Contractor to continue providing the services ~~on the~~ set forth in the Contract.

NOW THEREFORE, Contractor and County agree to amend the Contract as follows:

- The Contract is renewed for a term of one (1) year, effective July 1, 2021 through June 30, 2022, in the aggregate amount not to exceed \$2,521,552 for this renewal term, for a revised cumulative total aggregate amount not to exceed \$10,879,171, renewable for one additional one-year term, on the amended terms and conditions hereinafter set forth:

~~— NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained herein, COUNTY and CONTRACTOR do hereby agree as follows:~~

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2018 through June 30, ~~2021~~2022  
 Period One means the period from July 1, 2018 through June 30, 2019  
 Period Two means the period from July 1, 2019 through June 30, 2020  
 Period Three means the period from July 1, 2020 through June 30, 2021  
Period Four means the period of July 1, 2021 through June 30, 2022

**Aggregate ~~Maximum Obligation~~ Amount not to Exceed:**

           Period One Maximum Obligation: \$ 2,785,873  
           Period Two Maximum Obligation: 2,785,873  
           Period Three Maximum Obligation: ~~—~~ 2,785,873  
           Period Four Maximum Obligation: 2,521,552  
           TOTAL ~~MAXIMUM OBLIGATION: —~~ ~~\$ 8,357,619~~  
                                  AMOUNT NOT TO EXCEED: \$10,879,171

**Basis for Reimbursement:** Fee-for-Service

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** «DUNS»

**CONTRACTOR TAX ID Number:** «TAX\_ID»

**Notices to COUNTY and CONTRACTOR:**

COUNTY: County of Orange  
 Health Care Agency  
 Contract Services  
 405 West 5th Street, Suite 600  
 Santa Ana, CA 92701-4637

CONTRACTOR: «CONTACT»  
 «LC\_NAME»  
 «ADDRESS»  
 «CITY\_STATE\_ZIP»  
 «CONTACT\_EMAIL»

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## I. ACRONYMS

The following standard definitions are for reference purposes only and may or may not apply in their entirety throughout this Agreement:

1		
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3	A. ABC	Allied Behavioral Care
4	B. ARRA	American Recovery and Reinvestment Act
5	C. AMHI	Adult Mental Health Inpatient
6	D. CCC	California Civil Code
7	E. CCR	California Code of Regulations
8	F. CT	COMPUTERIZED TOMOGRAPHY SCAN TESTING
9	G. CEO	County Executive Office
10	H. CFR	Code of Federal Regulations
11	I. CHPP	COUNTY HIPAA Policies and Procedures
12	J. COI	Certificate of Insurance
13	K. DHCS	Department of Health Care Services
14	L. DRS	Designated Record Set
15	M. DSM	Diagnostic and Statistical Manual
16	N. ECT	Electro-Compulsive Therapy
17	O. ETS	Evaluation and Treatment Services
18	P. GAAP	Generally Accepted Accounting Principles
19	Q. HCA	Health Care Agency
20	R. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
21	S. HSC	California Health and Safety Code
22	T. ISO	Insurance Services Office
23	U. LTC	Long-Term Care
24	V. ITP	Individual treatment plan
25	W. MHP	Mental Health Plan
26	X. NPI	National Provider Identifier
27	Y. NPP	Notice of Privacy Practices
	Z. MSI	Medical Services Initiative
	AA. OMB	Office of Management and Budget
	AB. OPM	Federal Office of Personnel Management
	AC. PC	State of California Penal Code
	AD. PHI	Protected Health Information
	AE. PII	Personally Identifiable Information
	AF. PRA	Public Record Act
	AG. SIR	Self-Insured Retention

1	AH. SNF	Skilled Nursing Facility
2	AI. TAR	Treatment Authorization Request
3	AJ. UMDAP	Uniform Method for Determining Ability to Pay
4	AK. UOS	Unit of Service
5	AL. WIC	State of California Welfare and Institutions Code

### I. ALTERATION OF TERMS

6 A. This Agreement, together with Exhibit(s) A, B, and C attached hereto and incorporated herein, fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter of this Agreement.

7  
8 B. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of this Agreement or any Exhibits, whether written or verbal, made by the parties, or their officers, employees or agents shall be valid unless made in the form of a written amendment to this Agreement, which has been formally approved and executed by both parties.

### II. ASSIGNMENT OF DEBTS

10 Unless this Agreement is followed without interruption by another Agreement between the parties Parties hereto for the same services and substantially the same scope, at the termination of this Agreement, CONTRACTOR shall assign to COUNTY any debts owing to CONTRACTOR by or on behalf of persons receiving services pursuant to this Agreement. CONTRACTOR shall immediately notify by mail each of these persons the respective Parties, specifying the date of assignment, the County of Orange as assignee, and the address to which payments are to be sent. Payments received by CONTRACTOR from or on behalf of said persons, shall be immediately given to COUNTY.

### III. COMPLIANCE

17 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for the purpose of ensuring adherence to all rules and regulations related to federal and state health care programs.

18 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the policies and procedures relating to ADMINISTRATOR's Compliance Program, Code of Conduct and access to General Compliance and Annual Provider Trainings.

19 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own ~~Compliance Program, Code~~ compliance program, code of ~~Conduct~~ conduct and any ~~Compliance~~ compliance related policies and procedures. CONTRACTOR's ~~Compliance Program, Code~~ compliance program, code of ~~Conduct~~ conduct and any related policies and procedures shall be verified by ADMINISTRATOR's Compliance Department to ensure they include all required elements by ADMINISTRATOR's Compliance Officer as described in ~~in this~~ Compliance Paragraph ~~IV~~ (COMPLIANCE) ~~to this Agreement.~~ These elements include:

- 25 a. Designation of a Compliance Officer and/or compliance staff.
- 26 b. Written standards, policies and/or procedures.
- 27 c. Compliance related training and/or education program and proof of completion.

- d. Communication methods for reporting concerns to the Compliance Officer.
- e. Methodology for conducting internal monitoring and auditing.
- f. Methodology for detecting and correcting offenses.
- g. Methodology/Procedure for enforcing disciplinary standards.

3. If CONTRACTOR does not provide proof of its own ~~Compliance~~compliance program to ADMINISTRATOR, CONTRACTOR shall ~~acknowledge to~~internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct, ~~the~~ CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that CONTRACTOR ~~shall~~will internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary complete ADMINISTRATOR's annual compliance training to ensure proper compliance.

4. If CONTRACTOR elects to have its own ~~Compliance Program, Code of Conduct~~compliance program, code of conduct and any Compliance related policies and procedures ~~review~~reviewed by ADMINISTRATOR, then CONTRACTOR shall submit a copy of its compliance ~~Program~~program, code of ~~Conduct~~conduct and all relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement. ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a reasonable time, which shall not exceed forty-five (45) calendar days, and determine if CONTRACTOR's proposed compliance program and code of conduct contain all required elements to ~~the~~ ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program and Code of Conduct. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and CONTRACTOR shall revise its compliance program and code of conduct to meet ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's Compliance Officer's determination and resubmit the same for review by ~~the~~ ADMINISTRATOR.

5. Upon written confirmation from ADMINISTRATOR's ~~Compliance Officer~~compliance officer that ~~the~~ CONTRACTOR's compliance program, code of conduct and any ~~Compliance~~compliance related policies and procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's compliance program, code of conduct, related policies and procedures and contact information for ~~the~~ ADMINISTRATOR's Compliance Program.

B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement ~~semi-annually~~monthly to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and ~~the~~ California Medi-Cal Suspended and Ineligible Provider List, ~~and~~ ~~the~~ Social Security ~~Administration~~Administration's Death Master File, and/or any other list or system as identified by ~~the~~ ADMINISTRATOR.

1. For purposes of this Compliance Paragraph ~~IV (COMPLIANCE)~~, Covered Individuals includes all employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR. ~~Notwithstanding the above, this term does not include part time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than one hundred sixty (160) hours per year; except that any such individuals shall become Covered Individuals at the point when they work more than one hundred sixty (160) hours during the calendar year.~~ CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and

1 procedures (or CONTRACTOR's own compliance program, code of conduct and related policies and  
2 procedures if CONTRACTOR has elected to use its own).

3 2. An Ineligible Person shall be any individual or entity who:

4 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in  
5 federal and state health care programs; or

6 b. has been convicted of a criminal offense related to the provision of health care items or  
7 services and has not been reinstated in the federal and state health care programs after a period of  
8 exclusion, suspension, debarment, or ineligibility.

9 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.  
10 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this  
11 Agreement.

12 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors ~~semi-~~  
13 ~~annually~~ monthly to ensure that they have not become Ineligible Persons. CONTRACTOR shall also  
14 request that its subcontractors use their best efforts to verify that they are eligible to participate in all  
15 federal and State of California health programs and have not been excluded or debarred from  
16 participation in any federal or state health care programs, and to further represent to CONTRACTOR that  
17 they do not have any Ineligible Person in their employ or under contract.

18 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any  
19 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.  
20 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing services  
21 directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible  
22 Person.

23 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal  
24 and state funded health care services by contract with COUNTY in the event that they are currently  
25 sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If  
26 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,  
27 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY  
business operations related to this Agreement.

7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or entity  
is currently excluded, suspended or debarred, or is identified as such after being sanction screened.  
Such individual or entity shall be immediately removed from participating in any activity associated with  
this Agreement. ADMINISTRATOR will determine appropriate repayment from, or sanction(s) to  
CONTRACTOR for services provided by ineligible person or individual. CONTRACTOR shall promptly  
return any overpayments within forty-five (45) business days after the overpayment is verified by  
ADMINISTRATOR.

C. GENERAL COMPLIANCE TRAINING ~~—~~ ADMINISTRATOR shall make General Compliance  
Training available to Covered Individuals.

1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR's Compliance  
Program shall use its best efforts to encourage completion by all Covered Individuals; provided, however,  
that at a minimum CONTRACTOR shall assign at least one (1) designated representative to complete  
the General Compliance Training when offered.

2. Such training will be made available to Covered Individuals within thirty (30) calendar days  
of employment or engagement.

3. Such training will be made available to each Covered Individual annually.

4. ADMINISTRATOR will track training completion while CONTRACTOR shall provide copies  
of training certification upon request.



1           5. Each Covered Individual attending a group training shall certify, in writing, attendance at  
2 compliance training. ADMINISTRATOR shall provide instruction on group training completion while  
3 CONTRACTOR shall retain the training certifications. Upon written request by ADMINISTRATOR,  
4 CONTRACTOR shall provide copies of the certifications.

5           D. SPECIALIZED PROVIDER TRAINING – ADMINISTRATOR shall make Specialized Provider  
6 Training, where appropriate, available to Covered Individuals.

7           1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered  
8 Individuals relative to this Agreement. This includes compliance with federal and state healthcare  
9 program regulations and procedures or instructions otherwise communicated by regulatory agencies;  
10 including the Centers for Medicare and Medicaid Services or their agents.

11           2. Such training will be made available to Covered Individuals within thirty (30) calendar days  
12 of employment or engagement.

13           3. Such training will be made available to each Covered Individual annually.

14           4. ADMINISTRATOR will track online completion of training while CONTRACTOR shall provide  
15 copies of the certifications upon request.

16           5. Each Covered Individual attending a group training shall certify, in writing, attendance at  
17 compliance training. ADMINISTRATOR shall provide instructions on completing the training in a group  
18 setting while CONTRACTOR shall retain the certifications. Upon written request by ADMINISTRATOR,  
19 CONTRACTOR shall provide copies of the certifications.

20           E. ~~MEDICAL~~MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE  
21 STANDARDS

22           1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care  
23 claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner  
24 and are consistent with federal, state and county laws and regulations. This includes compliance with  
25 federal and state health care program regulations and procedures or instructions otherwise  
26 communicated by regulatory agencies including the Centers for Medicare and Medicaid Services or their  
27 agents.

          2. CONTRACTOR shall not submit any false, fraudulent, inaccurate and/or fictitious claims for  
payment or reimbursement of any kind.

          3. CONTRACTOR shall bill only for those eligible services actually rendered which are also  
fully documented. When such services are coded, CONTRACTOR shall use proper billing codes which  
accurately describes the services provided and must ensure compliance with all billing and  
documentation requirements.

          4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in  
coding of claims and billing, if and when, any such problems or errors are identified.

          5. CONTRACTOR shall promptly return any overpayments within forty-five (45) business days  
after the overpayment is verified by the ADMINISTRATOR.

          6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and  
participate in the quality improvement activities developed in the implementation of the Quality  
Management Program.

          7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural  
Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural  
Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,  
§1810.410.subds. (c)- (d)).

          F. Failure to comply with the obligations stated in this Compliance Paragraph ~~IV (COMPLIANCE)~~

1 shall constitute a breach of the Agreement on the part of CONTRACTOR and ~~ground~~grounds for  
2 COUNTY to terminate the Agreement. Unless the circumstances require a sooner period of cure,  
3 CONTRACTOR shall have thirty (30) calendar days from the date of the written notice of default to cure  
4 any defaults grounded on this Compliance Paragraph ~~IV (COMPLIANCE)~~ prior to ADMINISTRATOR's  
5 right to terminate this Agreement on the basis of such default.

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9 **IV. CONFIDENTIALITY**

10 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any audio  
11 and/or video recordings, in accordance with all applicable federal, state and county codes and  
12 regulations, as they now exist or may hereafter be amended or changed.

13 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this  
14 Agreement are ~~clients~~Clients of the Orange County Mental Health services system, and therefore it may  
15 be necessary for authorized staff of ADMINISTRATOR to audit ~~client~~Client files, or to exchange  
16 information regarding specific ~~clients~~Clients with COUNTY or other providers of related services  
17 contracting with COUNTY.

18 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written  
19 consents for the release of information from all persons served by CONTRACTOR pursuant to this  
20 Agreement. Such consents shall be obtained by CONTRACTOR in accordance with CCC, Division 1,  
21 Part 2.6, relating to confidentiality of medical information.

22 3. In the event of a collaborative service agreement between Mental Health services providers,  
23 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,  
24 from the collaborative agency, for ~~clients~~Clients receiving services through the collaborative agreement.

