

1 **AMENDMENT NO. 1 TO** CONTRACT FOR PROVISION OF
2 MEDI-CAL MENTAL HEALTH MANAGED CARE
3 PSYCHIATRIC INPATIENT HOSPITAL SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 PROVIDER NAME
8 JULY 1, 2022 THROUGH JUNE 30, 2025
9

10 THIS CONTRACT entered into this 1st day of July 2022 (effective date), is by and between the
11 COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and PROVIDER
12 NAME, a California for profit corporation (CONTRACTOR). COUNTY and CONTRACTOR may
13 sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Contract shall
14 be administered by the Director of the COUNTY’s Health Care Agency or an authorized designee
15 (“ADMINISTRATOR”).

16 **WITNESSETH:**
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18
19 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of
20 Medi-Cal Mental Health Managed Care Psychiatric Inpatient Hospital Services described herein to the
21 residents of Orange County; and

22 WHERE, COUNTY entered into Amendment No. 1 to amend Exhibit A of the Contract to
23 amend the negotiated rates; and

24 WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and
25 conditions hereinafter set forth:

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

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REFERENCED CONTRACT PROVISIONS

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MASTER AGREEMENT Term: July 1, 2022 through June 30, 2025

Period One means the period from July 1, 2022 through June 30, 2023

Period Two means the period from July 1, 2023 through June 30, 2024

Period Three means the period from July 1, 2024 through June 30, 2025

Basis for Reimbursement: Negotiated Rate Amount

Payment Method: Direct Reimbursement from Department of Health Care Services

CONTRACTOR DUNS Number:

CONTRACTOR TAX ID Number:

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: Name of Organization
ADDRESS
CITY, STATE, ZIP CODE
AUTHORIZED SIGNATURE NAME, TITLE
E-MAIL ADDRESS

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I. ACRONYMS

The following are for reference purposes only and may or may not apply in their entirety throughout this Contract.

4	A. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
5	B. AIDS	Acquired Immune Deficiency Syndrome
6	C. ARRA	American Recovery and Reinvestment Act of 2009
7	D. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
8	E. ASI	Addiction Severity Index
9	F. ASRS	Alcohol and Drug Programs Reporting System
10	G. BHS	Behavioral Health Services
11	H. CalOMS	California Outcomes Measurement System
12	I. CalWORKs	California Work Opportunity and Responsibility for Kids
13	J. CAP	Corrective Action Plan
14	K. CCC	California Civil Code
15	L. CCR	California Code of Regulations
16	M. CESI	Client Evaluation of Self at Intake
17	N. CEST	Client Evaluation of Self and Treatment
18	O. CFDA	Catalog of Federal Domestic Assistance
19	P. CFR	Code of Federal Regulations
20	Q. CHPP	COUNTY HIPAA Policies and Procedures
21	R. CHS	Correctional Health Services
22	S. COI	Certificate of Insurance
23	T. CPA	Certified Public Accountant
24	U. CSW	Clinical Social Worker
25	V. DHCS	California Department of Health Care Services
26	W. D/MC	Drug/Medi-Cal
27	X. DPFS	Drug Program Fiscal Systems
28	Y. DRS	Designated Record Set
29	Z. EEOC	Equal Employment Opportunity Commission
30	AA. EHR	Electronic Health Records
31	AB. EOC	Equal Opportunity Clause
32	AC. ePHI	Electronic Protected Health Information
33	AD. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
34	AE. FFS	Fee For Service
35	AF. FSP	Full Service Partnership
36	AG. FTE	Full Time Equivalent
37	AH. GAAP	Generally Accepted Accounting Principles

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1	AI. HCA	County of Orange Health Care Agency
2	AJ. HHS	Federal Health and Human Services Agency
3	AK. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
4		Law 104-191
5	AL. HITECH	Health Information Technology for Economic and Clinical Health
6		Act, Public Law 111-005
7	AM. HIV	Human Immunodeficiency Virus
8	AN. HSC	California Health and Safety Code
9	AO. IRIS	Integrated Records and Information System
10	AP. ITC	Indigent Trauma Care
11	AQ. LCSW	Licensed Clinical Social Worker
12	AR. MAT	Medication Assisted Treatment
13	AS. MFT	Marriage and Family Therapist
14	AT. MH	Mental Health
15	AU. MHP	Mental Health Plan
16	AV. MHS	Mental Health Specialist
17	AW. MHSA	Mental Health Services Act
18	AX. MSN	Medical Safety Net
19	AY. NIH	National Institutes of Health
20	AZ. NPI	National Provider Identifier
21	BA. NPPES	National Plan and Provider Enumeration System
22	BB. OCR	Federal Office for Civil Rights
23	BC. OIG	Federal Office of Inspector General
24	BD. OMB	Federal Office of Management and Budget
25	BE. OPM	Federal Office of Personnel Management
26	BF. P&P	Policy and Procedure
27	BG. PA DSS	Payment Application Data Security Standard
28	BH. PATH	Projects for Assistance in Transition from Homelessness
29	BI. PC	California Penal Code
30	BJ. PCI DSS	Payment Card Industry Data Security Standards
31	BK. PCS	Post-Release Community Supervision
32	BL. PHI	Protected Health Information
33	BM. PII	Personally Identifiable Information
34	BN. PRA	California Public Records Act
35	BO. PSC	Professional Services Contract System
36	BP. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
37	BQ. SIR	Self-Insured Retention

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X:\BH K MGMT\BH VENDOR FOLDER(S)\ADULT\INPATIENT\INPATIENT MH\MAMCPO01 - MEDI-CAL MANAGED CARE SRVCS\FY 2022-23\K
DVLPMT\AMENDMENTS\REDLINES\MA 042MA 042-22011537 MASTER AGREEMENT FOR MEDI-CAL MH MANAGED CARE PSYCH SVCS FY 2022-25
REDLINE.DOC MA -042-22011537
PROVIDER NAME

1	BR. SMA	Statewide Maximum Allowable (rate)
2	BS. SOW	Scope of Work
3	BT. SUD	Substance Use Disorder
4	BU. UMDAP	Uniform Method of Determining Ability to Pay
5	BV. UOS	Units of Service
6	BW. USC	United States Code
7	BX. WIC	Women, Infants and Children

8

9 **II. ALTERATION OF TERMS**

10 A. This Contract, together with Exhibits A, B, and C attached hereto and incorporated herein, fully
11 expresses all understanding of COUNTY and CONTRACTOR with respect to the subject matter of this
12 Contract.

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

17

18 **III. ASSIGNMENT OF DEBTS**

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

26

27 **IV. COMPLIANCE**

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

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

34 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
35 compliance program, code of conduct and any compliance related policies and procedures.
36 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall
37 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required

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1 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to
2 this Contract. These elements include:

- 3 a. Designation of a Compliance Officer and/or compliance staff.
- 4 b. Written standards, policies and/or procedures.
- 5 c. Compliance related training and/or education program and proof of completion.
- 6 d. Communication methods for reporting concerns to the Compliance Officer.
- 7 e. Methodology for conducting internal monitoring and auditing.
- 8 f. Methodology for detecting and correcting offenses.
- 9 g. Methodology/Procedure for enforcing disciplinary standards.

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

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

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

34 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or
35 retained to provide services related to this Contract monthly to ensure that they are not designated as
36 Ineligible Persons, as pursuant to this Contract. Screening shall be conducted against the General
37 Services Administration's Excluded Parties List System or System for Award Management, the Health

1 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the
 2 California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration's Death
 3 Master File at date of employment, and/or any other list or system as identified by ADMINISTRATOR.

4 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,
 5 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items
 6 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.
 7 CONTRACTOR shall ensure that all Covered Individuals relative to this Contract are made aware of
 8 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or
 9 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if
 10 CONTRACTOR has elected to use its own).

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

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

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

17 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
 18 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
 19 Contract.

20 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors monthly to
 21 ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that its
 22 subcontractors use their best efforts to verify that they are eligible to participate in all federal and State
 23 of California health programs and have not been excluded or debarred from participation in any federal
 24 or state health care programs, and to further represent to CONTRACTOR that they do not have any
 25 Ineligible Person in their employ or under contract.

26 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
 27 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
 28 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing
 29 services directly relative to this Contract becomes debarred, excluded or otherwise becomes an
 30 Ineligible Person.

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

37 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or

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

7 C. GENERAL COMPLIANCE TRAINING - ADMINISTRATOR shall make General
 8 Compliance Training available to Covered Individuals.