25 B. Prior to providing any services pursuant to this Agreement, all members of the Board of Directors  
26 or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns of  
27 the CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the confidentiality of any and  
all information and records which may be obtained in the course of providing such services. This  
Agreement shall specify that it is effective irrespective of all subsequent resignations or terminations of  
CONTRACTOR members of the Board of Directors or its designee or authorized agent, employees,  
consultants, subcontractors, volunteers and interns.

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31 **VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

32 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without  
33 prior written consent of COUNTY. CONTRACTOR shall provide written notification of CONTRACTOR's  
34 intent to delegate the obligations hereunder, either in whole or part, to ADMINISTRATOR not less than  
35 sixty (60) calendar days prior to the effective date of the delegation. Any attempted assignment or  
36 delegation in derogation of this paragraph shall be void.

37 ~~B. CONTRACTOR may not~~ B. CONTRACTOR agrees that if there is a change or transfer  
in ownership of CONTRACTOR's business prior to completion of this Agreement, and COUNTY agrees  
to an assignment of the Agreement, the new owners shall be required under the terms of sale or other  
instruments of transfer to assume CONTRACTOR's duties and obligations contained in this Agreement  
and complete them to the satisfaction of COUNTY. CONTRACTOR may not

assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY.

1 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to any  
 2 other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%) of the  
 3 composition of the Board of Directors within a two (2) month period of time, shall be deemed an  
 4 assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community  
 5 clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal  
 6 Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

7 2. If CONTRACTOR is a for-profit organization, any change in the business structure, including  
 8 but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of  
 9 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a  
 10 change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR at  
 11 one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or  
 12 delegation in derogation of this subparagraph shall be void.

13 3. If CONTRACTOR is a governmental organization, any change to another structure, including  
 14 a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board of  
 15 Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an  
 16 assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of  
 17 this subparagraph shall be void.

18 4. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,  
 19 CONTRACTOR shall provide written notification of CONTRACTOR's intent to assign the obligations  
 20 hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to  
 21 the effective date of the assignment.

22 5. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,  
 23 CONTRACTOR shall provide written notification within thirty (30) calendar days to  
 24 ADMINISTRATOR when there is change of less than fifty percent (50%) of Board of Directors or any  
 25 governing body of CONTRACTOR at one time.

26 6. COUNTY reserves the right to immediately terminate the Agreement in the event COUNTY  
 27 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to  
COUNTY for the provision of services under the Agreement.

C. CONTRACTOR's obligations undertaken pursuant to this Agreement may be carried out by  
 means of subcontracts, provided such ~~subcontracts~~ subcontractors are approved in advance, ~~in writing~~  
 by ADMINISTRATOR, meet the requirements of this Agreement as they relate to the service or activity  
 under subcontract, ~~and~~ include any provisions that ADMINISTRATOR may require, and are authorized  
in writing by ADMINISTRATOR prior to the beginning of service delivery.

1. After approval of ~~a subcontract~~ the subcontractor, ADMINISTRATOR may revoke the  
 approval of ~~a subcontract~~ the subcontractor upon five (5) calendar days' written notice to CONTRACTOR  
 if the ~~subcontract~~ subcontractor subsequently fails to meet the requirements of this Agreement or any  
 provisions that ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor  
expenses reported by CONTRACTOR.

2. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY  
 pursuant to this Agreement.

3. ADMINISTRATOR may disallow, from payments otherwise due CONTRACTOR, amounts  
 claimed for subcontracts not approved in accordance with this paragraph.

4. This provision shall not be applicable to service agreements usually and customarily entered  
 into by CONTRACTOR to obtain or arrange for supplies, technical support, and professional services  
 provided by consultants.

1 CONTRACTOR shall notify COUNTY in writing of any change in CONTRACTOR's status with respect to  
2 name changes that do not require an assignment of the Agreement. CONTRACTOR is also obligated to  
3 notify COUNTY in writing if CONTRACTOR becomes a party to any litigation against COUNTY, or a  
4 party to litigation that may reasonably affect CONTRACTOR's performance under the Agreement, as  
5 well as any potential conflicts of interest between CONTRACTOR and COUNTY that may arise prior to  
6 or during the period of Agreement performance. While CONTRACTOR will be required to provide this  
7 information without prompting from COUNTY any time there is a change in CONTRACTOR's name,  
8 conflict of interest or litigation status, CONTRACTOR must also provide an update to COUNTY of its  
9 status in these areas whenever requested by COUNTY.

7 **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

8 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations  
9 regarding the employment of aliens and others and to ensure that employees, subcontractors, and  
10 consultants performing work under this Agreement meet the citizenship or alien status requirements set  
11 forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,  
12 subcontractors, and consultants performing work hereunder, all verification and other documentation of  
13 employment eligibility status required by federal or state statutes and regulations including, but not limited  
14 to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as  
15 they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered  
16 employees, subcontractors, and consultants for the period prescribed by the law.

14 **VIII. EXPENDITURE AND REVENUE REPORT**

15 ~~—~~A. No later than sixty (60) calendar days following termination of ~~each period or fiscal year of~~ this  
16 Agreement, CONTRACTOR shall submit to ADMINISTRATOR, for informational purposes only, an  
17 Expenditure and Revenue Report for the preceding fiscal year, or portion thereof. Such report shall be  
18 prepared in accordance with the procedure that is provided by ADMINISTRATOR and GAAP.

B. CONTRACTOR may be required to submit periodic Expenditure and Revenue Reports  
19 throughout the term of this Agreement.

18 **IX. FACILITIES, PAYMENTS AND SERVICES**

19 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance  
20 with this Agreement. COUNTY shall compensate, and authorize, when applicable, said services.  
21 CONTRACTOR shall operate continuously throughout the term of this Agreement with at least the  
22 minimum number and type of staff which meet applicable federal and state requirements, and which are  
23 necessary for the provision of the services hereunder.

24 In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or supplies as  
25 required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation for the  
26 appropriate Period as well as the Total Maximum Obligation. The reduction to the Maximum Obligation  
27 for the appropriate Period as well as the Total Maximum Obligation shall be in an amount proportionate  
to the number of days in which CONTRACTOR was determined to be unable to provide services, staffing,  
facilities or supplies.

~~B. CONTRACTOR shall, at its own expense, provide and maintain the organizational and administrative capabilities required to carry out its duties and responsibilities under this Agreement and in accordance with all the applicable statutes and regulations pertaining to Medi-Cal Providers.~~

## V. INDEMNIFICATION AND INSURANCE

A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by CONTRACTOR pursuant to this Agreement. If judgment is entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this Agreement have been complied with. CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR.

C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less than the level of coverage required by COUNTY from CONTRACTOR under this Agreement. It is the obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by CONTRACTOR through the entirety of this Agreement for inspection by COUNTY representative(s) at any reasonable time.

D. All SIRs ~~and deductibles~~ shall be clearly stated on the COI. ~~If no SIRs or deductibles apply, indicate this on the COI with a zero (0) by the appropriate line of coverage.~~ Any SIR ~~or deductible~~ in an amount in excess of ~~fifty thousand dollars (\$50,000 (\$5,000 for automobile liability))~~ shall specifically be approved by the CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved, CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this Agreement, agrees to all of the following:

1. In addition to the duty to indemnify and hold ~~the~~ COUNTY harmless against any and all liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or subcontractor's performance of this Agreement, CONTRACTOR shall defend ~~the~~ COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and

2. CONTRACTOR's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and ~~the~~ CONTRACTOR's SIR provision shall be interpreted as though ~~the~~ CONTRACTOR was an insurer and ~~the~~ COUNTY was the insured.

1 E. If CONTRACTOR fails to maintain insurance ~~as required in this Paragraph X (acceptable to~~  
 2 COUNTY INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, ~~such failure shall~~  
 3 ~~constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to~~ COUNTY may  
 4 terminate this Agreement.

5 F. QUALIFIED INSURER

6 1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A-  
 7 (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition  
 8 of the Best's Key Rating Guide/Property-Casualty/United States or  
 9 ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state  
 10 of California (California Admitted Carrier).

11 2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk  
 12 Management retains the right to approve or reject a carrier after a review of the company's performance  
 13 and financial ratings.

14 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum  
 15 limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
<u>Employers' Liability Insurance</u>	\$1,000,000 per occurrence
Professional Liability Insurance	\$5,000,000 per claims made \$5,000,000 per occurrence
Sexual Misconduct Liability	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made

16 H. REQUIRED COVERAGE FORMS

17 1. The Commercial General Liability coverage shall be written on ISO form CG 00 01, or a  
 18 substitute form providing liability coverage at least as broad.

19 2. The Business Automobile Liability coverage shall be written on ISO form  
 20 CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.  
 21 CA 00 01,

1 I. REQUIRED ENDORSEMENTS

2 1. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the COI:

3 a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the **County of Orange, its elected and appointed officials, officers, agents and employees**, ~~and agents~~ as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN AGREEMENT**.

4 b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that ~~the~~ CONTRACTOR's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

5 2. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the ~~Certificate of Insurance~~ COI:

6 a. An Additional Insured endorsement naming the **County of Orange, its elected and appointed officials, officers, agents and employees** as Additional Insureds for its vicarious liability.

7 b. A primary and non-contributing endorsement evidencing that ~~the~~ Contractor's CONTRACTOR'S insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

8 ~~J~~ J. All insurance policies required by this Agreement shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

9 ~~K~~. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the **County of Orange, its elected and appointed officials, officers, agents and employees**, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN AGREEMENT**.

10 K. All insurance policies required by this Agreement shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

11 L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy cancellation and within ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate this Agreement.

12 M. If CONTRACTOR's Professional Liability, and Network Security & Privacy Liability are "Claims-Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following the completion of the Agreement.

13 N. The Commercial General Liability policy shall contain a "severability of interests" clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

14 Insurance certificates should be forwarded to the address as specified in the Referenced Contract Provisions of this Agreement.

15 ~~O~~ O. If Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, COUNTY may immediately terminate this Agreement without penalty.

16 Q. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease insurance of any of the above insurance types throughout the term of this Agreement. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

1 ~~—P~~

2 R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If  
3 CONTRACTOR does not deposit copies of acceptable ~~COIs~~Certificate of Insurance and endorsements  
4 with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, ~~such~~  
5 ~~failure shall constitute a breach of CONTRACTOR's obligation hereunder and ground for termination of~~  
6 ~~this Agreement by COUNTY~~this Agreement may be in breach without further notice to CONTRACTOR,  
7 and COUNTY shall be entitled to all legal remedies including the right to immediately terminate this  
8 Agreement without penalty.

9 QS. The procuring of such required policy or policies of insurance shall not be construed to limit  
10 CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of this  
11 Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.

12 #

13 ~~—R~~ T. SUBMISSION OF INSURANCE DOCUMENTS

- 14 1. The COI and endorsements shall be provided to COUNTY as follows:
  - 15 a. Prior to the start date of this Agreement.
  - 16 b. No later than the expiration date for each policy.
  - 17 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding  
18 changes to any of the insurance ~~types~~requirements as set forth in the Coverage Subparagraph ~~G~~, above.
- 19 2. The COI and endorsements shall be provided to ~~the~~ COUNTY at the address as specified  
20 in the Referenced Contract Provisions of this Agreement.
- 21 3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance  
22 provisions stipulated in this Agreement by the above specified due dates, ADMINISTRATOR shall have  
23 sole discretion to impose one or both of the following:
  - 24 a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR  
25 pursuant to any and all Agreements between COUNTY and CONTRACTOR until such time that the  
26 required COI and endorsements that meet the insurance provisions stipulated in this Agreement are  
27 submitted to ADMINISTRATOR.
  - 28 b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late  
29 COI or endorsement for each business day, pursuant to any and all Agreements between COUNTY and  
30 CONTRACTOR, until such time that the required COI and endorsements that meet the insurance  
31 provisions stipulated in this Agreement are submitted to ADMINISTRATOR.
  - 32 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from  
33 CONTRACTOR's monthly invoice.
- 34 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any  
35 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs  
36 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.

37 **VI. INSPECTIONS AND AUDITS**

38 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative of  
39 the State of California, the Secretary of the United States Department of Health and Human Services,  
40 the Comptroller General of the United States, or any other of their authorized representatives, shall to  
41 the extent permissible under applicable law have access to any books, documents, and records, including  
42 but not limited to, financial statements, general ledgers, relevant accounting systems, medical and  
43 ~~client~~Client records, of CONTRACTOR that are directly pertinent to this Agreement, for the purpose of



1 responding to a beneficiary complaint or conducting an audit, review, evaluation, or examination, or  
 2 making transcripts during the periods of retention set forth in the Records Management and Maintenance  
 Paragraph of this

3 Agreement. Such persons may at all reasonable times inspect or otherwise evaluate the services  
 4 provided pursuant to this Agreement, and the premises in which they are provided.

4 #

5 1. These audits, reviews, evaluations, or examinations may include, but are not limited to, the  
 6 following:

7 a. Level and quality of care, including the necessity and appropriateness of the services  
 provided.

8 b. Internal procedures for assuring efficiency, economy, and quality of care.

9 c. Compliance with COUNTY Client Grievance Procedures.

10 d. Financial records when determined necessary to protect public funds.

11 2. COUNTY shall provide CONTRACTOR with at least seventy-two (72) hours' notice of such  
 inspections or evaluations. Unannounced inspections, evaluations, or requests for information may be  
 12 made in those situations where arrangement of an appointment beforehand is not possible or is  
 13 inappropriate due to the nature of the inspection or evaluation.

14 B. CONTRACTOR shall actively participate and cooperate with any person specified in  
 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this  
 15 Agreement, and shall provide the above-mentioned persons adequate office space to conduct such  
 16 evaluation or monitoring.

#### 17 C. AUDIT RESPONSE

18 1. Following an audit report, in the event of non-compliance with applicable laws and  
 regulations governing funds provided through this Agreement, COUNTY may terminate this Agreement  
 19 as provided for in the Termination Paragraph or direct CONTRACTOR to immediately implement  
 appropriate corrective action. ~~A plan of corrective action~~ A CAP shall be submitted to ADMINISTRATOR  
 20 in writing within thirty (30) calendar days after receiving notice from ADMINISTRATOR.