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

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

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

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

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

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

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

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

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

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

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

37 E. MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

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

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

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

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

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

20 7. CONTRACTOR shall comply with the provisions of ADMINISTRATOR's Cultural
 21 Competency Plan submitted and approved by the State. ADMINISTRATOR shall update the Cultural
 22 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
 23 §1810.410.subds.(c)-(d).

24 F. Failure to comply with the obligations stated in this Compliance Paragraph shall constitute a
 25 breach of the Contract on the part of CONTRACTOR and grounds for COUNTY to terminate the
 26 Contract. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty
 27 (30) calendar days from the date of the written notice of default to cure any defaults grounded on this
 28 Compliance Paragraph prior to ADMINISTRATOR's right to terminate this Contract on the basis of
 29 such default.

30 **V. CONFIDENTIALITY**

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

34 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this Contract
 35 are Clients of the Orange County Mental Health services system, and therefore it may be necessary for
 36 authorized staff of ADMINISTRATOR to audit Client files, or to exchange information regarding
 37 specific Clients with COUNTY or other providers of related services contracting with COUNTY.

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

5 3. In the event of a collaborative service Contract between Mental Health services providers,
 6 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,
 7 from the collaborative agency, for Clients receiving services through the collaborative Contract.

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

15 **VI. CONFLICT OF INTEREST**

16 CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions
 17 that could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation
 18 shall apply to CONTRACTOR's employees, agents, and subcontractors associated with the provision of
 19 goods and services provided under this Contract. CONTRACTOR's efforts shall include, but not be
 20 limited to, establishing rules and procedures preventing its employees, agents, and subcontractors from
 21 providing or offering gifts, entertainment, payments, loans or other considerations which could be
 22 deemed to influence or appear to influence COUNTY staff or elected officers in the performance of
 23 their duties.
 24

25 **VII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

26 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without
 27 prior written consent of COUNTY. CONTRACTOR shall provide written notification of
 28 CONTRACTOR's intent to delegate the obligations hereunder, either in whole or part, to
 29 ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the delegation.
 30 Any attempted assignment or delegation in derogation of this paragraph shall be void.
 31

32 B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR's
 33 business prior to completion of this Contract, and COUNTY agrees to an assignment of the Contract, the
 34 new owners shall be required under the terms of sale or other instruments of transfer to assume
 35 CONTRACTOR's duties and obligations contained in this Contract and complete them to the
 36 satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder, either in whole or in
 37 part, without the prior written consent of COUNTY.

1 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to
 2 any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%)
 3 of the 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,
 8 including 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
 11 at 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,
 14 including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board
 15 of 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 Contract in the event COUNTY
 27 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to
 28 COUNTY for the provision of services under the Contract.

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

34 1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the
 35 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor
 36 subsequently fails to meet the requirements of this Contract or any provisions that ADMINISTRATOR
 37 has required. ADMINISTRATOR also may disallow subcontractor expenses reported by

1 CONTRACTOR.

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

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

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

9 D. CONTRACTOR shall notify COUNTY in writing of any change in CONTRACTOR's status
10 with respect to name changes that do not require an assignment of the Contract. CONTRACTOR also
11 shall notify COUNTY in writing if CONTRACTOR becomes a party to any litigation against
12 COUNTY, or a party to litigation that may reasonably affect CONTRACTOR's performance under the
13 Contract, as well as any potential conflicts of interest between CONTRACTOR and County that may
14 arise prior to or during the period of Contract performance. While CONTRACTOR is required to
15 provide this information without prompting from COUNTY any time there is a change in
16 CONTRACTOR's name, conflict of interest or litigation status, CONTRACTOR must also provide an
17 update to COUNTY of its status in these areas whenever requested by COUNTY.

18 **VIII. DISPUTE RESOLUTION**

19 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the
20 dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a
21 reasonable period of time by CONTRACTOR and ADMINISTRATOR, such matter shall be brought to
22 the attention of the County Purchasing Agency by way of the following process:
23

24 1. CONTRACTOR shall submit to the County Purchasing Agency a written demand for a
25 final decision regarding the disposition of any dispute between the Parties arising under, related to, or
26 involving this Contract, unless COUNTY, on its own initiative, has already rendered such a final
27 decision.

28 2. CONTRACTOR's written demand shall be fully supported by factual information, and, if
29 such demand involves a cost adjustment to the Contract, CONTRACTOR shall include with the demand
30 a written statement signed by an authorized representative indicating that the demand is made in good
31 faith, that the supporting data are accurate and complete, and that the amount requested accurately
32 reflects the Contract adjustment for which CONTRACTOR believes COUNTY is liable.

33 B. Pending the final resolution of any dispute arising under, related to, or involving this Contract,
34 CONTRACTOR must proceed diligently with the performance of services secured via this Contract,
35 including the delivery of goods and/or provision of services. CONTRACTOR's failure to proceed
36 diligently shall be considered a material breach of this Contract.

37 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and

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1 shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a
 2 decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed
 3 a final decision adverse to CONTRACTOR's contentions.

4 D. This Contract has been negotiated and executed in the State of California and shall be governed
 5 by and construed under the laws of the State of California. In the event of any legal action to enforce or
 6 interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in
 7 Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of
 8 such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically
 9 agree to waive any and all rights to request that an action be transferred for adjudication to another
 10 county.

11 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

12 CONTRACTOR attests that it shall fully comply with all federal and state statutes and regulations
 13 regarding the employment of aliens and others and to ensure that employees, subcontractors, and
 14 consultants performing work under this Contract meet the citizenship or alien status requirements set
 15 forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,
 16 subcontractors, and consultants performing work hereunder, all verification and other documentation of
 17 employment eligibility status required by federal or state statutes and regulations including, but not
 18 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently
 19 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
 20 covered employees, subcontractors, and consultants for the period prescribed by the law.
 21

22 **X. FACILITIES, PAYMENTS AND SERVICES**

23 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance
 24 with this Contract. COUNTY shall compensate, and authorize, when applicable, said services.
 25 CONTRACTOR shall operate continuously throughout the term of this Contract with at least the
 26 minimum number and type of staff which meet applicable federal and state requirements, and which are
 27 necessary for the provision of the services hereunder.
 28

29 B. CONTRACTOR shall, at its own expense, provide and maintain the organizational and
 30 administrative capabilities required to carry out its duties and responsibilities under this Contract and in
 31 accordance with all the applicable statutes and regulations pertaining to Short Doyle Providers.
 32

33 **XI. INDEMNIFICATION AND INSURANCE**

34 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
 35 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special
 36 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board
 37 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,

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1 including but not limited to personal injury or property damage, arising from or related to the services,
 2 products or other performance provided by CONTRACTOR pursuant to this Contract. If judgment is
 3 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the
 4 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and
 5 COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall
 6 request a jury apportionment.

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

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

23 D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand
 24 dollars (\$50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of
 25 CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved,
 26 CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this
 27 Contract, agrees to all of the following:

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

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

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

37 E. If CONTRACTOR fails to maintain insurance acceptable to COUNTY for the full term of this

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1 Contract, COUNTY may terminate this Contract.

2 F. QUALIFIED INSURER

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

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

11 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
12 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
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$5,000,000 per claims made \$5,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made

32 H. REQUIRED COVERAGE FORMS

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

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

37 //

1 I. REQUIRED ENDORSEMENTS

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

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

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

11 2. The Network Security and Privacy Liability policy shall contain the following
12 endorsements which shall accompany the COI:

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

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

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

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

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

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

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

35 O. Insurance certificates should be forwarded to the department address listed in the Referenced
36 Contract Provisions.

37 P. If CONTRACTOR fails to provide the insurance certificates and endorsements within seven (7)

1 calendar days of notification by COUNTY, COUNTY may terminate this Contract immediately, upon
2 written notice.

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

7 R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
8 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with
9 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,
10 this Contract may be in breach without further notice to CONTRACTOR, and COUNTY shall be
11 entitled to all legal remedies.

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

15 T. SUBMISSION OF INSURANCE DOCUMENTS

16 1. The COI and endorsements shall be provided to COUNTY as follows:
17 a. Prior to the start date of this Contract.
18 b. No later than the expiration date for each policy.
19 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
20 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

21 2. The COI and endorsements shall be provided to COUNTY at the address as specified in the
22 Referenced Contract Provisions of this Contract.