21 2. If the audit reveals that money is payable from one ~~party~~ Party to the other, that is,  
 reimbursement by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to  
 22 CONTRACTOR, said funds shall be due and payable from one ~~party~~ Party to the other within sixty (60)  
 23 calendar days of receipt of the audit results. If reimbursement is due from CONTRACTOR to COUNTY,  
 and such reimbursement is not received within said sixty (60) calendar days, COUNTY may, in addition  
 24 to any other remedies provided by law, reduce any amount owed CONTRACTOR by an amount not to  
 25 exceed the reimbursement due COUNTY.

26 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare ~~and file with~~  
~~ADMINISTRATOR, an annual, independent, organization-wide audit of related expenditures as may be~~  
~~required during the term of this Agreement.~~ an annual Single Audit as required by 31 USC 7501 – 7507,  
~~as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements,~~  
~~Cost Principles, and Audit Requirements for Federal Awards. CONTRACTOR shall forward the Single~~  
~~Audit to ADMINISTRATOR within fourteen (14) calendar days of receipt.~~

27 E. CONTRACTOR shall forward to ADMINISTRATOR a copy of any audit report within fourteen  
 (14) calendar days of receipt. Such audit shall include, but not be limited to, management, financial,  
 programmatic or any other type of audit of CONTRACTOR's operations, whether or not the cost of such  
 operation or audit is reimbursed in whole or in part through this Agreement.

**VII. LICENSES AND LAWS**

A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws, regulations and requirements of the United States, the State of California, COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be cause for termination of this Agreement-

~~B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS~~

~~1. CONTRACTOR certifies it is in full compliance with all applicable federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Agreement with the County of Orange. Failure to comply shall constitute a material breach of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the COUNTY shall constitute grounds for termination of the Agreement.~~

~~2. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) calendar days of the award of this Agreement:~~

~~a. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address;~~

~~b. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of ten percent (10%) or more in the contracting entity;~~

~~3. It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders, or as permitted by federal and/or state statute.~~

~~C~~ B. CONTRACTOR shall comply with all applicable governmental laws, regulations, and requirements as they exist now or may be hereafter amended or changed. These laws, regulations, and requirements shall include, but not be limited to, the following:

1. ARRA of 2009.

~~2.~~ 2. Trafficking Victims Protection Act of 2000.

3. WIC, Division 5, Community Mental Health Services.

~~3~~ 4. WIC, Division 6, Admissions and Judicial Commitments.

~~4~~ 5. WIC, Division 7, Mental Institutions.

~~5~~ 6. HSC, §§1250 et seq., Health Facilities.

~~6~~ 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.

~~7~~ 8. CCR, Title 9, Rehabilitative and Developmental Services.

~~8.~~ 9. CCR, Title 17, Public Health.

- 1 10. 9. CCR, Title 22, Social Security.
- 2 11. 10. CFR, Title 42, Public Health.
- 3 ~~11~~12. CFR, Title 45, Public Welfare.
- 4 ~~12~~13. USC Title 42. Public Health and Welfare.
- 5 ~~13~~14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 6 ~~14~~15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 7 ~~15~~16. 42 USC §1857, et seq., Clean Air Act.
- 8 ~~16~~17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 9 ~~17~~18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 10 ~~18. Policies and procedures set forth in Mental Health Services Act.~~
- 11 19. Policies and procedures set forth in Mental Health Services Act.
- 12 20. Policies and procedures set forth in DHCS Letters.
- 13 ~~20~~21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 14 ~~21~~22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 15 23. 42 CFR, Section 438, Managed Care

### VIII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

16 A. Any written information or literature, including educational or promotional materials, distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related to this Agreement must be approved at least thirty (30) days in advance and in writing by ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution of written materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads, and electronic media such as the Internet.

17 B. Any advertisement through radio, television broadcast, or the Internet, for educational or promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this Agreement must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

18 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly available social media sites) in support of the services described within this Agreement, CONTRACTOR shall develop social media policies and procedures and have them available to ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used to either directly or indirectly support the services described within this Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this Agreement. CONTRACTOR shall also include any required funding statement information on social media when required by ADMINISTRATOR.

19 D. Any information as described in Subparagraphs A. and B. above shall not imply endorsement by COUNTY, unless ADMINISTRATOR consents thereto in writing.

### XIV. MAXIMUM OBLIGATION

20 ~~A.~~ The Aggregate Maximum Obligation of COUNTY for services provided in accordance with all

1 agreements for Adult Mental Health Inpatient Services ~~during Period One, Period Two and Period Three~~  
2 ~~are~~ as specified in the Referenced Contract Provisions of this Agreement. This specific Agreement  
3 with CONTRACTOR is only one of several agreements to which this Aggregate Maximum Obligation  
4 applies. It therefore is understood by the ~~parties~~ Parties that reimbursement to CONTRACTOR will be  
5 only a fraction of ~~these~~ this Aggregate Maximum ~~Obligations~~ Obligation.

6 ~~— B. ADMINISTRATOR may amend the Aggregate Maximum Obligation by an amount not to exceed~~  
7 ~~ten percent (10%) of the Period One funding for this Agreement.~~

8 **IX. MINIMUM WAGE LAWS**

9 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and  
10 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the federal  
11 or California Minimum Wage to all its employees that directly or indirectly provide services pursuant to  
12 this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that all its  
13 contractors or other persons providing services pursuant to this Agreement on behalf of CONTRACTOR  
14 also pay their employees no less than the greater of the federal or California Minimum Wage.

15 B. CONTRACTOR shall comply and verify that its contractors comply with all other federal and  
16 State of California laws for minimum wage, overtime pay, record keeping, and child labor standards  
17 pursuant to providing services pursuant to this Agreement.

18 C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR,  
19 where applicable, shall comply with the prevailing wage and related requirements, as provided for in  
20 accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State  
21 of California (§§1770, et seq.), as it now exists or may hereafter be amended.

22 **-X. NONDISCRIMINATION**

23 **A. EMPLOYMENT**

24 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals (as defined  
25 in the "Compliance" paragraph of this Agreement) shall not unlawfully discriminate against any employee  
26 or applicant for employment because of his/her race, -religious creed, color, national origin, ancestry,  
27 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,  
gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally,  
during the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its  
subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for  
employment because of his/her race, -religious creed, color, national origin, ancestry, physical disability,  
mental disability, medical condition,  
# genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
orientation, or military and veteran status.

2 2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or  
applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or  
recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection  
for training, including apprenticeship.

3 3. CONTRACTOR shall not discriminate between employees with spouses and employees  
with domestic partners, or discriminate between domestic partners and spouses of those employees, in

1 the provision of benefits.

2 4. CONTRACTOR shall post in conspicuous places, available to employees and applicants for  
3 employment, notices from ADMINISTRATOR and/or the United States Equal Employment Opportunity  
4 Commission setting forth the provisions of the ~~Equal Opportunity clause~~ EOC.

5 5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR  
6 and/or subcontractor shall state that all qualified applicants will receive consideration for employment  
7 without regard to race, religious creed, color, national origin, ancestry, physical disability, mental  
8 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
9 expression, age, sexual orientation, or military and veteran status. Such requirements shall be deemed  
10 fulfilled by use of the term EOE.

11 6. Each labor union or representative of workers with which CONTRACTOR and/or  
12 subcontractor has a collective bargaining agreement or other contract or understanding must post a  
13 notice advising the labor union or workers' representative of the commitments under this  
14 Nondiscrimination Paragraph and shall post copies of the notice in conspicuous places, available to  
15 employees and applicants for employment.

16 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not  
17 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities  
18 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability,  
19 medical condition, genetic information, marital status, sex, gender, gender identity, gender expression,  
20 age, sexual orientation, or military and veteran status in accordance with Title IX of the Education  
21 Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964 (42  
22 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6, Article  
23 1 (§10800, et seq.) of the ~~California Code of Regulations~~ CCR; and Title II of the Genetic Information  
24 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and  
25 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all  
26 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination  
27 paragraph, ~~Discrimination~~ discrimination includes, but is not limited to the following based on one or more  
of the factors identified above:

#

- 18 1. Denying a client Client or potential client Client any service, benefit, or accommodation.
- 19 2. Providing any service or benefit to a client Client which is different or is provided in a different  
20 manner or at a different time from that provided to other clients Clients.
- 21 3. Restricting a client Client in any way in the enjoyment of any advantage or privilege enjoyed  
22 by others receiving any service and/or benefit.
- 23 4. Treating a client Client differently from others in satisfying any admission requirement or  
24 condition, or eligibility requirement or condition, which individuals must meet in order to be provided any  
25 service and/or benefit.
- 26 5. Assignment of times or places for the provision of services.

27 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all  
clients Clients through a written statement that CONTRACTOR's and/or subcontractor's clients Clients  
may file all complaints alleging discrimination in the delivery of services with CONTRACTOR,  
subcontractor, and ADMINISTRATOR ~~or COUNTY's Patient Rights Office~~.

1. Whenever possible, problems shall be resolved ~~informally and~~ at the point of service.  
CONTRACTOR shall establish an internal informal problem resolution process for clients Clients not able  
to resolve such problems at the point of service. Clients may initiate a grievance or complaint directly

1 with CONTRACTOR either orally or in writing.

2 a. COUNTY shall establish a formal resolution and grievance process in the event informal  
processes do not yield a resolution.

3 b. Throughout the problem resolution and grievance process, ~~client~~Client rights shall be  
4 maintained, including access to the COUNTY's Patients' Rights Office at any point in the process. Clients  
shall be informed of their right to access the COUNTY's Patients' Rights Office at any time.

5 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as to  
6 the findings regarding the alleged complaint and, if not satisfied with the decision, ~~may file an appeal.~~has  
the right to request a State Fair Hearing.

7 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply with  
the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as  
8 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42  
9 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of  
discrimination against qualified persons with disabilities in all programs or activities; and if applicable, as  
10 implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together  
with succeeding legislation.

11 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall  
intimidate, coerce or take adverse action against any person for the purpose of interfering with rights  
12 secured by federal or state laws, or because such person has filed a complaint, certified, assisted or  
otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to enforce  
rights secured by federal or state law.

13 F. In the event of non-compliance with this paragraph or as otherwise provided by federal and state  
14 law, this Agreement may be canceled, terminated or suspended in whole or in part and CONTRACTOR  
or subcontractor may be declared ineligible for further contracts involving federal, state or  
15 ~~county~~COUNTY funds.

16 **-XI. NOTICES**

17 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements  
authorized or required by this Agreement shall be effective:

18 1. When written and deposited in the United States mail, first class postage prepaid and  
19 addressed as specified in the Referenced Contract Provisions of this Agreement or as otherwise directed  
by ADMINISTRATOR;

20 2. When faxed, transmission confirmed;

21 3. When sent by Email; or

22 4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel  
Service, or any other expedited delivery service.

23 B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of  
this Agreement or as otherwise directed by ADMINISTRATOR and shall be effective when faxed,  
24 transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United  
Parcel Service, or any other expedited delivery service.

25 C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within twenty-four (24) hours of  
26 becoming aware of any occurrence of a serious nature, which may expose COUNTY to liability. Such  
occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or  
27 damage to any COUNTY property in possession of CONTRACTOR.

D. For purposes of this Agreement, any notice to be provided by COUNTY may be given by

1 ADMINISTRATOR.

2  
3 **XII. NOTIFICATION OF DEATH**

4 A. Upon becoming aware of the death of any person served pursuant to this Agreement, CONTRACTOR shall immediately notify ADMINISTRATOR.

5 B. All Notifications of Death provided to ADMINISTRATOR by CONTRACTOR shall contain the name of the deceased, the date and time of death, the nature and circumstances of the death, and the name(s) of CONTRACTOR's officers or employees with knowledge of the incident.

6 1. TELEPHONE NOTIFICATION—

7 CONTRACTOR shall notify ADMINISTRATOR by telephone immediately upon becoming aware of the death due to non-terminal illness of any person served pursuant to this Agreement; ~~provided, however, weekends and holidays shall not be included for purposes of computing the time within which to give telephone notice and, notwithstanding the time limit herein specified,~~ notice need only be given during normal business hours.

10 #

11 2. WRITTEN NOTIFICATION

12 a. NON-TERMINAL ILLNESS – CONTRACTOR shall hand deliver, fax, and/or send via encrypted email to ADMINISTRATOR a written report within sixteen (16) hours after becoming aware of the death due to non-terminal illness of any person served pursuant to this Agreement.

13 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written report hand delivered, faxed, sent via encrypted email, ~~and/or postmarked and sent via U.S. Mail~~ within forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served pursuant to this Agreement.

14 When notification via encrypted email is not possible or practical CONTRACTOR may hand deliver or fax to a known number said notification.

15 C. If there are any questions regarding the cause of death of any person served pursuant to this Agreement who was diagnosed with a terminal illness, or if there are any unusual circumstances related to the death, CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with this Notification of Death Paragraph.

19  
20 **XIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

21 A. CONTRACTOR shall notify ADMINISTRATOR of any public event or meeting funded in whole or in part by ~~the~~ COUNTY, except for those events or meetings that are intended solely to serve ~~clients~~ Clients or occur in the normal course of business.

22 B. CONTRACTOR shall notify ADMINISTRATOR at least thirty (30) business days in advance of any applicable public event or meeting. The notification must include the date, time, duration, location and purpose of the public event or meeting. Any promotional materials or event related flyers must be approved by ADMINISTRATOR prior to distribution.

25  
26 **XX. RECORDS MANAGEMENT AND MAINTENANCE**

27 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of this Agreement, prepare, maintain and manage records appropriate to the services provided and in

1 accordance with this Agreement and all applicable requirements.

2 1. CONTRACTOR shall maintain records that are adequate to substantiate the services for  
 3 which claims are submitted for reimbursement under this Agreement and the charges thereto. Such  
 4 records shall include, but not be limited to, individual patient charts and utilization review records.

5 2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN  
 6 Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was  
 7 rendered, and such additional information as ADMINISTRATOR or DHCS may require CONTRACTOR  
 8 shall maintain books, records, documents, accounting procedures and practices, and other evidence  
 9 sufficient to reflect properly all direct and indirect cost of whatever nature claimed to have been incurred  
 10 in the performance of this Agreement and in accordance with Medicare principles of reimbursement and  
 11 GAAP.