23 3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance
24 provisions stipulated in this Contract by the above specified due dates, ADMINISTRATOR shall have
25 sole discretion to impose one or both of the following:

26 a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
27 pursuant to any and all contracts between COUNTY and CONTRACTOR until such time that the
28 required COI and endorsements that meet the insurance provisions stipulated in this Contract are
29 submitted to ADMINISTRATOR.

30 b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late
31 COI or endorsement for each business day, pursuant to any and all contracts between COUNTY and
32 CONTRACTOR, until such time that the required COI and endorsements that meet the insurance
33 provisions stipulated in this Contract are submitted to ADMINISTRATOR.

34 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from
35 CONTRACTOR's monthly invoice.

36 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
37 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs

1 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.

3 **XII. INSPECTIONS AND AUDITS**

4 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized
5 representative of the State of California, the Secretary of the United States Department of Health and
6 Human Services, the Comptroller General of the United States, or any other of their authorized
7 representatives, shall have access to any books, documents, and records, including but not limited to,
8 financial statements, general ledgers, relevant accounting systems, medical and Client records, of
9 CONTRACTOR that are directly pertinent to this Contract, for the purpose of responding to a
10 beneficiary complaint or conducting an audit, review, evaluation, or examination, or making transcripts
11 during the periods of retention set forth in the Records Management and Maintenance Paragraph of this
12 Contract. Such persons may at all reasonable times inspect or otherwise evaluate the services provided
13 pursuant to this Contract, and the premises in which they are provided.

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

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

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

19 c. Compliance with COUNTY Client Grievance Procedures.

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

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

25
26 B. CONTRACTOR shall actively participate and cooperate with any person specified in
27 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this
28 Contract, and shall provide the above-mentioned persons adequate office space to conduct such
29 evaluation or monitoring.

30 C. AUDIT RESPONSE

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

36 2. If the audit reveals that money is payable from one Party to the other, that is,
37 reimbursement by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to

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1 CONTRACTOR, said funds shall be due and payable from one Party to the other within sixty (60)
 2 calendar days of receipt of the audit results. If reimbursement is due from CONTRACTOR to
 3 COUNTY, and such reimbursement is not received within said sixty (60) calendar days, COUNTY may,
 4 in addition to any other remedies provided by law, reduce any amount owed CONTRACTOR by an
 5 amount not to exceed the reimbursement due COUNTY.

6 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare and file
 7 with ADMINISTRATOR, an annual, independent, organization-wide audit of related expenditures as
 8 may be required during the term of this Contract.

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

13 **XIII. LICENSES AND LAWS**

14 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
 15 the term of this Contract, maintain all necessary licenses, permits, approvals, certificates, accreditations,
 16 waivers, and exemptions necessary for the provision of the services hereunder and required by the laws,
 17 regulations and requirements of the United States, the State of California, COUNTY, and all other
 18 applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and
 19 in writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals,
 20 permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be
 21 cause for termination of this Contract.
 22

23 B. CONTRACTOR shall comply with all applicable governmental laws, regulations, and
 24 requirements as they exist now or may be hereafter amended or changed. These laws, regulations, and
 25 requirements shall include, but not be limited to, the following:
 26

- 27 1. ARRA of 2009.
- 28 2. Trafficking Victims Protection Act of 2000.
- 29 3. WIC, Division 5, Community Mental Health Services.
- 30 4. WIC, Division 6, Admissions and Judicial Commitments.
- 31 5. WIC, Division 7, Mental Institutions.
- 32 6. HSC, §§1250 et seq., Health Facilities.
- 33 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 34 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 35 9. CCR, Title 17, Public Health.
- 36 10. CCR, Title 22, Social Security.
- 37 11. CFR, Title 42, Public Health.

- 1 12. CFR, Title 45, Public Welfare.
- 2 13. USC Title 42. Public Health and Welfare.
- 3 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 4 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 5 16. 42 USC §1857, et seq., Clean Air Act.
- 6 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 7 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 8 19. Policies and procedures set forth in Mental Health Services Act.
- 9 20. Policies and procedures set forth in DHCS Letters.
- 10 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 11 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
12 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 13 23. 42 CFR, Section 438, Managed Care Regulations
- 14 24. Title 22, CCR, §51009, Confidentiality of Records.
- 15 25. California Welfare and Institutions Code, §14100.2, Medicaid Confidentiality.
- 16 26. D/MC Certification Standards for Substance Abuse Clinics, July 2004.
- 17 27. D/MC Billing Manual (March 23, 2010).
- 18 28. Federal Medicare Cost reimbursement principles and cost reporting standards.
- 19 29. State of California-Health and Human Services Agency, Department of Health Care
20 Services, MHSD, Medi-Cal Billing Manual, October 2013.
- 21 30. Orange County Medi-Cal Mental Health Managed Care Plan.
- 22 31. 42 CFR, Section 438, Managed Care Regulations
- 23 32. Short-Doyle/Medi-Cal Manual for the Rehabilitation Option and Targeted Case
24 Management.
- 25 33. Short-Doyle/Medi-Cal Modifications/Revisions for the Rehabilitation Option and Targeted
26 Case Management Manual, including DMH Letter 94-14, dated July 7, 1994, DMH Letter No. 95-04,
27 dated July 27, 1995, DMH Letter 96-03, dated August 13, 1996.

28 C. CONTRACTOR shall at all times be capable and authorized by the State of California to
29 provide treatment and bill for services provided to Medi-Cal eligible Clients while working under the
30 terms of this Contract.

31 **XIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

32 A. Any written information or literature, including educational or promotional materials,
33 distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related
34 to this Contract must be approved at least thirty (30) calendar days in advance and in writing by
35 ADMINISTRATOR before distribution. For the purposes of this Contract, distribution of written
36 materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads,
37

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1 and electronic media such as the Internet.

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

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

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

17 18 **XV. MINIMUM WAGE LAWS**

19 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and
20 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the
21 federal or California Minimum Wage to all its Covered Individuals (as defined within the “Compliance”
22 paragraph of this Contract) that directly or indirectly provide services pursuant to this Contract, in any
23 manner whatsoever. CONTRACTOR shall require and verify that all of its Covered Individuals
24 providing services pursuant to this Contract be paid no less than the greater of the federal or California
25 Minimum Wage.

26 B. CONTRACTOR shall comply and verify that its Covered Individuals comply with all other
27 federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor
28 standards pursuant to providing services pursuant to this Contract.

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

33 34 **XVI. NONDISCRIMINATION**

35 **A. EMPLOYMENT**

36 1. During the term of this Contract, CONTRACTOR and its Covered Individuals (as defined
37 in the “Compliance” paragraph of this Contract) shall not unlawfully discriminate against any employee

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1 or applicant for employment because of his/her race, religious creed, color, national origin, ancestry,
 2 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,
 3 gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally,
 4 during the term of this Contract, CONTRACTOR and its Covered Individuals shall require in its
 5 subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for
 6 employment because of his/her race, religious creed, color, national origin, ancestry, physical disability,
 7 mental disability, medical condition, genetic information, marital status, sex, gender, gender identity,
 8 gender expression, age, sexual orientation, or military and veteran status.

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

13 3. CONTRACTOR shall not discriminate between employees with spouses and employees
 14 with domestic partners, or discriminate between domestic partners and spouses of those employees, in
 15 the provision of benefits.

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

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

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

30 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
 31 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
 32 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
 33 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
 34 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
 35 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
 36 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
 37 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information

1 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and
 2 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all
 3 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination
 4 paragraph, discrimination includes, but is not limited to the following based on one or more of the
 5 factors identified above:

- 6 1. Denying a Client or potential Client any service, benefit, or accommodation.
- 7 2. Providing any service or benefit to a Client which is different or is provided in a different
 8 manner or at a different time from that provided to other Clients.
- 9 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by
 10 others receiving any service and/or benefit.
- 11 4. Treating a Client differently from others in satisfying any admission requirement or
 12 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
 13 any service and/or benefit.
- 14 5. Assignment of times or places for the provision of services.

15 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all Clients
 16 through a written statement that CONTRACTOR’s and/or subcontractor’s Clients may file all
 17 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and
 18 ADMINISTRATOR.

19 1. Whenever possible, problems shall be resolved at the point of service. CONTRACTOR
 20 shall establish an internal informal problem resolution process for Clients not able to resolve such
 21 problems at the point of service. Clients may initiate a grievance or complaint directly with
 22 CONTRACTOR either orally or in writing.

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

25 b. Throughout the problem resolution and grievance process, Client rights shall be
 26 maintained, including access to the COUNTY’s Patients’ Rights Office at any point in the process.
 27 Clients shall be informed of their right to access the COUNTY’s Patients’ Rights Office at any time.

28 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as
 29 to the findings regarding the alleged complaint and, if not satisfied with the decision, has the right to
 30 request a State Fair Hearing.

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

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

6 F. In the event of non-compliance with this paragraph or as otherwise provided by federal and
7 state law, this Contract may be canceled, terminated or suspended in whole or in part and
8 CONTRACTOR or subcontractor may be declared ineligible for further contracts involving federal,
9 state or COUNTY funds.

10
11 **XVII. NOTICES**

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

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

17 2. When faxed, transmission confirmed;

18 3. When sent by Email; or

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

21 B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of
22 this Contract or as otherwise directed by ADMINISTRATOR and shall be effective when faxed,
23 transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United
24 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
27 occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or
28 damage to any COUNTY property in possession of CONTRACTOR.

29 D. For purposes of this Contract, any notice to be provided by COUNTY may be given by
30 ADMINISTRATOR.

31
32 **XVIII. NOTIFICATION OF DEATH**

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

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

1 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by
2 telephone immediately upon becoming aware of the death due to non-terminal illness of any person
3 served pursuant to this Contract; notice need only be given during normal business hours.

4 2. WRITTEN NOTIFICATION

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

8 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written
9 report hand delivered, faxed, sent via encrypted email, within forty-eight (48) hours of becoming aware
10 of the death due to terminal illness of any person served pursuant to this Contract.

11 c. When notification via encrypted email is not possible or practical CONTRACTOR
12 must hand deliver or must fax said notification to a number approved by COUNTY in writing.

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

17
18 **XIX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

26
27 **XX. PATIENTS RIGHTS**

28 A. CONTRACTOR shall post the current California Department of Mental Health Patients' Rights
29 poster as well as the Orange County HCA Mental Health Plan Grievance and Appeals poster in
30 locations readily available to Clients and staff and have Grievance and Appeal forms in the threshold
31 languages and envelopes readily accessible to Clients to take without having to request it on the unit.

32 B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have an
33 internal grievance processes approved by ADMINISTRATOR, to which the Client shall have access.

34 1. CONTRACTOR's grievance processes shall incorporate COUNTY's grievance, patients'
35 rights, and/or utilization management guidelines and procedures. The Client has the right to utilize
36 either or both grievance process simultaneously in order to resolve their dissatisfaction.

37 2. Title IX Rights Advocacy. This process may be initiated by a Client who registers a

27 of 35

1 statutory rights violation or a denial or abuse complaint with the County Patients' Rights Office. The
 2 Patients' Rights office shall investigate the complaint, and Title IX grievance procedures shall apply,
 3 which involve ADMINISTRATOR'S Director of Behavioral Health Care and the State Patients' Rights
 4 Office.

5 C. The parties agree that Clients have recourse to initiate an expression of dissatisfaction to
 6 CONTRACTOR, appeal to the County Patients' Rights Office, file a grievance, and file a Title IX
 7 complaint. The Patients' Advocate shall advise and assist the Client, investigate the cause of the
 8 grievance, and attempt to resolve the matter

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

11 **XXI. RECORDS MANAGEMENT AND MAINTENANCE**

12 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
 13 of this Contract, prepare, maintain and manage records appropriate to the services provided and in
 14 accordance with this Contract and all applicable requirements.

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

18 2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN
 19 Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was
 20 rendered, and such additional information as ADMINISTRATOR or DHCS may require.

21 3. CONTRACTOR shall maintain books, records, documents, accounting procedures and
 22 practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature
 23 claimed to have been incurred in the performance of this Contract and in accordance with Medicare
 24 principles of reimbursement and GAAP.

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

29 B. CONTRACTOR shall implement and maintain administrative, technical and physical
 30 safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of
 31 PHI in violation of the HIPAA, federal and state regulations. CONTRACTOR shall mitigate to the
 32 extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal
 33 or state regulations and/or COUNTY policies.

34 C. CONTRACTOR's participant, client, and/or patient records shall be maintained in a secure
 35 manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish
 36 and implement written record management procedures.
 37

1 D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the
2 termination of the Contract, unless a longer period is required due to legal proceedings such as
3 litigations and/or settlement of claims.

4 E. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years
5 following discharge of the participant, client and/or patient.

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

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

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

- 18 1. The medical records and billing records about individuals maintained by or for a covered
19 health care provider;
- 20 2. The enrollment, payment, claims adjudication, and case or medical management record
21 systems maintained by or for a health plan; or
- 22 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

23 I. CONTRACTOR may retain client, and/or patient documentation electronically in accordance
24 with the terms of this Contract and common business practices. If documentation is retained
25 electronically, CONTRACTOR shall, in the event of an audit or site visit:

- 26 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit
27 or site visit.
- 28 2. Provide auditor or other authorized individuals access to documents via a computer
29 terminal.
- 30 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if
31 requested.

32 J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and
33 security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or
34 security of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law
35 or regulation, and copy ADMINISTRATOR on such notifications.

36 K. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or
37 security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall

29 of 35

1 pay any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.

2
3 **XXII. RESEARCH AND PUBLICATION**

4 CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out
5 of, or developed, as a result of this Contract for the purpose of personal or professional research, or for
6 publication.

7
8 **XXIII. REVENUE**

9 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a
10 fee to Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or
11 other third party health plans, are provided pursuant to this Contract, their estates and responsible
12 relatives, according to their ability to pay as determined by the State Department of Health Care
13 Services’ “Uniform Method of Determining Ability to Pay” procedure or by any other payment
14 procedure as approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title
15 9 of the CCR. Such fee shall not exceed the actual cost of services provided. No Client shall be denied
16 services because of an inability to pay.

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

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

26 D. OTHER REVENUES – CONTRACTOR shall charge for services, supplies, or facility use by
27 persons other than individuals or groups eligible for services pursuant to this Contract.

28
29 **XXIV. SEVERABILITY**

30 If a court of competent jurisdiction declares any provision of this Contract or application thereof to
31 any person or circumstances to be invalid or if any provision of this Contract contravenes any federal,
32 state or county statute, ordinance, or regulation, the remaining provisions of this Contract or the
33 application thereof shall remain valid, and the remaining provisions of this Contract shall remain in full
34 force and effect, and to that extent the provisions of this Contract are severable.

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XXV. SPECIAL PROVISIONS

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

1. Making cash payments to intended recipients of services through this Contract.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of 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, interns, consultants, subcontractors, and members of the Board of Directors or governing body.
5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body for expenses or services.
6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, 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.
7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at www.opm.gov.
8. Severance pay for separating employees.
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.

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

1. Funding travel or training (excluding mileage or parking).
2. Making phone calls outside of the local area unless documented to be directly for the purpose of Client care.
3. Payment for grant writing, consultants, certified public accounting, or legal services.
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 Contract.

XXVI. STATUS OF CONTRACTOR

CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Contract. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and consultants employed by CONTRACTOR. This Contract shall not be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR

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1 or any of CONTRACTOR's employees, agents, consultants, volunteers, interns, or subcontractors.
 2 CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents,
 3 consultants, volunteers, interns, or subcontractors as they relate to the services to be provided during the
 4 course and scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers,
 5 interns, or subcontractors, shall not be entitled to any rights or privileges of COUNTY's employees and
 6 shall not be considered in any manner to be COUNTY's employees.

7 8 **XXVII. TERM**

9 A. This specific Contract with CONTRACTOR is only one of several contracts to which the
 10 term of this Contract applies. This specific Contract shall commence as specified in the Referenced
 11 Contract Provisions of this Contract or the execution date, whichever is later. This specific Contract
 12 shall terminate as specified in the Referenced Contract Provisions of this Contract, unless otherwise
 13 sooner terminated as provided in this Contract. CONTRACTOR is obligated to perform such duties as
 14 would normally extend beyond this term, including but not limited to, obligations with respect to
 15 confidentiality, indemnification, audits, reporting and accounting.