12 4. CONTRACTOR shall ensure the maintenance of medical records required by §70747  
 13 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical  
 14 necessity of the service, and the quality of care provided. Records shall be maintained in accordance  
 15 with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

16 B. CONTRACTOR shall implement and maintain administrative, technical and physical safeguards  
 17 to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of PHI in  
 18 violation of the HIPAA, federal and state regulations ~~and/or CHPP~~. CONTRACTOR shall mitigate to the  
 19 extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal  
 20 or state regulations and/or COUNTY policies.

21 C. CONTRACTOR's participant, ~~client~~ Client, and/or patient records shall be maintained in a secure  
 22 manner. CONTRACTOR shall maintain participant, ~~client~~ Client, and/or patient records and must  
 23 establish and implement written record management procedures.

24 D. CONTRACTOR shall ~~ensure appropriate~~ retain all financial records ~~related~~ for a minimum of ten  
 25 (10) years from the termination of the Agreement, unless a longer period is required due to cost reporting,  
 26 expenditure, revenue, billings, etc., are prepared legal proceedings such as litigations ~~and maintained~~  
 27 accurately and appropriately ~~/or settlement of claims.~~

28 #  
 29 E. CONTRACTOR shall ~~ensure~~ retain all ~~appropriate state and federal standards of documentation,~~  
 30 ~~preparation, and confidentiality of~~ Client and/or patient medical records ~~related to~~ for ten (10) years  
 31 following discharge of the participant, ~~client~~ Client and/or patient ~~records are met at all times.~~

32 F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,  
 33 billings, and revenues available at one (1) location within the limits of the County of Orange. If  
 34 CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide  
 35 written approval to CONTRACTOR to maintain records in a single location, identified by CONTRACTOR.

36 G. CONTRACTOR shall notify ADMINISTRATOR of any PRA requests related to, or arising out of,  
 37 this Agreement, within forty-eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR all  
 38 information that is requested by the PRA request.

39 H. CONTRACTOR shall ensure all HIPAA (DRS) requirements are met. HIPAA requires that  
 40 ~~clients~~ Clients, participants and/or patients be provided the right to access or receive a copy of their DRS  
 41 and/or request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records  
 42 maintained by or for a covered entity that is:

43 1. The medical records and billing records about individuals maintained by or for a covered  
 44 health care provider;

45 2. The enrollment, payment, claims adjudication, and case or medical management record



1 systems maintained by or for a health plan; or

2 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

3 ~~G.~~ **G.** CONTRACTOR may retain ~~participant, client~~ **Client**, and/or patient documentation electronically  
4 in accordance with the terms of this Agreement and common business practices. If documentation is  
5 retained electronically, CONTRACTOR shall, in the event of an audit or site visit:

6 1. Have documents readily available within ~~forty-eight (48)~~ **twenty-four (24)** hour notice of a  
7 scheduled audit or site visit.

8 2. Provide auditor or other authorized individuals access to documents via a computer terminal.

9 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if  
10 requested.

11 ~~H.~~ **H.** CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and security  
12 of PII and/or PHI. CONTRACTOR shall ~~notify COUNTY immediately by telephone call plus email or fax,~~  
13 upon ~~the~~ discovery of a Breach of ~~unsecured PHI, privacy and/or security of PII and/or PHI by~~  
14 CONTRACTOR, notify federal and/or state authorities as required by law or regulation, and copy  
15 ADMINISTRATOR on such notifications.

16 ~~I.~~ **I.** CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or  
17 security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall pay  
18 any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.

19 ~~J. CONTRACTOR shall retain all participant, client, and/or patient medical records for seven (7)~~  
20 ~~years following discharge of the participant, client and/or patient, with the exception of non-emancipated~~  
21 ~~minors for whom records must be kept for at least one (1) year after such minors have reached the age of~~  
22 ~~eighteen (18) years, or for seven (7) years after the last date of service, whichever is longer.~~

23 ~~K. CONTRACTOR shall retain all financial records for a minimum of seven (7) years from the~~  
24 ~~commencement of the contract, unless a longer period is required due to legal proceedings such as~~  
25 ~~litigations and/or settlement of claims.~~

26 ~~L. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,~~  
27 ~~billings, and revenues available at one (1) location within the limits of the County of Orange.~~

28 ~~M.~~ **M.** If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may  
29 provide written approval to CONTRACTOR to maintain records in a single location, identified by  
30 CONTRACTOR.

31 ~~N. CONTRACTOR may be required to retain all records involving litigation proceedings and~~  
32 ~~settlement of claims for a longer term which will be directed by the ADMINISTRATOR.~~

33 ~~O.~~ **O.** CONTRACTOR shall notify ADMINISTRATOR of any PRA requests related to, or arising out of,  
34 this Agreement, within forty-eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR all  
35 information that is requested by the PRA request.

36           

37 **XIVXI. RESEARCH AND PUBLICATION**

38 ~~CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out of, or~~  
39 ~~developed, as a result of this Agreement for the purpose of personal or professional research, or for~~

1 publication.

2 **XVI. REVENUE**

3 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to  
4 ~~clients~~ Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or  
5 other third party health plans, are provided pursuant to this Agreement, their estates and responsible  
6 relatives, according to their ability to pay as determined by the State Department of Health Care Services’  
7 “Uniform Method of Determining Ability to Pay” (~~UMDAP~~) procedure or by any other payment procedure  
as approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the  
~~California Code of Regulations: CCR~~. Such fee shall not exceed the actual cost of services provided. No  
~~client~~ Client shall be denied services because of an inability to pay.

8 B. THIRD-PARTY REVENUE – CONTRACTOR shall make every reasonable effort to obtain all  
9 available third-party reimbursement for which persons served pursuant to this Agreement may be eligible.  
Charges to insurance carriers shall be on the basis of CONTRACTOR’s usual and customary charges.

10 C. PROCEDURES – CONTRACTOR shall maintain internal financial controls which adequately  
11 ensure proper billing and collection procedures. CONTRACTOR’s procedures shall specifically provide  
12 for the identification of delinquent accounts and methods for pursuing such accounts. CONTRACTOR  
shall provide ADMINISTRATOR, monthly, a written report specifying the current status of fees which are  
billed, collected, transferred to a collection agency, or deemed by CONTRACTOR to be uncollectible.

13 ~~D. OTHER REVENUES – CONTRACTOR shall charge for services, supplies, or facility use by  
14 persons other than individuals or groups eligible for services pursuant to this Agreement.~~

15 **XVII. SEVERABILITY**

16 If a court of competent jurisdiction declares any provision of this Agreement or application thereof to  
17 any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal,  
18 state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or the  
19 application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in full  
20 force and effect, and to that extent the provisions of this Agreement are severable.

21 **XVII. SPECIAL PROVISIONS**

22 A. CONTRACTOR shall not use the funds provided by means of this Agreement for the following  
23 purposes:

- 24 1. Making cash payments to intended recipients of services through this Agreement.
- 25 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and  
26 reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of  
27 appropriated funds to influence certain federal contracting and financial transactions).
- 3. Fundraising.
- 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
CONTRACTOR’s staff, volunteers, ~~or~~ interns, consultants, subcontractors, and members of the Board of  
Directors or governing body.

1 5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body  
for expenses or services.

2 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,  
3 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized  
agent, or making salary advances or giving bonuses to CONTRACTOR's staff.

4 7. Paying an individual salary or compensation for services at a rate in excess of the current  
5 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule  
may be found at www.opm.gov.

6 8. Severance pay for separating employees.

7 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building  
codes and obtaining all necessary building permits for any associated construction.

8 B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR  
shall not use the funds provided by means of this Agreement for the following purposes:

9 1. Funding travel or training (excluding mileage or parking).

10 2. Making phone calls outside of the local area unless documented to be directly for the  
purpose of ~~client~~Client care.

11 3. Payment for grant writing, consultants, certified public accounting, or legal services.

12 4. Purchase of artwork or other items that are for decorative purposes and do not directly  
contribute to the quality of services to be provided pursuant to this Agreement.

### 14 **XVIII. STATUS OF CONTRACTOR**

15 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
16 wholly responsible for the manner in which it performs the services required of it by the terms of this  
17 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
18 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the  
19 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
20 or any of CONTRACTOR's employees, agents, consultants, volunteers, interns, or subcontractors.  
CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents, consultants,  
21 volunteers, interns, or subcontractors as they relate to the services to be provided during the course and  
22 scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers, interns, or  
23 subcontractors, shall not be entitled to any rights or privileges of COUNTY's employees and shall not be  
24 considered in any manner to be COUNTY's employees.

### 21 **XIXI. TERM**

22 A. This specific Agreement with CONTRACTOR is only one of several agreements to which the  
23 term of this Agreement applies. This specific Agreement shall commence as specified in the Reference  
24 Contract Provisions of this Agreement or the execution date, whichever is later. This specific Agreement  
25 shall terminate as specified in the Referenced Contract Provisions of this Agreement, unless otherwise  
26 sooner terminated as provided in this Agreement; ~~provided, however,~~ CONTRACTOR shall be obligated  
27 to perform such duties as would normally extend beyond this term, including but not limited to, obligations  
with respect to confidentiality, indemnification, audits, reporting and accounting.

26 B. Any administrative duty or obligation to be performed pursuant to this Agreement on a weekend  
or holiday may be performed on the next regular business day.

## XX. TERMINATION

A. Either party may terminate this Agreement, without cause, upon ninety (90) ~~calendar day~~ calendar days written notice given the other party.

~~B. Unless otherwise specified, CONTRACTOR shall be responsible for meeting all programmatic and administrative contracted objectives and requirements as indicated in this Agreement, COUNTY, CONTRACTOR shall be subject to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe as determined by ADMINISTRATOR notice, payments may terminate this be reduced or withheld until CAP is resolved and/or the Agreement upon five (5) calendar day written notice if CONTRACTOR fails to perform any of the terms of this Agreement. At ADMINISTRATOR's sole discretion, CONTRACTOR may be allowed up to thirty (30) calendar days for corrective action could be terminated.~~

~~B.~~ COUNTY may terminate this Agreement immediately, upon written notice, on the occurrence of any of the following events:

1. The loss by CONTRACTOR of legal capacity.
2. Cessation of services.
3. The delegation or assignment of CONTRACTOR's services, operation or administration to another entity without the prior written consent of COUNTY.
4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty required pursuant to this Agreement.

#

5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this Agreement.

6. The continued incapacity of any physician or licensed person to perform duties required pursuant to this Agreement.

7. Unethical conduct or malpractice by any physician or licensed person providing services pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR removes such physician or licensed person from serving persons treated or assisted pursuant to this Agreement.

### ~~D.~~ CONTINGENT FUNDING

1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - a. The continued availability of federal, state and county funds for reimbursement of COUNTY's expenditures, and
  - b. Inclusion of sufficient funding for the services hereunder in the applicable budget (s) approved by the Board of Supervisors.

2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend, terminate or renegotiate this Agreement upon thirty (30) calendar ~~days~~ days' written notice given CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

E. In the event this Agreement is suspended or terminated ~~by either party, after receiving a Notice~~ prior to the completion of Termination, the term as specified in the Referenced Contract Provisions of this Agreement, ADMINISTRATOR may, at its

sole discretion, reduce the Not To Exceed Amount of this Agreement to be consistent with the reduced

term of the Agreement.

E. In the event this Agreement is terminated CONTRACTOR shall do the following:

1. Comply with termination instructions provided by ADMINISTRATOR in a manner which is consistent with recognized standards of quality care and prudent business practice.

2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract performance during the remaining contract term.

3. Until the date of termination, continue to provide the same level of service required by this Agreement.

4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR, upon request, all Client information and records deemed necessary by ADMINISTRATOR to ~~affect~~effect an orderly transfer.

5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with Client's best interests.

6. If records are to be transferred to COUNTY, pack and label such records in accordance with directions provided by ADMINISTRATOR.

7. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment and supplies purchased with funds provided by COUNTY.

8. To the extent services are terminated, cancel outstanding commitments covering the procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding commitments which relate to personal services. With respect to these canceled commitments, CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims arising out of such cancellation of commitment which shall be subject to written approval of ADMINISTRATOR.

9. Provide written notice of termination of services to each ~~client~~Client being served under this Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendar day period.

~~F.~~ F. COUNTY may terminate this Agreement, without cause, upon thirty (30) calendar days' written notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

### **XXI. THIRD PARTY BENEFICIARY**

Neither ~~party~~Party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any subcontractors or any ~~clients~~Clients provided services pursuant to this Agreement.

### **XXII. WAIVER OF DEFAULT OR BREACH**

Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any default or any breach by CONTRACTOR shall not be considered a modification of the terms of this

1 Agreement.

2 **XXXXIII. CONFLICT OF INTEREST**

3 CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions that  
4 could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation shall  
5 apply to CONTRACTOR’s employees, agents, and subcontractors associated with the provision of goods  
6 and services provided under this Agreement. CONTRACTOR’s efforts shall include, but not be limited  
7 to establishing rules and procedures preventing its employees, agents, and subcontractors from providing  
8 or offering gifts, entertainment, payments, loans or other considerations which could be deemed to  
9 influence or appear to influence COUNTY staff or elected officers in the performance of their duties.”

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1 —IN WITNESS WHEREOF, the parties have executed this Agreement, in the County of Orange, State  
2 of California.

3 «PROVIDER\_NAME»  
4

5  
6 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
7

8 TITLE: \_\_\_\_\_  
9

10  
11 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
12

13 TITLE: \_\_\_\_\_  
14

15 COUNTY OF ORANGE

16 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
17

18 HEALTH CARE AGENCY

19 **APPROVED AS TO FORM**  
20 OFFICE OF THE COUNTY COUNSEL  
21 ORANGE COUNTY, CALIFORNIA

22 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

23 DEPUTY  
24

25 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the  
26 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or  
27 any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution or by-  
laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her signature alone  
is required by ADMINISTRATOR.

EXHIBIT A

TO AGREEMENT FOR PROVISION OF  
ADULT MENTAL HEALTH INPATIENT SERVICES  
BETWEEN

COUNTY OF ORANGE

AND

«PROVIDER\_NAME»

JULY 1, 2018 THROUGH JUNE 30, 2024<sup>2</sup>

**I. COMMON TERMS AND DEFINITIONS**

The parties agree to the following terms and definitions, and to those terms and definitions which for convenience are set forth elsewhere in the Agreement.