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

18 19 **XXVIII. TERMINATION**

20 A. CONTRACTOR is responsible for meeting all programmatic and administrative contracted
 21 objectives and requirements as indicated in this Contract. CONTRACTOR shall be subject to the
 22 issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not meet
 23 goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe as
 24 determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is resolved
 25 and/or the Contract could be terminated.

26 B. COUNTY may terminate this Contract immediately, upon written notice, on the occurrence of
 27 any of the following events:

- 28 1. The loss by CONTRACTOR of legal capacity.
- 29 2. Cessation of services.
- 30 3. The delegation or assignment of CONTRACTOR's services, operation or administration to
 31 another entity without the prior written consent of COUNTY.
- 32 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
 33 required pursuant to this Contract.
- 34 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of
 35 this Contract.
- 36 6. The continued incapacity of any physician or licensed person to perform duties required
 37 pursuant to this Contract.

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

5 C. CONTINGENT FUNDING

6 1. Any obligation of COUNTY under this Contract is contingent upon the following:

7 a. The continued availability of federal, state and county funds for reimbursement of
 8 COUNTY's expenditures, and

9 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)
 10 approved by the Board of Supervisors.

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

15 D. In the event this Contract is suspended or terminated prior to the completion of the term as
 16 specified in the Referenced Contract Provisions of this Contract, ADMINISTRATOR may, at its
 17 sole discretion, reduce the Not To Exceed Amount of this Contract to be consistent with the reduced
 18 term of the Contract.

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

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

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

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

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

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

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

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

35 8. To the extent services are terminated, cancel outstanding commitments covering the
 36 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding
 37 commitments which relate to personal services. With respect to these canceled commitments,

33 of 35

1 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims
2 arising out of such cancellation of commitment which shall be subject to written approval of
3 ADMINISTRATOR.

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

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

11
12 **XXIX. THIRD PARTY BENEFICIARY**

13 Neither Party hereto intends that this Contract shall create rights hereunder in third parties
14 including, but not limited to, any subcontractors or any Clients provided services pursuant to this
15 Contract.

16 **XXX. WAIVER OF DEFAULT OR BREACH**

17 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
18 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
19 Contract shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
20 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
21 Contract.

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1 IN WITNESS WHEREOF, the Parties have executed this Contract, in the County of Orange, State
2 of California.

3
4 PROVIDER LEGAL NAME

5
6 BY: _____ DATED: _____

7
8 TITLE: _____

9
10
11 BY: _____ DATED: _____

12
13 TITLE: _____

14
15
16 COUNTY OF ORANGE

17
18
19 BY: _____ DATED: _____

20 PURCHASING AGENT/DESIGNEE

21
22
23
24 APPROVED AS TO FORM
25 OFFICE OF THE COUNTY COUNSEL
26 ORANGE COUNTY, CALIFORNIA

27
28
29 BY: _____ DATED: _____

30 DEPUTY

31
32
33
34 If CONTRACTOR is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
36 or any Assistant Treasurer. If the Contract is signed by one (1) authorized individual only, a copy of the corporate resolution
37 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 CONTRACT FOR PROVISION OF
 MEDI-CAL MENTAL HEALTH MANAGED CARE
 PSYCHIATRIC INPATIENT HOSPITAL SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 PROVIDER NAME
 JULY 1, 2022 THROUGH JUNE 30, 2025

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 Contract.

A. Acute Day means those days authorized by ADMINISTRATOR's designated Utilization Management Unit when the Client meets medical necessity criteria set forth in Title 9 of the California Code of Regulations (CCR), section 1820.205.

B. Administrative Day means those days authorized by ADMINISTRATOR's designated Utilization Management Unit when the Client no longer meets medical necessity criteria for acute psychiatric hospital services but has not yet been accepted for placement at a non-acute licensed residential treatment facility in a reasonable geographic area.

C. ADL means Activities of Daily Living and refers to diet, personal hygiene, clothing care, grooming, money and household management, personal safety, symptom monitoring, etc.

D. Additional Income Source means Additional Income Source and refers to all income other than SSI and includes such sources of income as retirement income, disability income, trust fund income, SSI, Veteran's Affairs disability income, etc.

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

F. ASO means Administrative Services Organization and refers to administrative and mental health services components that include maintenance of a contract provider network including credentialing and contracting, adjudication of provider claims for outpatient and inpatient specialty mental health services, and the operation of a 24-hour telephone access and authorization line.

G. Client Day means one (1) calendar day during which CONTRACTOR provides all of the services described hereunder, including the day of admission and excluding the day of discharge. If admission and discharge occur on the same day, one (1) client day shall be charged.

H. Client or Consumer means an individual, referred by COUNTY or enrolled in CONTRACTOR's program for services under the Contract, who is dealing with a chronic mental

1 illness.

2 I. Crisis Stabilization Unit (CSU) means a psychiatric crisis stabilization program that operates
3 twenty-four (24) hours a day that serves Orange County residents aged thirteen (13) and older who are
4 experiencing a psychiatric crisis and need immediate evaluation. Individuals receive a thorough
5 psychiatric evaluation, crisis stabilization treatment, and referral to the appropriate level of continuing
6 care. As a designated outpatient facility, the CSU may evaluate and treat individuals for no longer than
7 twenty-three (23) hours and fifty-nine (59) minutes.

8 J. Diagnosis means the definition of the nature of the Client's disorder. When formulating the
9 diagnosis of Client, CONTRACTOR shall use the diagnostic codes as specified in the most current
10 edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and/or ICD published by
11 the American Psychiatric Association.

12 K. DSM means Diagnostic and Statistical Manual of Mental Disorders and refers to the
13 Publication by the American Psychiatric Association that is used as a guide in the diagnosis of mental
14 disorders.

15 L. ECT means Electro Convulsive Therapy and refers to a psychiatric treatment in which
16 seizures are electrically induced in anesthetized patients for therapeutic effect.

17 M. Engagement means the process where a trusting relationship is developed over a short period
18 of time with the goal to link the individual(s) to appropriate services within the community.
19 Engagement is the objective of a successful outreach.

20 N. Face-to-Face means an encounter between the individual/parent/guardian and provider where
21 they are both physically present. This does not include contact by phone, email, etc., except for
22 Telepsychiatry provided in a manner that meets COUNTY protocols.

23 O. Health Care Services means any preventive, diagnostic, treatment, or support services,
24 including professional services, which may be medically necessary to protect life, prevent significant
25 disability, and/or treat diseases, illnesses, or injuries in order to prevent a serious deterioration of health.

26 P. HIPAA means Health Insurance Portability and Accountability Act and refers to the federal
27 law that establishes standards for the privacy and security of health information, as well as standards for
28 electronic data interchange of health information. HIPAA law has two main goals, as its name implies:
29 making health insurance more portable when persons change employers, and making the health care
30 system more accountable for costs-trying especially to reduce waste and fraud.

31 Q. Hospital Based Ancillary Services means services which include but are not limited to ECT
32 and MRI. Other ancillary services include: the use of facilities; laboratory, medical and social services
33 furnished by CONTRACTOR including drugs such as take-home drugs, biologicals, supplies,
34 appliances and equipment; nursing, pharmacy and dietary services; and supportive and administrative
35 services required to provide Psychiatric Inpatient Hospital Services. Ancillary services do not include
36 physician or psychologist services that are separately billed to DHCS.

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1 R. Integrated Records Information System (IRIS) means ADMINISTRATOR's database system
 2 and refers to a collection of applications and databases that serve the needs of programs within Orange
 3 County and includes functionality such as registration and scheduling, laboratory information system,
 4 billing and reporting capabilities, compliance with regulatory requirements, electronic medical records,
 5 and other relevant applications.

6 S. ITP means Individualized Treatment Plan for each Client. All psychiatric, psychological, and
 7 social services must be compatible with the ITP.

8 T. Lanterman–Petris–Short (LPS) Act means Lanterman Petris-Short and refers to the Act that
 9 went into effect July 1, 1972 in California. The Act in effect ended all hospital commitments by the
 10 judiciary system, except in the case of criminal sentencing (e.g. convicted sexual offenders) and those
 11 who were "gravely disabled" defined as unable to obtain food, clothing, or shelter. It expanded the
 12 evaluative power of psychiatrists and created provisions and criteria for involuntary detentions. (Cal.
 13 Welf & Inst. Code, sec. 5000 et seq.) provides guidelines for handling involuntary civil commitment to a
 14 mental health institution in the State of California.

15 U. Licensed Clinical Social Worker (LCSW) means a licensed individual, pursuant to the
 16 provisions of Chapter 14 of the California Business and Professions Code, who can provide clinical
 17 services to individuals they serve. The license must be current and in force and not suspended or
 18 revoked.

19 V. Licensed Marriage Family Therapist (MFT) means a licensed individual, pursuant to
 20 the provisions of Chapter 13 and 14 of the California Business and Professions Code, who can provide
 21 clinical services to individuals they serve. The license must be current and in force and not suspended or
 22 revoked.

23 W. Licensed Professional Clinical Counselor (LPCC) means a licensed individual, pursuant to the
 24 provisions of Chapter 13 and 16 of the California Business and Professions Code, who can provide
 25 clinical service to individuals they serve. The license must be current and in force and not suspended or
 26 revoked.

27 X. Licensed Psychiatric Technician (LPT) means a licensed individual, pursuant to the
 28 provisions of Chapter 10 of the California Business and Professions Code, who can provide clinical
 29 services to individuals they serve. The license must be current and in force and not suspended or
 30 revoked.

31 Y. Licensed Psychologist means an individual who meets the minimum professional and
 32 licensure requirements set forth in CCR, Title 9, Section 624; they are a licensed individual, pursuant to
 33 the provisions of Chapter 6.6 of the California Business and Professions Code, who can provide clinical
 34 services to individuals they serve. The license must be current and in force and not suspended or
 35 revoked.

36 Z. Licensed Vocational Nurse (LVN) means a licensed individual, pursuant to the provisions of
 37 Chapter 6.5 of the California Business and Professions Code, who can provide clinical services to

1 individuals they serve. The license must be current and in force and not suspended or revoked.

2 AA. Live Scan means an inkless, electronic fingerprint which is transmitted directly to the
3 Department of Justice (DOJ) for the completion of a criminal record check, typically required of
4 employees who have direct contact with the individuals served.

5 AB. Long Term Care (LTC) means COUNTY department that reviews referrals for placement
6 in COUNTY-contracted long term care facilities.

7 AC. Medi-Cal means the State of California's implementation of the federal Medicaid health
8 care program which pays for a variety of medical services for children and adults who meet eligibility
9 criteria.

10 AD. Medical Necessity means the requirements as defined in the MHP Medical Necessity for
11 Medi-Cal reimbursed Specialty Mental Health Services that includes diagnosis, impairment criteria and
12 intervention related criteria. Meeting medical necessity for acute psychiatric inpatient hospital services
13 includes having an included DSM/ICD diagnosis; the Client cannot be safely treated at a lower level of
14 care; and the Client requires psychiatric inpatient hospital services, as a result of a mental disorder, due
15 to symptoms or behaviors that represent a current danger to self or others, or significant property
16 destruction; and/or prevent the Client from providing for, or utilizing, food, clothing, shelter; and/or
17 present a severe risk to the client's physical health; and/or represent a recent, significant deterioration in
18 ability to function.

19 AE. Mental Health Services means interventions designed to provide the maximum reduction of
20 mental disability and restoration or maintenance of functioning consistent with the requirements for
21 learning, development and enhanced self-sufficiency. Services shall include:

22 a. Assessment means a service activity, which may include a clinical analysis of the
23 history and current status of a beneficiary's mental, emotional, or behavioral disorder, relevant cultural
24 issues and history, diagnosis and the use of testing procedures.

25 b. Medication Support Services means those services provided by a licensed
26 physician, registered nurse, or other qualified medical staff, which includes prescribing, administering,
27 dispensing and monitoring of psychiatric medications or biologicals and which are necessary to alleviate
28 the symptoms of mental illness. These services also include evaluation and documentation of the
29 clinical justification and effectiveness for use of the medication, dosage, side effects, compliance and
30 response to medication, as well as obtaining informed consent, providing medication education and plan
31 development related to the delivery of the service and/or assessment of the beneficiary.

32 c. Rehabilitation Service means an activity which includes assistance in improving,
33 maintaining, or restoring a Client's or group of Clients' functional skills, daily living skills, social and
34 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or
35 medication education.

36 d. Therapy means a service activity which is a therapeutic intervention that focuses
37 primarily on symptom reduction as a means to improve functional impairments. Therapy may be

1 delivered to an individual or group of Clients that may include family therapy in which the Client is
2 present.

3 AF. MHSA means Mental Health Services Act and refers to the voter-approved initiative to develop
4 a comprehensive approach to providing community-based mental health services and supports for
5 California residents. It is also known as “Proposition 63.”

6 AG. Milestones of Recovery Scale (MORS) means a Recovery scale that COUNTY uses in
7 Adult Mental Health programs. The scale assigns Clients to their appropriate level of care and replaces
8 diagnostic and acuity of illness-based tools.

9 AH. Outreach means linking individuals to appropriate Mental Health Services within the
10 community. Outreach activities will include educating the community about the services offered and
11 requirements for participation in the various mental health programs within the community. Such
12 activities will result in CONTRACTOR developing their own Referral sources for programs being
13 offered within the community.

14 AI. Peer Recovery Specialist/Counselor means an individual in a paid position who has been
15 through the same or similar Recovery process as those being assisted to attain their Recovery goals in
16 the CSU. A Peer Recovery Specialist practice is informed by personal experience.

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

22 AK. Psychiatric Inpatient Hospital Services means services, including ancillary services,
23 provided in an acute care hospital for the care and treatment of an acute episode of mental disorder.

24 AL. Program Director means an individual who is responsible for all aspects of administration
25 and clinical operations of the behavioral health program, including development and adherence to the
26 annual budget. This individual also is responsible for the following: hiring, development and
27 performance management of professional and support staff, and ensuring mental health treatment
28 services are provided in concert with COUNTY and state rules and regulations.

29 AM. Protected Health Information (PHI) means individually identifiable health information
30 usually transmitted through electronic media. PHI can be maintained in any medium as defined in the
31 regulations, or for an entity such as a health plan, transmitted or maintained in any other medium. It
32 created or received by a covered entity and is related to the past, present, or future physical or mental
33 health or condition of an individual, provision of health care to an individual, or the past, present, or
34 future payment for health care provided to an individual.

35 AN. Psychiatrist means an individual who meets the minimum professional and licensure
36 requirements set forth in Title 9, CCR, Section 623, and, preferably, has at least one (1) year of
37 experience treating children and TAY.

1 AO. Quality Improvement Committee (QIC) means a committee that meets quarterly to review
 2 one percent (1%) of all “high-risk” Medi-Cal recipients in order to monitor and evaluate the quality and
 3 appropriateness of services provided. At a minimum, the committee is comprised of one (1)
 4 ADMINISTRATOR, one (1) clinician, and one (1) physician who are not involved in the clinical care of
 5 the cases.

6 AP. Referral means effectively linking individuals to other services within the community and
 7 documenting follow-up provided within five (5) business days to assure that individuals have made
 8 contact with the referred service(s).

9 AQ. Registered Nurse (RN) means a licensed individual, pursuant to the provisions of Chapter 6
 10 of the California Business and Professions Code, who can provide clinical services to the individuals
 11 served. The license must be current and in force and not suspended or revoked. Also, it is preferred that
 12 the individual has at least one (1) year of experience treating TAY.

13 AR. Seriously Emotionally Disturbed (SED) means children or adolescent minors under the age
 14 of eighteen (18) years who have a behavioral health disorder, as identified in the most recent edition of
 15 the DSM and/or the ICD 10, other than a primary substance use disorder or developmental disorder,
 16 which results in behavior inappropriate to the child’s age according to expected developmental norms.
 17 W&I 5600.3.

18 AS. Serious Persistent Mental Impairment (SPMI) means an adult with a behavioral health
 19 disorder that is severe in degree and persistent in duration, which may cause behavioral functioning
 20 which interferes substantially with the primary activities of daily living, and which may result in an
 21 inability to maintain stable adjustment and independent functioning without treatment, support, and
 22 rehabilitation for a long or indefinite period of time. W&I 5600.3.

23 AT. Supervisory Review means ongoing clinical case reviews in accordance with procedures
 24 developed by ADMINISTRATOR, to determine the appropriateness of Diagnosis and treatment and to
 25 monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting standards.
 26 Supervisory review is conducted by the program/clinic director or designee.