A. AMHI Services means Adult Mental Health Inpatient and, for payment purposes, refers to all services required by this Agreement except Computerized Tomography Scan Testing Services and Medical Services.

B. UOS means units of service and refers to one (1) calendar day during which the CONTRACTOR provides all of the Mental Health Inpatient Services described hereunder, with the day beginning at twelve o'clock midnight. The number of billable UOS shall include the day of admission and exclude the day of discharge unless admission and discharge occur on the same day.

C. Psychiatric Inpatient Hospital Services means services, including ancillary services, provided in an acute care hospital for the care and treatment of an acute episode of mental illness.

D. CSU means Crisis Stabilization Unit and refers to the programs which focus on the stabilization and treatment services provided to persons who are in psychiatric crisis.

E. NPI means National Provider Identification and refers to the standard unique health identifier that was adopted by the Secretary of Health and Human Services (HHS) under Health Insurance Portability and Accountability Act (HIPAA) for health care providers.

F. NPP means Notice of Privacy Practices and refers to the document that notifies individuals of uses and disclosures of Protected Health Information (PHI) that may be made by or on behalf of the health plan or health care provided as set forth in HIPAA.

G. PHI means Protected Health Information and refers to individually identifiable health information usually transmitted by electronic media, maintained in any medium as defined in the regulations, or for an entity such as a health plan, transmitted or maintained in any other medium. It is created or received by a covered entity, and relates to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual.



1 H. Health Care Services refers to any preventive, diagnostic, treatment, or support services,  
2 including professional services, which may be medically necessary to protect life, prevent significant  
3 disability, and/or treat diseases, illnesses, or injuries in order to prevent a serious deterioration of health.

4 I. HIPAA means Health Insurance Portability and Accountability Act that provides national  
5 standards to protect the privacy of PHI.

6 J. Serious medical conditions that require urgent health care services are defined as any preventive,  
7 diagnostic, treatment, or supportive services, including professional services, which may be medically  
8 necessary to protect life, present significant disability, and/or treat diseases, illnesses, or injuries in order  
9 to prevent serious deterioration of health.

10 K. SNF means Skilled Nursing Facility and refers to a facility that provides twenty-four (24)  
11 hour/day skilled nursing care and supervision.

12 L. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
13 Definitions Paragraph of this Exhibit A to the Agreement.

## 14 **II. ISSUE RESOLUTION**

15 For resolution of issues between CONTRACTOR and ADMINISTRATOR with respect to the  
16 implementation and operation of this Agreement or COUNTY's policies and procedures regarding  
17 services described herein, the following sequential steps shall apply:

18 A. CONTRACTOR shall routinely utilize all informal communication processes and methods with  
19 ADMINISTRATOR program and administrative staff including, but not limited to, telephone contact,  
20 electronic mail (e-mail), FAX, written correspondence and meetings, to resolve any issues or problems  
21 regarding the implementation and operation of this Agreement or COUNTY's policies and procedures  
22 regarding services described herein.

23 B. If the parties are unable to resolve the issue, CONTRACTOR shall give written notice to  
24 ADMINISTRATOR setting forth in specific terms the existence and nature of any unresolved matter or  
25 concern related to the purposes and obligations of this Agreement. ADMINISTRATOR shall have fifteen  
26 (15) calendar days following such notice to obtain resolution of any issue(s) identified in this manner,  
27 provided, however, by mutual consent this period of time may be extended to thirty (30) calendar days.

C. If the parties are unable to obtain resolution of the issue, they shall submit a joint written  
Statement describing the facts of the issue, within thirty (30) calendar days after the written notice  
described above to ADMINISTRATOR's Director of Behavioral Health Care for final resolution.

D. The rights and remedies provided by this paragraph are in addition to those provided by law to  
either party.

E. CONTRACTOR AND ADMINISTRATOR may mutually agree, in writing, to modify the Issue  
Resolution Paragraph of this Exhibit A to the Agreement.

## **III. PATIENT'S RIGHTS**

1 A. CONTRACTOR shall post the current California Department of Health Care Services Patients' Rights poster as well as the Orange County HCA Mental Health Plan Complaint and Grievance poster in  
2 all County threshold languages in locations readily available to Clients and staff and have complaint forms  
3 and complaint envelopes readily accessible to Clients.

4 B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have  
5 complaint resolution and grievance processes approved by ADMINISTRATOR, to which the beneficiary  
6 shall have access.

7 1. CONTRACTOR's complaint resolution processes shall emphasize informal, easily  
8 understood steps designed to resolve disputes as quickly and simply as possible.

9 2. CONTRACTOR's complaint resolution and grievance processes shall incorporate  
10 COUNTY's grievance, patients' rights, and utilization management guidelines and procedures.

11 C. Complaint Resolution and Grievance Process – ADMINISTRATOR shall implement complaint  
12 and grievance procedures that shall include the following components:

13 1. Complaint Resolution. This process will specifically address and attempt to resolve Client  
14 complaints and concerns at CONTRACTOR's facility. Examples of such complaints may include  
15 dissatisfaction with services or with the quality of care, or dissatisfaction with the condition of the physical  
16 plant.

17 2. Formal Grievance. When the Client's complaint is not resolved at CONTRACTOR's facility  
18 and the Client or Client representative requests it, the complaint becomes a formal grievance. The request  
19 is made to County Adult and Older Adult Behavioral Health Inpatient Services and represents the first  
20 step in the formal grievance process.

21 3. Title IX Rights Advocacy. This process may be initiated by a Client who registers a statutory  
22 rights violation or a denial or abuse complaint with the County Patients' Rights Office. The Patients'  
23 Rights office shall investigate the complaint, and Title IX grievance procedures shall apply, which involve  
24 ADMINISTRATOR'S Director of Behavioral Health Care and the State Patients' Rights Office.

25 D. The parties agree that Clients have recourse to initiate a complaint to CONTRACTOR, appeal to  
26 the County Patients' Rights Office, file a formal grievance, and file a Title IX complaint. The Patients'  
27 Advocate shall advise and assist the Client, investigate the cause of the complaint or grievance, and  
attempt to resolve the matter

E. No provision of this Agreement shall be construed as to replacing or conflicting with the duties  
of County Patients' Rights Office pursuant to Welfare and Institutions Code Section 5500.

F. CONTRACTOR AND ADMINISTRATOR may mutually agree, in writing, to modify the  
Patient's Rights Paragraph of this Exhibit A to the Agreement.

#### 26 **IV. PAYMENTS**

27 A. AMHI Services - COUNTY shall pay CONTRACTOR, at the following rates; provided, however,  
the total of all payments to CONTRACTOR and all other contract providers of AMHI Services shall not

1 exceed COUNTY's Aggregate Maximum Obligation for Period One, Period Two, and Period Three and  
 2 Period Four as specified in the Referenced Contract Provisions of the Agreement.

3 1. CONTRACTOR shall bill ADMINISTRATOR at the rate of \$### per bed day.

4 2. Rates are inclusive of all psychiatric inpatient hospital services and shall constitute payment  
 in full for these services.

5 B. Physician/Psychologist Services – COUNTY shall include reimbursement for physician and  
 6 psychologist services in COUNTY's reimbursement to hospital providers in the daily rate payment to  
 7 Hospitals. Hospital providers shall bill on behalf of the physician and/or psychologist providing services  
 to COUNTY clients and Hospital providers shall be responsible for ensuring that this reimbursement is  
 provided to the physician and/or psychologist.

8 C. COUNTY will pay for ambulance or medical van transportation to and from designated mental  
 9 health or health facilities for COUNTY clients receiving services in accordance with the COUNTY's  
 Medical Transportation contract.

10 D. CONTRACTOR's invoice shall be on a form approved or supplied by COUNTY and provide such  
 11 information as is required by ADMINISTRATOR. Invoices are due the tenth (10th) day of the following  
 month. Invoices received after the due date may not be paid within the same month. Payments to  
 CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days after receipt of a  
 correctly completed invoice.

12 1. Upon receipt of a correctly completed billing form and all required supporting documentation,  
 13 ADMINISTRATOR shall:

14 a. Approve the claim if medical necessity criteria are present for the requested  
 reimbursement period.

15 b. Deny the claim if medical necessity criteria are not present for the requested  
 reimbursement period.

16 2. CONTRACTOR may appeal ADMINISTRATOR's decision by sending a cover letter with an  
 17 explanation of CONTRACTOR's disagreement to ADMINISTRATOR within ninety (90) calendar days of  
 receiving the claim.

18 3. ADMINISTRATOR shall submit to CONTRACTOR a written summary of the review and  
 19 rationale for each decision within sixty (60) calendar days of receiving the letter of appeal. The decision  
 of ADMINISTRATOR shall be final.

20 4. In the event that the appeal is overturned, ADMINISTRATOR shall coordinate with  
 CONTRACTOR regarding the submission of an adjusted invoice.

21 E. CONTRACTOR shall make a good faith effort to bill and collect to the full extent of coverage  
 22 those claims covered by all known third-party, primary, or other insurance or third party-~~payors~~payors  
 (including client fees) for hospital services provided.

23 ~~F.~~ F. CONTRACTOR shall submit a copy of the Medi-Cal Eligibility Response Report along with  
AMHI TAR submission.

24 G. CONTRACTOR shall provide MediCal confirmation notice that an application for MediCal benefits  
was submitted for all admissions of 7 days or longer.

25 H. CONTRACTOR shall document and include with AMHI TAR submission, efforts made by  
 26 CONTRACTOR to follow-up and obtain MediCal benefits application status prior to discharge.

27 I. If CONTRACTOR, during the term of the Agreement, identifies and receives reimbursement from  
 a third party, primary or other insurance claim for services reimbursed through this or any prior

1 Agreement, CONTRACTOR shall, within thirty (30) days of receipt, reimburse ~~the~~ COUNTY an amount  
 2 equal to the payment for the services paid by COUNTY to CONTRACTOR or the third party, primary or  
 other insurance claim payment, whichever is less.

3 ~~GJ.~~ If any reimbursement due ~~the~~ COUNTY is not paid by CONTRACTOR in accordance with  
 4 Subparagraph ~~F.~~ above, ~~the~~ ADMINISTRATOR shall reduce CONTRACTOR's payment by an amount  
 not to exceed the amount to be reimbursed.

5 ~~HK.~~ Following notification from ADMINISTRATOR that any client served under this  
 6 ~~contract Agreement~~ has become eligible for Medi-Cal, CONTRACTOR agrees to submit retroactive Medi-  
 Cal TARs to ADMINISTRATOR for review. Further, CONTRACTOR agrees to submit hospital claims to  
 7 the State of California medical billing services, and upon receipt of payment, shall remit payment to ~~the~~  
 COUNTY within sixty (60) days for the total amount previously paid for bed day stay less payment made  
 for professional services during the Medi-Cal eligibility period.

8 ~~IL.~~ When Health Care Services are provided to any COUNTY client who does not have medical  
 9 insurance coverage, hospital providers may submit a claim to the COUNTY's Medical Safety Net (MSN)  
 program. MSN provides for services that are medically necessary to protect life, prevent significant  
 10 disability, or prevent the serious deterioration of health. The Medical Safety Net Program does not provide  
 comprehensive health coverage, primary, or preventive care. Claims may be submitted under the  
 following scenarios:

11 1. The AMHI client must be currently eligible for MSN and the service may have to be prior-  
 12 approved by the MSN Authorizations Department.

13 2. If clinically appropriate, the AMHI client must be transferred to an acute medical bed should  
 14 the client need treatment related to a medical service that is covered under the scope of the MSN  
 program.

15 3. If the AMHI client needs ancillary services related to a medical condition while housed in the  
 psychiatric unit, MSN may cover the service.

16 ~~JM.~~ For all services outlined above wherein ~~the~~ CONTRACTOR has exhausted available funding  
 17 sources and remains in whole or in part unfunded, CONTRACTOR may not invoice ADMINISTRATOR  
 for said services.

18 ~~KN.~~ ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply with  
 any provision of the Agreement.

19 ~~LO.~~ CONTRACTOR shall not claim reimbursement for services provided beyond the expiration  
 20 and/or termination of the Agreement, except as may otherwise be provided under the Agreement.

21 ~~MP.~~ CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
 Payments Paragraph of this Exhibit A to the Agreement.

## 22 **V. REPORTS**

23 A. CONTRACTOR shall maintain records and make statistical reports as required by  
 24 ADMINISTRATOR on forms provided by agency.

25 B. ADMINISTRATOR may request reasonable reports of CONTRACTOR in order to determine  
 26 the quality and nature of services provided hereunder. ADMINISTRATOR will be specific as to the  
 nature of information requested, and may allow up to thirty (30) calendar days for CONTRACTOR to  
 27 respond.

1 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Reports  
2 Paragraph of this Exhibit A to the Agreement.

### 3 **VI. SERVICES**

4 A. FACILITY – CONTRACTOR shall provide within a designated licensed locked acute unit,  
5 AMHI Services at the following location:

6 «DX\_FAC1\_NAME»

7 «DX\_FAC1\_STREET»

8 «DX\_FAC1\_CITY\_STATE\_ZIP»

9 B. CLIENTS SERVED – CONTRACTOR shall provide acute psychiatric mental health inpatient  
10 services for adults with a diagnosis of a mental disorder who may also have a co-occurring substance use  
11 or medical problem. Services shall be provided in an acute care hospital for the care and treatment of an  
12 acute episode of mental illness.

#### 13 C. ADMISSION CRITERIA AND PROCEDURES

14 1. Persons To Be Served – Services shall be provided to only those persons authorized by the  
15 COUNTY's CSU. Unless otherwise approved by ADMINISTRATOR, such persons shall be  
16 experiencing acute psychiatric disorders and hospitalized pursuant to WIC Sections 5150, 5250, 5270,  
17 5300, 5350, 5358, and 6000, as now in existence or as hereafter amended. At its sole discretion,  
18 ADMINISTRATOR shall make referrals for clients aged eighteen (18) and older, based upon the  
19 availability of beds, the appropriateness of the treatment milieu and the relative geographic proximity of  
20 the hospital to the residence of the client or their family.