27 AU. Token means the security device which allows an individual user to access COUNTY’s
 28 computer-based IRIS.

29 AV.. Uniform Method of Determining Ability to Pay (UMDAP) means the UMDAP refers to the
 30 method used for determining an individual’s annual liability for Mental Health Services received from
 31 COUNTY’s mental health system and is set by the State of California.

32 AW. Wellness Action & Recovery Plan (WRAP) means a self-help technique for monitoring and
 33 responding to symptoms to achieve the highest possible levels of wellness, stability, and quality of life.

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

37 AY. NPP means Notice of Privacy Practices and refers to the document that notifies individuals

1 of uses and disclosures of Protected Health Information (PHI) that may be made by or on behalf of the
2 health plan or health care provided as set forth in HIPAA.

3 AZ. Serious Medical Conditions means conditions that require urgent health care services,
4 defined as any preventive, diagnostic, treatment, or supportive services, including professional services,
5 which may be medically necessary to protect life, present significant disability, and/or treat diseases,
6 illnesses, or injuries in order to prevent serious deterioration of health.

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

9 BB. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
10 Common Terms and Definitions Paragraph of this Exhibit A to the Contract.

11 **II. ISSUE RESOLUTION**

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

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

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

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

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

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

33 **III. PATIENT'S RIGHTS**

34 A. CONTRACTOR shall post the current California Department of Health Care Services Patients'
35 Rights poster as well as the Orange County HCA Mental Health Plan Complaint and Grievance poster in
36 all Orange County threshold languages in locations readily available to Clients and staff and have
37

1 | complaint forms and complaint envelopes readily accessible to Clients.

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

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

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

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

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

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

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

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

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

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

32 | **IV. PAYMENTS**

34 | A. CONTRACTOR shall be reimbursed by DHCS for services provided at the following
35 | all-inclusive rates per client day for acute Psychiatric Inpatient Hospital Services and based on the
36 | following accommodation codes.

<u>Accommodation Code</u>	<u>Description of Facility</u>	<u>Rate</u> <u>Period One</u>	<u>Period Two</u>	<u>Period Three</u>
097	General Acute Care Hospital: <u>Adolescent/Child, Psychiatric</u>	\$1090.00 1175.00	\$1090.00 1175.00	\$1090.00 1175.00
114 - 204	General Acute Care Hospital: <u>Adult, Psychiatric</u>	\$1005.00 1050.00	\$1005.00 1050.00	\$1005.00 1050.00
097	Acute Psychiatric Hospital <u>Adolescent/Child, Psychiatric</u>	\$1025.00	\$1025.00	\$1025.00
114 - 204	Acute Psychiatric Hospital <u>Adult, Psychiatric</u>	\$950.00	\$950.00	\$950.00
169	<u>Administrative Day</u>	<u>Current DHCS Rate</u>	<u>Current DHCS Rate</u>	<u>Current DHCS Rate</u>

1. The rate for Accommodation Code 169 is established and adjusted by the DHCS.
2. Rates are inclusive of all Psychiatric Inpatient Hospital Services as defined in this Exhibit A to the Contract and shall constitute payment in full for these services.
3. The number of billable Units of Service shall include the day of admission and exclude the day of discharge unless admission and discharge occur on the same day, then one (1) day shall be included.
4. DHCS may reimburse Administrative Days for dates in which documentation does not meet requirements for Acute Day reimbursement, contingent upon CONTRACTOR documentation of services that qualify for the Administrative Day reimbursement, as outlined in Section IV. C. *Acute Day Medical Necessity and Administrative Day Reimbursement Requirements* of this Exhibit A
5. Rates do not include physician or psychologist services rendered to Clients, or transportation services required in providing Psychiatric Inpatient Hospital services. These services shall be billed separately from the above per diem rate for Psychiatric Inpatient Hospital services as follows:
 - a. When Medi-Cal eligible mental health services are provided by a psychiatrist or psychologist, such services shall be billed to COUNTY's ASO. Prior authorization and notification are not required prior to providing these services.
 - b. When Medi-Cal eligible medical services are provided by a physician, such services

1 shall be billed to the designated CalOptima Plan or CalOptima Direct, depending on the Client's health
 2 coverage benefit. Prior authorization and notification may be required prior to providing these services,
 3 and it is CONTRACTOR's responsibility to ascertain whether prior authorization or notification is
 4 required.

5 c. When Medi-Cal eligible transportation services are provided, such services shall be
 6 billed to the designated CalOptima Plan or CalOptima Direct, depending on the Client's health coverage
 7 benefit. Prior authorization and notification may be required prior to providing these services, and it is
 8 CONTRACTOR's responsibility to ascertain whether prior authorization or notification is required.

9 6. The client daily rates stated above do not include ECT or MRI Services. The rates for ECT
 10 and MRI Services shall apply only for the day(s) in which the Client received an approved ECT or MRI
 11 (rates listed below). These rates reflect CONTRACTOR's reimbursement only and associated
 12 professional services shall be billed to COUNTY's ASO, the designated CalOptima Plan or CalOptima
 13 Direct. CONTRACTOR must obtain prior approval from ADMINISTRATOR to perform the ECT or
 14 MRI in order to be reimbursed. CONTRACTOR shall submit to ADMINISTRATOR ECT and MRI
 15 invoices that indicate for whom services were provided, the date of service, and shall be supported with
 16 such documentation as may be required by ADMINISTRATOR.

Description	Rate
Psychiatric, ECT	N/A
Psychiatric, MRI	N/A

22 B. Billing Procedures

23 1. CONTRACTOR must obtain an NPI.

24 2. CONTRACTOR shall invoice DHCS for each client day, authorized by the ASO during the
 25 concurrent review process, and approved by ADMINISTRATOR, for each Client who meets
 26 notification, admission and/or continued stay criteria, documentation requirements, treatment and
 27 discharge planning requirements and occupies a psychiatric inpatient hospital bed at 12:00 AM in
 28 CONTRACTOR's facility. CONTRACTOR may invoice DHCS if the Client is admitted and
 29 discharged during the same day; provided, however, that such admission and discharge is not within
 30 twenty-four (24) hours of a prior discharge.

31 3. CONTRACTOR shall determine that Psychiatric Inpatient Hospital services provided
 32 pursuant to the Contract are not covered, in whole or in part, under any other state or federal medical
 33 care program or under any other contractual or legal entitlement including, but not limited to, a private
 34 group indemnification or insurance program or Workers' Compensation Program. CONTRACTOR
 35 shall seek to be reimbursed by other coverage prior to seeking reimbursement by DHCS. DHCS's
 36 maximum obligation shall be reduced if other coverage is available.

1 4. CONTRACTOR shall submit claims to DHCS's fiscal intermediary for all services
 2 rendered pursuant to the Contract, in accordance with the applicable invoice and billing requirements
 3 contained in WIC, Section 5778.

4 5. CONTRACTOR may appeal, in writing, a denied request for reimbursement to
 5 ADMINISTRATOR. In the event that the appeal is denied by ADMINISTRATOR, CONTRACTOR
 6 may continue the appeals process by writing directly to DHCS within thirty (30) calendar days of
 7 ADMINISTRATOR's decision. The decision of DHCS shall be final.

8 C. Acute Day Medical Necessity and Administrative Day Reimbursement Requirements

9 1. Acute Day Medical Necessity – for Medi-Cal reimbursement of psychiatric inpatient
 10 hospital services, the Client must meet medical necessity criteria set forth in Title 9 of the CCR, section
 11 1820.205. Medical necessity criteria are applicable regardless of the legal status (voluntary or
 12 involuntary) of the Client. The Client must meet the following medical necessity criteria for admission
 13 to a hospital for psychiatric inpatient hospital services:

14 a. Have an included diagnosis;
 15 b. Cannot be safely treated at a lower level of care, except that a Client who can be safely
 16 treated with crisis residential treatment services of psychiatric health facility services for an acute
 17 psychiatric episode shall be considered to have met this criterion; and

18 c. Requires psychiatric inpatient hospital services, as the result of a mental disorder, due
 19 to one of the following:

20 1) Has symptoms or behaviors due to a mental disorder that (one of the following):

- 21 i. Represent a current danger to self or others, or significant property damage;
- 22 ii. Prevent the Client from providing for, or utilizing, food, clothing, or shelter;
- 23 iii. Present a severe risk to the Client's physical health;
- 24 iv. Represent a recent, significant deterioration in ability to function.