21 a. CONTRACTOR shall admit clients referred by ADMINISTRATOR who meet  
22 ADMINISTRATOR's criteria for medical necessity for acute inpatient hospital services and who also  
23 meet the admission criteria approved by Department of Health Care Services (DHCS) and the guidelines  
24 under Title 9, Chapter 11, Section 1820.205. CONTRACTOR shall not refuse admissions of clients if  
25 they meet all the admission criteria identified above.

26 b. ADMINISTRATOR may conduct periodic treatment reviews at any time during the  
27 course of a COUNTY client's hospitalization.

c. If ADMINISTRATOR does not approve CONTRACTOR's request for extended  
treatment, CONTRACTOR shall be responsible for effecting the appropriate transfer and/or discharge of  
the COUNTY client. In any case, if CONTRACTOR elects to provide inpatient treatment without the  
express authorization of ADMINISTRATOR, CONTRACTOR shall assume responsibility for the cost of  
such treatment.

d. CONTRACTOR shall allow ADMINISTRATOR to take part in Utilization Review and  
Quality Assurance activities if such attendance will not waive any privilege granted by law.

1 e. Primary criteria for continued treatment within the acute inpatient setting shall include,  
 2 but not be limited to, the medical necessity of hospitalization within a secure acute medical setting as  
 3 reflected within the medical record. COUNTY's Director of Behavioral Health Services or designee may  
 4 determine a COUNTY client no longer meets this primary criteria and request that CONTRACTOR  
 discharge the COUNTY client to a facility appropriate for the COUNTY client's treatment requirements.

5 2. COUNTY is not financially responsible for the evaluation and treatment of unfunded  
 6 psychiatric clients, unless they are referred by CSU or pre-authorized by CSU for admission.

#### 6 D. PSYCHIATRIC AND ANCILLARY SERVICES

7 1. CONTRACTOR shall provide acute hospital inpatient psychiatric and support services,  
 8 designed to engage seriously mentally ill adults, including those who are dually diagnosed, in a partnership  
 9 to achieve the individual's wellness and recovery goals. Services shall be recovery oriented, non-coercive  
 10 and focused on assisting clients to become more independent and self-sufficient as evidenced by  
 discharges to lower levels of care.

11 2. CONTRACTOR shall provide services in collaboration with COUNTY's Director of  
 Behavioral Health Services or designee.

12 3. CONTRACTOR shall provide psychiatric treatment and support services in accordance with  
 13 all applicable laws and regulations, including but not limited to:

14 a. A psychiatric evaluation, within twenty-four (24) hours of admission, by a licensed  
 15 psychiatrist which shall include a psychiatric history, diagnosis, and evaluation in accordance with the  
 current DSM Volume.

16 b. Medical history and physical examination of each COUNTY client within twenty-four  
 (24) hours of admission.

17 c. Initial Individualized Treatment Plan (ITP) for each COUNTY client within twenty-four  
 18 hours of admission.

19 d. Weekly Interdisciplinary Treatment Team meetings for each COUNTY client.

20 e. Psychiatric, psychological, and social services compatible with the ITP.

21 f. Appropriate collateral therapy and interventions for each COUNTY client.

22 g. Appropriate one-on-one COUNTY client-to-staff counseling as appropriate to the  
 23 diagnosis and ITP.

24 h. Documentation of COUNTY client's attendance/participation in collateral therapy  
 including schedule of therapies, attendance log, and medical record progress notes.

25 i. Daily face to face and documented progress notes by psychiatrists on all COUNTY  
 26 clients.

27 j. Discharge planning, continuing care planning, and referral services. COUNTY shall  
 provide such assistance, as COUNTY deems necessary, to assist providers' Social Services staff to  
 initiate, develop and finalize discharge planning and necessary follow-up services.

k. For COUNTY clients who are being referred at discharge to a SNF or Board and Care ,

1 CONTRACTOR shall document in the medical record at least four (4) SNF or Board and Care contacts  
2 daily, Monday through Friday, until the client is either discharged or no longer requires SNF level of care.

3 l. For COUNTY clients waiting for long term care placement, CONTRACTOR shall  
4 document in the medical record contact with the COUNTY's Long Term Care Unit at least once every  
5 seven (7) days until the client is either discharged or no longer requires long-term care.

6 m. CONTRACTOR shall arrange a specific date and time for an aftercare appointment for  
7 any client referred at discharge to a COUNTY outpatient clinic. CONTRACTOR shall fax, or send by  
8 secured electronic means, to COUNTY outpatient clinic at the time of discharge, the hospital's aftercare  
9 plan, the initial psychiatric evaluation, history and physical examination report, recent lab studies,  
10 medication list, and any medical consults.

11 n. COUNTY clients shall be discharged with seven (7) days of medications. This includes  
12 psychiatric medications and other medications needed to treat concurrent medical conditions.

13 o. On-call psychiatric and medical specialist coverage twenty-four (24) hours per day,  
14 seven (7) days per week.

15 4. CONTRACTOR shall provide all ancillary services necessary for the evaluation and  
16 treatment of psychiatric conditions, including:

17 a. Initial laboratory services consistent with CONTRACTOR's usual and customary  
18 hospital admitting protocol.

19 b. Additional laboratory and diagnostic services when necessary for the initiation and  
20 monitoring of psychiatric medication treatments.

21 c. Pharmaceutical services.

22 d. A conflict resolution process may be initiated by either party to the Agreement in the  
23 event of a disagreement between CONTRACTOR and ADMINISTRATOR regarding the appropriateness  
24 of proposed laboratory and/or diagnostic services. ADMINISTRATOR's designated psychiatrist will  
25 review said proposed services and render a decision that will be binding on both parties.

26 5. CONTRACTOR shall provide, or cause to be provided, expert witness testimony by  
27 appropriate mental health professionals in all legal proceedings required for the institutionalization,  
admission, or treatment of COUNTY clients. These services shall include, but not be limited to, Writs of  
Habeas Corpus, Reize Capacity Hearings, conservatorship, Probable Cause Hearings, Court-ordered  
evaluation, and appeal and post-certification proceedings.

a. COUNTY will represent CONTRACTOR, at COUNTY's sole cost and expense, in all  
legal proceedings required for conservatorship. CONTRACTOR shall cooperate with COUNTY in all  
such proceedings.

b. COUNTY will provide Hearing Officers for Probable Cause Hearings for COUNTY  
clients only.

#### E. MEDICAL SERVICES

1. CONTRACTOR shall provide or cause to be provided all health care services deemed

1 appropriate according to usual and customary hospital practices without regard for payer status. This  
 2 includes physician or other professional services required by COUNTY clients and escort of such  
 3 COUNTY clients to and from medical treatment. A conflict resolution process may be initiated by either  
 4 party to the Agreement in the event of a disagreement regarding the appropriateness of rendering urgent  
 5 health care services. ADMINISTRATOR's designated psychiatrist will review proposed medical services  
 and render a decision that will be binding on both parties.

6 2. CT – CONTRACTOR may, as part of the diagnosis and evaluation of a COUNTY client's  
 7 psychiatric condition, authorize necessary CT scanning. CONTRACTOR shall receive approval of  
 ADMINISTRATOR before such testing, and document this approval in the client's medical record.

8 F. ADDITIONAL SERVICES - CONTRACTOR shall provide those services required of general  
 acute care hospitals which shall at a minimum include, but not be limited to, the following:

9 1. Direct Services – including a therapeutic milieu, room and dietetic services, nursing services,  
 10 including drug administration and client care, and a client activity program including OT/RT services.

11 2. Support Services – including housekeeping, laundry, maintenance, medical records, and drug  
 order processing services.

12 3. In-Service Training – Provide formalized in-service training to staff that focuses on subjects  
 13 that increase their expertise in mental health services and ability to manage and serve clients.

14 4. Program Description – Maintain a COUNTY approved written description of the inpatient  
 15 psychiatric program, which shall include goals, objectives, philosophy, and activities which reflect the  
 active involvement of nursing personnel in all aspects of the inpatient therapeutic milieu.

16 G. CONTRACTOR shall make its best efforts to provide services pursuant to the Agreement in a  
 17 manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR  
 18 shall be in compliance with the current Joint Commission requirements related to the provision of  
 19 culturally and linguistically appropriate health care. If CONTRACTOR is not accredited by the Joint  
 20 Commission, CONTRACTOR shall maintain documentation of such efforts which may include, but not  
 21 be limited to: records of participation in COUNTY sponsored or other applicable training, recruitment  
 and hiring policies and procedures, copies of literature in multiple languages and formats, as appropriate,  
 and descriptions of measures taken to enhance accessibility for, and sensitivity to, persons who are  
 physically challenged.

22 H. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,  
 23 with respect to any person who has been referred to CONTRACTOR by COUNTY under the terms of  
 24 this Agreement. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to  
 25 promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian institution,  
 or religious belief.

26 I. CLINICAL CARE STANDARDS

27 1. CONTRACTOR shall develop and maintain a plan for Quality Improvement, the overall goal  
 of which is the maintenance of high quality client care and effective utilization of services offered. This



1 plan shall include utilization review, peer review, and medication monitoring as mandated by the DCHS.  
 2 CONTRACTOR shall adhere to the standards set forth in Title 9 of the CCR.

3 2. CONTRACTOR shall allow ADMINISTRATOR to take part in utilization review activities.

4 J. STAFFING

5 1. For the unit in which services are provided pursuant to the Agreement, CONTRACTOR shall  
 6 provide clinical staffing as required by Title 9, CCR, Section 663 as it exists now or may hereafter be  
 7 amended or changed.

8 2. CONTRACTOR shall provide administrative and clerical staff to support the  
 9 above-mentioned staffing and the services provided pursuant to the Agreement.

10 K. NPI – All HIPAA covered healthcare providers, individuals and organizations must obtain an  
 11 NPI for use to identify themselves in HIPAA standard transactions. The NPI is assigned to individuals  
 12 for life.

13 L. NPP – CONTRACTOR shall provide, upon request, the NPP for the COUNTY, as MHP, to any  
 14 individual who received services under the Agreement.

15 M. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Services  
 16 Paragraph of this Exhibit A to the Agreement.

17 **VII. STAFFING**

18 A. CONTRACTOR shall provide clinical staffing as required by CCR, Title 9, Section 663.  
 19 CONTRACTOR shall provide professional, allied, and supportive paramedical personnel to provide all  
 20 necessary and appropriate Psychiatric Inpatient Hospital services. There is no specific administrative  
 21 and/or clerical staffing pattern however, CONTRACTOR must provide sufficient staff to support the  
 22 services provided pursuant to the Agreement.

23 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Staffing  
 24 Paragraph of this Exhibit A to the Agreement.

25 C. CONTRACTOR shall ensure that a bilingual professional or qualified interpreter is fluent in  
 26 English and in the primary language spoken by the client. The bilingual professional or qualified  
 27 interpreter must have the ability to accurately speak, read and interpret the client's primary language.  
 CONTRACTOR shall ensure that, when needed, a qualified interpreter is available who can accurately  
 provide sign language services. The bilingual professional or qualified interpreter must have the ability to  
 translate mental health terminology necessary to convey information such as symptoms or instructions to  
 the client. CONTRACTOR shall ensure that the bilingual person and/or the qualified interpreter,  
 completes appropriate courses that cover terms and concepts associated with mental illness, psychotropic  
 medications, and cultural beliefs and practices which may influence the client's mental health condition,  
 if they have not been not been trained in the provision of mental health services.

D. CONTRACTOR shall ensure that all staff is trained and is knowledgeable in treatment issues  
 reflecting the diversity of the Medi-Cal population. CONTRACTOR shall develop and maintain in-

1 service staff training programs which will train staff to respect and respond with sensitivity to the language  
2 and cultural experiences of the clients. CONTRACTOR staff shall participate in cultural competency  
3 and/or awareness training on an annual basis. Training shall be designed to help staff understand cultural  
4 diversity and may include but not be limited to such topics such as: mental health care that is unique to  
5 the client including awareness; sensitivity to the client’s cultural and spiritual beliefs, and the role of the  
6 family in diverse cultures and ethnic groups. Additionally, training components shall include:

7           1. Background information for identifying and treating mental illnesses and related health  
8 conditions not commonly found in the dominant client population;

9           2. Utilization of non-psychiatrically trained interpreters in taking client histories and assisting  
10 with communication relating to mental health treatment; and

11           3. Strategies for utilizing the belief patterns and family support systems of clients to promote  
12 adherence to the course of treatment and assuming responsibility for preventive mental health behaviors.  
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1 EXHIBIT B  
 2 TO AGREEMENT FOR PROVISION OF  
 3 ADULT MENTAL HEALTH INPATIENT SERVICES  
 4 BETWEEN  
 5 COUNTY OF ORANGE  
 6 AND  
 7 «PROVIDER\_NAME»  
 8 JULY 1, 2018 THROUGH JUNE 30, 2024<sup>2</sup>

9 **I. BUSINESS ASSOCIATE CONTRACT**

10 **A. GENERAL PROVISIONS AND RECITALS**

11 1. The parties agree that the terms used, but not otherwise defined in the Common Terms and  
 12 Definitions Paragraph of Exhibit A to the Agreement or in Subparagraph B. below, shall have the same  
 13 meaning given to such terms under HIPAA, the HITECH Act, and their implementing regulations at  
 14 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

15 2. The parties agree that a business associate relationship under HIPAA, the HITECH Act, and  
 16 the HIPAA regulations between the CONTRACTOR and COUNTY arises to the extent that  
 17 CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of  
 18 COUNTY pursuant to, and as set forth in, the Agreement that are described in the definition of “Business  
 19 Associate” in 45 CFR § 160.103.

20 3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the  
 21 terms of the Agreement, some of which may constitute PHI, as defined below in Subparagraph B.10., to  
 22 be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the  
 23 Agreement.

24 4. The parties intend to protect the privacy and provide for the security of PHI that may be  
 25 created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance  
 26 with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH  
 27 Act, and the HIPAA regulations as they may exist now or be hereafter amended.

5. The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA  
 regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by  
 other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

6. The parties understand that the HIPAA Privacy and Security rules, as defined below in  
 Subparagraphs B.9. and B.14., apply to the CONTRACTOR in the same manner as they apply to the  
 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the

1 terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to  
 2 CONTRACTOR and the applicable standards, implementation specifications, and requirements of the  
 3 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and  
 ePHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

#### 4 B. DEFINITIONS

5 1. "Administrative Safeguards" are administrative actions, and P&Ps, to manage the selection,  
 6 development, implementation, and maintenance of security measures to protect ePHI and to manage the  
 conduct of CONTRACTOR's workforce in relation to the protection of that information.

7 2. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted  
 8 under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

##### 9 a. Breach excludes:

10 1) Any unintentional acquisition, access, or use of PHI by a workforce member or  
 11 person acting under the authority of CONTRACTOR or COUNTY, if such acquisition, access, or use was  
 made in good faith and within the scope of authority and does not result in further use or disclosure in a  
 manner not permitted under the Privacy Rule.

12 2) Any inadvertent disclosure by a person who is authorized to access PHI at  
 13 CONTRACTOR to another person authorized to access PHI at the CONTRACTOR, or organized health  
 care arrangement in which COUNTY participates, and the information received as a result of such  
 14 disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

15 3) A disclosure of PHI where CONTRACTOR or COUNTY has a good faith belief that  
 16 an unauthorized person to whom the disclosure was made would not reasonably have been able to retain  
 such information.

17 b. Except as provided in Subparagraph a. of this definition, an acquisition, access, use, or  
 18 disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach  
 unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised  
 19 based on a risk assessment of at least the following factors:

20 1) The nature and extent of the PHI involved, including the types of identifiers and the  
 21 likelihood of re-identification;

22 2) The unauthorized person who used the PHI or to whom the disclosure was made;

23 3) Whether the PHI was actually acquired or viewed; and

24 4) The extent to which the risk to the PHI has been mitigated.

25 3. "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy  
 26 Rule in 45 CFR § 164.501.

27 4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR  
 § 164.501.

5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in  
 45 CFR § 160.103.

1           6. “Health Care Operations” shall have the meaning given to such term under the HIPAA  
2 Privacy Rule in 45 CFR § 164.501.

3           7. “Individual” shall have the meaning given to such term under the HIPAA Privacy Rule in  
4 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance  
5 with 45 CFR § 164.502(g).

6           8. “Physical Safeguards” are physical measures, policies, and procedures to protect  
7 CONTRACTOR’s electronic information systems and related buildings and equipment, from natural and  
8 environmental hazards, and unauthorized intrusion.

9           9. “The HIPAA Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable  
10 Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

11           10. “PHI” shall have the meaning given to such term under the HIPAA regulations in  
12 45 CFR § 160.103.

13           11. “Required by Law” shall have the meaning given to such term under the HIPAA Privacy  
14 Rule in 45 CFR § 164.103.

15           12. “Secretary” shall mean the Secretary of the Department of HHS or his or her designee.

16           13. “Security Incident” means attempted or successful unauthorized access, use, disclosure,  
17 modification, or destruction of information or interference with system operations in an information  
18 system. “Security incident” does not include trivial incidents that occur on a daily basis, such as scans,  
19 “pings”, or unsuccessful attempts to penetrate computer networks or servers maintained by  
20 CONTRACTOR.

21           14. “The HIPAA Security Rule” shall mean the Security Standards for the Protection of ePHI at  
22 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

23           15. “SubCONTRACTOR” shall have the meaning given to such term under the HIPAA  
24 regulations in 45 CFR § 160.103.

25           16. “Technical safeguards” means the technology and the P&Ps for its use that protect ePHI and  
26 control access to it.

27           17. “Unsecured PHI” or “PHI that is unsecured” 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 of HHS in the guidance issued on the HHS Web site.

          18. “Use” shall have the meaning given to such term under the HIPAA regulations in  
45 CFR § 160.103.

C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to  
CONTRACTOR other than as permitted or required by this Business Associate Contract or as required  
by law.

2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business  
Associate Contract and the Agreement, to prevent use or disclosure of PHI COUNTY discloses to

1 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
2 other than as provided for by this Business Associate Contract.

3 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of  
4 45 CFR Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
5 creates, receives, maintains, or transmits on behalf of COUNTY.

6 4. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is  
7 known to CONTRACTOR of a Use or Disclosure of PHI by CONTRACTOR in violation of the  
8 requirements of this Business Associate Contract.

9 5. CONTRACTOR agrees to report to COUNTY immediately any Use or Disclosure of PHI  
10 not provided for by this Business Associate Contract of which CONTRACTOR becomes aware.  
11 CONTRACTOR must report Breaches of Unsecured PHI in accordance with Subparagraph E. below and  
12 as required by 45 CFR § 164.410.

13 6. CONTRACTOR agrees to ensure that any Subcontractors that create, receive, maintain, or  
14 transmit PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply through  
15 this Business Associate Contract to CONTRACTOR with respect to such information.

16 7. CONTRACTOR agrees to provide access, within fifteen (15) calendar days of receipt of a  
17 written request by COUNTY, to PHI in a DRS, to COUNTY or, as directed by COUNTY, to an Individual  
18 in order to meet the requirements under 45 CFR § 164.524. If CONTRACTOR maintains an EHR with  
19 PHI, and an individual requests a copy of such information in an electronic format, CONTRACTOR shall  
20 provide such information in an electronic format.

21 8. CONTRACTOR agrees to make any amendment(s) to PHI in a DRS that COUNTY directs  
22 or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY or an Individual, within thirty (30)  
23 calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify COUNTY in  
24 writing no later than ten (10) calendar days after said amendment is completed.

25 9. CONTRACTOR agrees to make internal practices, books, and records, including P&Ps,  
26 relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on  
27 behalf of, COUNTY available to COUNTY and the Secretary in a time and manner as determined by  
28 COUNTY or as designated by the Secretary for purposes of the Secretary determining COUNTY's  
29 compliance with the HIPAA Privacy Rule.

30 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to  
31 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
32 and to make information related to such Disclosures available as would be required for COUNTY to  
33 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with  
34 45 CFR § 164.528.

35 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in  
36 a time and manner to be determined by COUNTY, that information collected in accordance with the  
37 Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of

1 Disclosures of PHI in accordance with 45 CFR § 164.528.

2 12. CONTRACTOR agrees that to the extent CONTRACTOR carries out COUNTY's obligation  
3 under the HIPAA Privacy and/or Security rules CONTRACTOR will comply with the requirements of 45  
4 CFR Part 164 that apply to COUNTY in the performance of such obligation.

5 13. If CONTRACTOR receives Social Security data from COUNTY provided to COUNTY by  
6 a state agency, upon request by COUNTY, CONTRACTOR shall provide COUNTY with a list of all  
7 employees, subcontractors, and agents who have access to the Social Security data, including employees,  
8 agents, subcontractors, and agents of its subcontractors.

9 14. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant in a  
10 criminal proceeding for a violation of HIPAA. COUNTY may terminate the Agreement, if  
11 CONTRACTOR is found guilty of a criminal violation in connection with HIPAA. COUNTY may  
12 terminate the Agreement, if a finding or stipulation that CONTRACTOR has violated any standard or  
13 requirement of the privacy or security provisions of HIPAA, or other security or privacy laws are made  
14 in any administrative or civil proceeding in which CONTRACTOR is a party or has been joined.  
15 COUNTY will consider the nature and seriousness of the violation in deciding whether or not to terminate  
16 the Agreement.

17 15. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting  
18 CONTRACTOR in the performance of its obligations under the Agreement, available to COUNTY at no  
19 cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative  
20 proceedings being commenced against COUNTY, its directors, officers or employees based upon claimed  
21 violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves  
22 inactions or actions by CONTRACTOR, except where CONTRACTOR or its subcontract, employee, or  
23 agent is a named adverse party.

24 16. The Parties acknowledge that federal and state laws relating to electronic data security and  
25 privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to  
26 provide for procedures to ensure compliance with such developments. The Parties specifically agree to  
27 take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH  
Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon  
COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY  
concerning an amendment to this Business Associate Contract embodying written assurances consistent  
with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other  
applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the  
event:

a. CONTRACTOR does not promptly enter into negotiations to amend this Business  
Associate Contract when requested by COUNTY pursuant to this Subparagraph C.; or

b. CONTRACTOR does not enter into an amendment providing assurances regarding the  
safeguarding of PHI that COUNTY deems are necessary to satisfy the standards and requirements of

1 HIPAA, the HITECH Act, and the HIPAA regulations.

2 17. CONTRACTOR shall work with COUNTY upon notification by CONTRACTOR to  
3 COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph  
4 B.2.a. above.

#### 4 D. SECURITY RULE

5 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and  
6 maintain appropriate Administrative, Physical and Technical Safeguards in accordance with  
7 45 CFR § 164.308, § 164.310, and § 164.312, with respect to ePHI COUNTY discloses to  
8 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.  
9 CONTRACTOR shall develop and maintain a written information privacy and security program that  
10 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of  
11 CONTRACTOR's operations and the nature and scope of its activities.

12 2. CONTRACTOR shall implement reasonable and appropriate P&Ps to comply with the  
13 standards, implementation specifications and other requirements of 45 CFR Part 164, Subpart C, in  
14 compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its current and updated  
15 policies upon request.

16 3. CONTRACTOR shall ensure the continuous security of all computerized data systems  
17 containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,  
18 or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents containing PHI  
19 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
20 behalf of COUNTY. These steps shall include, at a minimum:

21 a. Complying with all of the data system security precautions listed under Subparagraph E.,  
22 below;

23 b. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in  
24 conducting operations on behalf of COUNTY;

25 c. Providing a level and scope of security that is at least comparable to the level and scope  
26 of security established by the OMB in OMB Circular No. A-130, Appendix III - Security of Federal  
27 Automated Information Systems, which sets forth guidelines for automated information systems in  
Federal agencies;

4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or  
transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same  
restrictions and requirements contained in this Subparagraph D. of this Business Associate Contract.

5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it  
becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with  
Subparagraph E. below and as required by 45 CFR § 164.410.

6. CONTRACTOR shall designate a Security Officer to oversee its data security program who  
shall be responsible for carrying out the requirements of this paragraph and for communicating on security



1 matters with COUNTY.

2 E. DATA SECURITY REQUIREMENTS

3 1. Personal Controls

4 a. Employee Training. All workforce members who assist in the performance of functions  
5 or activities on behalf of COUNTY in connection with Agreement, or access or disclose PHI COUNTY  
6 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
7 COUNTY, must complete information privacy and security training, at least annually, at  
8 CONTRACTOR's expense. Each workforce member who receives information privacy and security  
9 training must sign a certification, indicating the member's name and the date on which the training was  
10 completed. These certifications must be retained for a period of six (6) years following the termination  
11 of Agreement.

12 b. Employee Discipline. Appropriate sanctions must be applied against workforce  
13 members who fail to comply with any provisions of CONTRACTOR's privacy P&Ps, including  
14 termination of employment where appropriate.

15 c. Confidentiality Statement. All persons that will be working with PHI COUNTY  
16 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
17 COUNTY must sign a confidentiality statement that includes, at a minimum, General Use, Security and  
18 Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the  
19 workforce member prior to access to such PHI. The statement must be renewed annually. The  
20 CONTRACTOR shall retain each person's written confidentiality statement for COUNTY inspection for  
21 a period of six (6) years following the termination of the Agreement.

22 d. Background Check. Before a member of the workforce may access PHI COUNTY  
23 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
24 COUNTY, a background screening of that worker must be conducted. The screening should be  
25 commensurate with the risk and magnitude of harm the employee could cause, with more thorough  
26 screening being done for those employees who are authorized to bypass significant technical and  
27 operational security controls. CONTRACTOR shall retain each workforce member's background check  
documentation for a period of three (3) years.

2. Technical Security Controls

28 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY  
29 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
30 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which  
31 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the  
32 COUNTY.

33 b. Server Security. Servers containing unencrypted PHI COUNTY discloses to  
34 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
35 must have sufficient administrative, physical, and technical controls in place to protect that data, based

1 upon a risk assessment/system security review.

2 c. Minimum Necessary. Only the minimum necessary amount of PHI COUNTY discloses  
3 to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
4 required to perform necessary business functions may be copied, downloaded, or exported.

5 d. Removable media devices. All electronic files that contain PHI COUNTY discloses to  
6 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
7 must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives,  
8 floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm  
9 which is 128bit or higher, such as AES. Such PHI shall not be considered “removed from the premises”  
10 if it is only being transported from one of CONTRACTOR’s locations to another of CONTRACTOR’s  
11 locations.

12 e. Antivirus software. All workstations, laptops and other systems that process and/or store  
13 PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits  
14 on behalf of COUNTY must have installed and actively use comprehensive anti-virus software solution  
15 with automatic updates scheduled at least daily.

16 f. Patch Management. All workstations, laptops and other systems that process and/or store  
17 PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits  
18 on behalf of COUNTY must have critical security patches applied, with system reboot if necessary. There  
19 must be a documented patch management process which determines installation timeframe based on risk  
20 assessment and vendor recommendations. At a maximum, all applicable patches must be installed within  
21 thirty (30) days of vendor release. Applications and systems that cannot be patched due to operational  
22 reasons must have compensatory controls implemented to minimize risk, where possible.

23 g. User IDs and Password Controls. All users must be issued a unique user name for  
24 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,  
25 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password  
26 changed upon the transfer or termination of an employee with knowledge of the password, at maximum  
27 within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight characters  
and must be a non-dictionary word. Passwords must not be stored in readable format on the computer.  
Passwords must be changed every ninety (90) days, preferably every sixty (60) days. Passwords must be  
changed if revealed or compromised. Passwords must be composed of characters from at least three (3)  
of the following four (4) groups from the standard keyboard:

- 1) Upper case letters (A-Z)
- 2) Lower case letters (a-z)
- 3) Arabic numerals (0-9)
- 4) Non-alphanumeric characters (punctuation symbols)

h. Data Destruction. When no longer needed, all PHI COUNTY discloses to  
CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY

1 must be wiped using the Gutmann or US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media  
2 may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods  
3 require prior written permission by COUNTY.

4 i. System Timeout. The system providing access to PHI COUNTY discloses to  
5 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
6 must provide an automatic timeout, requiring re-authentication of the user session after no more than  
7 twenty (20) minutes of inactivity.

8 j. Warning Banners. All systems providing access to PHI COUNTY discloses to  
9 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
10 must display a warning banner stating that data is confidential, systems are logged, and system use is for  
11 business purposes only by authorized users. User must be directed to log off the system if they do not  
12 agree with these requirements.

13 k. System Logging. The system must maintain an automated audit trail which can identify  
14 the user or system process which initiates a request for PHI COUNTY discloses to CONTRACTOR or  
15 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, or which alters such  
16 PHI. The audit trail must be date and time stamped, must log both successful and failed accesses, must  
17 be read only, and must be restricted to authorized users. If such PHI is stored in a database, database  
18 logging functionality must be enabled. Audit trail data must be archived for at least three (3) years after  
19 occurrence.

20 l. Access Controls. The system providing access to PHI COUNTY discloses to  
21 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
22 must use role based access controls for all user authentications, enforcing the principle of least privilege.

23 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to  
24 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
25 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is  
26 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files  
27 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as website  
access, file transfer, and E-Mail.

n. Intrusion Detection. All systems involved in accessing, holding, transporting, and  
protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,  
or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a  
comprehensive intrusion detection and prevention solution.

### 3. Audit Controls

a. System Security Review. CONTRACTOR must ensure audit control mechanisms that  
record and examine system activity are in place. All systems processing and/or storing PHI COUNTY  
discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
COUNTY must have at least an annual system risk assessment/security review which provides assurance

1 that administrative, physical, and technical controls are functioning effectively and providing adequate  
2 levels of protection. Reviews should include vulnerability scanning tools.

3 b. Log Reviews. All systems processing and/or storing PHI COUNTY discloses to  
4 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
5 must have a routine procedure in place to review system logs for unauthorized access.

6 c. Change Control. All systems processing and/or storing PHI COUNTY discloses to  
7 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
8 must have a documented change control procedure that ensures separation of duties and protects the  
9 confidentiality, integrity and availability of data.

#### 4. Business Continuity/Disaster Recovery Control

10 a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan  
11 to enable continuation of critical business processes and protection of the security of PHI COUNTY  
12 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
13 COUNTY kept in an electronic format in the event of an emergency. Emergency means any circumstance  
14 or situation that causes normal computer operations to become unavailable for use in performing the work  
15 required under this Agreement for more than twenty-four (24) hours.

16 b. Data Backup Plan. CONTRACTOR must have established documented procedures to  
17 backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular schedule  
18 for making backups, storing backup offsite, an inventory of backup media, and an estimate of the amount  
19 of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly  
20 full backup and monthly offsite storage of DHCS data. BCP for CONTRACTOR and COUNTY (e.g. the  
21 application owner) must merge with the DRP.

#### 5. Paper Document Controls

22 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
23 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left unattended  
24 at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that  
25 information is not being observed by an employee authorized to access the information. Such PHI in  
26 paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in  
27 baggage on commercial airplanes.

b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to CONTRACTOR  
or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is contained shall be  
escorted and such PHI shall be kept out of sight while visitors are in the area.

c. Confidential Destruction. PHI COUNTY discloses to CONTRACTOR or  
CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of  
through confidential means, such as cross cut shredding and pulverizing.

d. Removal of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
creates, receives, maintains, or transmits on behalf of COUNTY must not be removed from the premises

1 of the CONTRACTOR except with express written permission of COUNTY.

2 e. Faxing. Faxes containing PHI COUNTY discloses to CONTRACTOR or  
 3 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall not be left  
 4 unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement  
 5 notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended  
 6 recipient before sending the fax.

7 f. Mailing. Mailings containing PHI COUNTY discloses to CONTRACTOR or  
 8 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall be sealed and  
 9 secured from damage or inappropriate viewing of PHI to the extent possible. Mailings which include five  
 10 hundred (500) or more individually identifiable records containing PHI COUNTY discloses to  
 11 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in  
 12 a single package shall be sent using a tracked mailing method which includes verification of delivery and  
 13 receipt, unless the prior written permission of COUNTY to use another method is obtained.

#### 14 F. BREACH DISCOVERY AND NOTIFICATION

15 1. Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify  
 16 COUNTY of such Breach, however both parties agree to a delay in the notification if so advised by a law  
 17 enforcement official pursuant to 45 CFR § 164.412.

18 a. A Breach shall be treated as discovered by CONTRACTOR as of the first day on which  
 19 such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been known  
 20 to CONTRACTOR.

21 b. CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known,  
 22 or by exercising reasonable diligence would have known, to any person who is an employee, officer, or  
 23 other agent of CONTRACTOR, as determined by federal common law of agency.

24 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY  
 25 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written notification  
 26 within twenty-four (24) hours of the oral notification.

27 3. CONTRACTOR's notification shall include, to the extent possible:

a. The identification of each Individual whose Unsecured PHI has been, or is reasonably  
 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

b. Any other information that COUNTY is required to include in the notification to  
 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or  
 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period  
 set forth in 45 CFR § 164.410 (b) has elapsed, including:

1) A brief description of what happened, including the date of the Breach and the date  
 of the discovery of the Breach, if known;

2) A description of the types of Unsecured PHI that were involved in the Breach (such  
 as whether full name, social security number, date of birth, home address, account number, diagnosis,

1 disability code, or other types of information were involved);

2 3) Any steps Individuals should take to protect themselves from potential harm  
3 resulting from the Breach;

4 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to  
5 mitigate harm to Individuals, and to protect against any future Breaches; and

6 5) Contact procedures for Individuals to ask questions or learn additional information,  
7 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

8 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
9 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
10 COUNTY.

11 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation  
12 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that  
13 CONTRACTOR made all notifications to COUNTY consistent with this Subparagraph F. and as required  
14 by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure  
15 of PHI did not constitute a Breach.

16 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or its  
17 risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

18 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the  
19 Breach, including the information listed in Section E.3.b. (1)-(5) above, if not yet provided, to permit  
20 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable,  
21 but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of the Breach to  
22 COUNTY pursuant to Subparagraph F.2. above.

23 8. CONTRACTOR shall continue to provide all additional pertinent information about the  
24 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after  
25 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests  
26 for further information, or follow-up information after report to COUNTY, when such request is made by  
27 COUNTY.

9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or other  
costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs in  
addressing the Breach and consequences thereof, including costs of investigation, notification,  
remediation, documentation or other costs associated with addressing the Breach.

#### G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR as  
necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the  
Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by  
COUNTY except for the specific Uses and Disclosures set forth below.

a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, for

1 the proper management and administration of CONTRACTOR.

2 b. CONTRACTOR may disclose PHI COUNTY discloses to CONTRACTOR for the  
3 proper management and administration of CONTRACTOR or to carry out the legal responsibilities of  
4 CONTRACTOR, if:

4 1) The Disclosure is required by law; or

5 2) CONTRACTOR obtains reasonable assurances from the person to whom the PHI is  
6 disclosed that it will be held confidentially and used or further disclosed only as required by law or for  
7 the purposes for which it was disclosed to the person and the person immediately notifies CONTRACTOR  
8 of any instance of which it is aware in which the confidentiality of the information has been breached.

8 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to  
9 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of  
10 CONTRACTOR.

10 2. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, to carry  
11 out legal responsibilities of CONTRACTOR.

11 3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR  
12 consistent with the minimum necessary P&Ps of COUNTY.

13 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as  
14 required by law.

#### 14 H. PROHIBITED USES AND DISCLOSURES

15 1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or  
16 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to  
17 a health plan for payment or health care operations purposes if the PHI pertains solely to a health care  
18 item or service for which the health care provider involved has been paid out of pocket in full and the  
19 individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

19 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI  
20 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
21 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by  
22 42 USC § 17935(d)(2).

#### 21 I. OBLIGATIONS OF COUNTY

22 1. COUNTY shall notify CONTRACTOR of any limitation(s) in COUNTY's notice of privacy  
23 practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect  
24 CONTRACTOR's Use or Disclosure of PHI.

25 2. COUNTY shall notify CONTRACTOR of any changes in, or revocation of, the permission  
26 by an Individual to use or disclose his or her PHI, to the extent that such changes may affect  
27 CONTRACTOR's Use or Disclosure of PHI.

27 3. COUNTY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI  
that COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may

1 affect CONTRACTOR’s Use or Disclosure of PHI.

2 4. COUNTY shall not request CONTRACTOR to use or disclose PHI in any manner that would  
3 not be permissible under the HIPAA Privacy Rule if done by COUNTY.

4 J. BUSINESS ASSOCIATE TERMINATION

5 1. Upon COUNTY’s knowledge of a material Breach or violation by CONTRACTOR of the  
6 requirements of this Business Associate Contract, COUNTY shall:

7 a. Provide an opportunity for CONTRACTOR to cure the material Breach or end the  
8 violation within thirty (30) business days; or

9 b. Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to cure  
10 the material Breach or end the violation within thirty (30) days, provided termination of the Agreement is  
11 feasible.

12 2. Upon termination of the Agreement, CONTRACTOR shall either destroy or return to  
13 COUNTY all PHI CONTRACTOR received from COUNTY or CONTRACTOR created, maintained, or  
14 received on behalf of COUNTY in conformity with the HIPAA Privacy Rule.

15 a. This provision shall apply to all PHI that is in the possession of Subcontractors or agents  
16 of CONTRACTOR.

17 b. CONTRACTOR shall retain no copies of the PHI.

18 c. In the event that CONTRACTOR determines that returning or destroying the PHI is not  
19 feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or  
20 destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,  
21 CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit  
22 further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible,  
23 for as long as CONTRACTOR maintains such PHI.

24 3. The obligations of this Business Associate Contract shall survive the termination of the  
25 Agreement.

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EXHIBIT C  
TO AGREEMENT FOR PROVISION OF  
ADULT MENTAL HEALTH INPATIENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«PROVIDER\_NAME»  
JULY 1, 2018 THROUGH JUNE 30, 2021

**I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

Any reference to statutory, regulatory, or contractual language herein shall be to such language as in effect or as amended.

A. DEFINITIONS

1. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.

2. "Breach of the security of the system" shall have the meaning given to such term under the CIPA, CCC § 1798.29(d).

3. "CMPPA Agreement" means the CMPPA Agreement between the SSA and CHHS.

4. "DHCS PI" shall mean PI, as defined below, accessed in a database maintained by the COUNTY or DHCS, received by CONTRACTOR from the COUNTY or DHCS or acquired or created by CONTRACTOR in connection with performing the functions, activities and services specified in the Agreement on behalf of the COUNTY.

5. "IEA" shall mean the IEA currently in effect between the SSA and DHCS.

6. "Notice-triggering PI" shall mean the PI identified in CCC § 1798.29(e) whose unauthorized access may trigger notification requirements under CCC § 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering PI includes PI in electronic, paper or any other medium.

7. "PII" shall have the meaning given to such term in the IEA and CMPPA.

8. "PI" shall have the meaning given to such term in CCC § 1798.3(a).

9. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information,

and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

10. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PI, or confidential data utilized in complying with this Agreement; or interference with system operations in an information system that processes, maintains or stores PI.

## B. TERMS OF AGREEMENT

1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as otherwise indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform functions, activities, or services for or on behalf of the COUNTY pursuant to the terms of the Agreement provided that such use or disclosure would not violate the CIPA if done by the COUNTY.

### 2. Responsibilities of CONTRACTOR

CONTRACTOR agrees:

a. Nondisclosure. Not to use or disclose DHCS PI or PII other than as permitted or required by this Personal Information Privacy and Security Contract or as required by applicable state and federal law.

b. Safeguards. To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of DHCS PI and PII, to protect against anticipated threats or hazards to the security or integrity of DHCS PI and PII, and to prevent use or disclosure of DHCS PI or PII other than as provided for by this Personal Information Privacy and Security Contract. CONTRACTOR shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of CONTRACTOR's operations and the nature and scope of its activities, which incorporate the requirements of Subparagraph c., below. CONTRACTOR will provide COUNTY with its current policies upon request.

c. Security. CONTRACTOR shall ensure the continuous security of all computerized data systems containing DHCS PI and PII. CONTRACTOR shall protect paper documents containing DHCS PI and PII. These steps shall include, at a minimum:

1) Complying with all of the data system security precautions listed in Subparagraph E. of the Business Associate Contract, Exhibit B to the Agreement; and

2) Providing a level and scope of security that is at least comparable to the level and scope of security established by the OMB in OMB Circular No. A-130, Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.

3) If the data obtained by CONTRACTOR from COUNTY includes PII, CONTRACTOR shall also comply with the substantive privacy and security requirements in the CMPPA

Agreement between the SSA and the CHHS and in the Agreement between the SSA and DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that any of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that apply to CONTRACTOR with respect to such information.

d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of DHCS PI or PII by CONTRACTOR or its subcontractors in violation of this Personal Information Privacy and Security Contract.

e. CONTRACTOR's Agents and Subcontractors. To impose the same restrictions and conditions set forth in this Personal Information and Security Contract on any subcontractors or other agents with whom CONTRACTOR subcontracts any activities under the Agreement that involve the disclosure of DHCS PI or PII to such subcontractors or other agents.

f. Availability of Information. To make DHCS PI and PII available to the DHCS and/or COUNTY for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of DHCS PI and PII. If CONTRACTOR receives DHCS PII, upon request by COUNTY and/or DHCS, CONTRACTOR shall provide COUNTY and/or DHCS with a list of all employees, CONTRACTORs and agents who have access to DHCS PII, including employees, CONTRACTORs and agents of its subcontractors and agents.

g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the COUNTY to the extent necessary to ensure the DHCS's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS PI, production of DHCS PI, disclosure of a security Breach involving DHCS PI and notice of such Breach to the affected individual(s).

h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR agrees to implement reasonable systems for the discovery of any Breach of unsecured DHCS PI and PII or security incident. CONTRACTOR agrees to give notification of any Breach of unsecured DHCS PI and PII or security incident in accordance with Subparagraph F. of the Business Associate Contract, Exhibit B to the Agreement.

i. Designation of Individual Responsible for Security. CONTRACTOR shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Personal Information Privacy and Security Contract and for communicating on security matters with the COUNTY.

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