25 2) Require admission for one of the following:

- 26 i. Further psychiatric evaluation;
- 27 ii. Medication treatment
- 28 iii. Other treatment that can be reasonably provided only if the Client is

29 hospitalized

30 2. Continued Stay Acute Medical Necessity includes:

31 a. Continued presence of indications that meet the medical necessity criteria outlined
 32 above;

33 b. Serious adverse reaction to medications, procedures, or therapies requiring continued
 34 hospitalization;

35 c. Presence of new indications that meet medical necessity criteria; and

36 d. Need for continued medical evaluation or treatment that can only be provided if the
 37 Client remains in the hospital

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

6 f. COUNTY's Director of Behavioral Health Services or designee may determine a
 7 COUNTY client no longer meets this primary criteria and request that CONTRACTOR discharge
 8 COUNTY client to a facility appropriate for COUNTY client's treatment requirements.

9 3. Administrative Day Reimbursement Requirements – a Client no longer meets medical
 10 necessity criteria for acute psychiatric hospital services but has not yet been accepted for placement at a
 11 non-acute licensed residential treatment facility in a reasonable geographic area. For reimbursement for
 12 administrative day service claims, CONTRACTOR shall document the following in the Client's medical
 13 record:

14 a. Having made at least one contact to a non-acute licensed residential treatment facility
 15 per day (except weekends and holidays) or person or agency responsible for placement, starting with the
 16 day the Client was placed on administrative day status.

17 b. Once five (5) contacts have been made and documented, any remaining days within the
 18 seven-consecutive-day period from the day the Client is placed on administrative day status can be
 19 authorized.

20 c. CONTRACTOR must continue to document contacts with appropriate placement
 21 facilities until the Client is discharged. Contacts shall be documented by a brief description of the
 22 placement facilities reported bed availability status, reason for denial if applicable, and the signature of
 23 the person making the contact.

24 d. ADMINISTRATOR shall monitor the Client's status, appropriateness of the facilities
 25 being contacted for referral, and/or the Client's chart to determine if the Client's status has changed.

26 D. Concurrent Review

27 1. CONTRACTOR shall comply with Concurrent Review Policies and Procedures per DHCS
 28 Information Notice 19-026, and any future letters from DHCS outlining updates to this process,
 29 including:

30 a. CONTRACTOR shall notify ADMINISTRATOR's Third-Party contractor for
 31 Concurrent Review and Authorization of services within twenty-four (24) hours of Client admission.

32 b. CONTRACTOR shall participate in ongoing concurrent reviews and discharge review
 33 with ADMINISTRATOR's third-party contractor for all ongoing authorization of treatment based upon
 34 medical necessity criteria, for the entire duration of the Client's admission.

35 E. TAR Process

36 1. CONTRACTOR shall submit the 18-3 TAR for authorization of payment for Psychiatric
 37 Inpatient Hospital services to ADMINISTRATOR no later than fourteen (14) calendar days after:

- a. Ninety-nine (99) calendar days of continuous service to a Client, and/or
- b. Discharge.

2. CONTRACTOR shall resubmit the 18-3 TAR and any additional information requested, no later than sixty (60) calendar days from the date of the deferral letter, in the event ADMINISTRATOR defers the 18-3 TAR back to CONTRACTOR to obtain further information.

F. Once TAR is approved by ADMINISTRATOR, CONTRACTOR shall submit claims to DHCS's fiscal intermediary for all services rendered pursuant to the Contract, in accordance with the applicable invoice and billing requirements contained in WIC, Section 5778.

G. TAR Denials and Appeals

1. Should ADMINISTRATOR deny CONTRACTOR's request for reimbursement, CONTRACTOR may submit a First Level Appeal in writing to ADMINISTRATOR.

2. In the event the First Level Appeal is denied by ADMINISTRATOR, CONTRACTOR may continue to the Second-Level Appeals process by writing directly to DHCS, within thirty (30) calendar days of ADMINISTRATOR's decision. The decision of DHCS shall be final.

H. Overpayments

1. CONTRACTOR agrees that DHCS may recoup any such overpayment by withholding the amount owed to DHCS from future payments due CONTRACTOR, in the event that an audit or review performed by ADMINISTRATOR, DHCS, the State Controller's Office, or any other authorized agency discloses that CONTRACTOR has been overpaid.

2. CONTRACTOR agrees that DHCS may recoup funds from prior year's overpayments, which occurred prior to the effective date of the Contract, by withholding the amount currently owed to CONTRACTOR by DHCS.

3. CONTRACTOR may appeal recoupments according to applicable procedural requirements of the regulations adopted pursuant to WIC, Sections 5775, et seq. and 14680, et seq., with the following exceptions:

- a. The recovery or recoupment shall commence sixty (60) calendar days after issuance of account status or demand resulting from an audit or review and shall not be deferred by the filing of a request for an appeal according to the applicable regulations.

- b. CONTRACTOR's liability to COUNTY for any amount recovered shall be as described in WIC, Section 5778(h).

I. Customary Charges Limitation – DHCS's obligation to CONTRACTOR shall not exceed CONTRACTOR's total customary charges for like services during each hospital fiscal year or portion thereof in which the Contract is in effect. DHCS may recoup any portion of the total payments to CONTRACTOR which are in excess of CONTRACTOR's total customary charges.

J. Additional Required Notifications for Medi-Cal Managed Care Clients

1. CONTRACTOR shall notify ADMINISTRATOR, prior to 12:00 PM Monday through Friday, excluding holidays, of the daily census of all Clients in which reimbursement for Psychiatric

1 Inpatient Hospital Services will be requested. The census report following a weekend and/or holiday
2 shall include any admissions made during that time.

3 2. CONTRACTOR shall notify ADMINISTRATOR of any Client discharge within twenty-
4 four (24) hours of the Client's discharge, excluding weekends and holidays. CONTRACTOR shall
5 include the client's name, discharge date, discharge placement and placement phone number.
6 CONTRACTOR shall inform COUNTY of where the Client has been referred for continuing treatment,
7 along with the facility's phone number, contact person and the Client's first appointment time and date.

8 3. CONTRACTOR shall notify the Regional Center Service Coordinator and Nurse
9 Consultant of a Regional Center client's admission within twenty-four (24) hours of admission or within
10 twenty-four (24) hours of identifying that a client is a Regional Center client.

11 4. CONTRACTOR shall notify both the Client's Regional Center Service Coordinator and
12 one of the Regional Center Nurse Consultants of the intent to seek their placement services. Such
13 notification must occur on or before the date for which CONTRACTOR intends to seek Administrative
14 Day reimbursement. CONTRACTOR may seek reimbursement from Regional Center for all
15 Administrative Days after the first three (3) Administrative Days.

16 5. CONTRACTOR shall notify ADMINISTRATOR within twenty-four (24) hours of
17 admission of all Clients served under this Contract, who are admitted on involuntary hold.

18 6. CONTRACTOR shall notify ADMINISTRATOR on the day that the other health insurance
19 benefit has been exhausted, or the day the other health insurance benefit is known to be denied, if the
20 Client has other health insurance coverage in addition to Medi-Cal, and CONTRACTOR intends to seek
21 Medi-Cal reimbursement for all or a portion of the hospital stay.

22
23 K. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing to modify the
24 Payments Paragraph of this Exhibit A to the Contract.

25 26 **V. REPORTS**

27 A. CONTRACTOR shall maintain records and make statistical reports as required by
28 ADMINISTRATOR and/or DHCS on forms provided by either agency.

29 B. CONTRACTOR is required to comply with all applicable reporting requirements, including the
30 requirements set forth in Division 5 of the California Welfare Institutions Code and Division 1, Title 9
31 of the California Code of Regulations, as well as any reports required of LPS designated facilities in the
32 County of Orange.

33 C. CONTRACTOR shall provide ADMINISTRATOR a monthly report of program outcomes
34 tracked for COUNTY Medi-Cal Clients, outlined in the Program Outcomes Section of this
35 Exhibit A.

36 **D. UNUSUAL or ADVERSE INCIDENT REPORTING**

37 1. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions,

1 or issue that materially or adversely affect the quality or accessibility of services provided by, or under
2 contract with, COUNTY.

3 2. CONTRACTOR shall document all adverse incidents affecting the physical and/or
4 emotional welfare of the individuals seen, including, but not limited to, serious physical harm to self or
5 others, serious destruction of property, developments, etc., and which may raise liability issues with
6 COUNTY.

7 E. ADMINISTRATOR may request additional reports of CONTRACTOR in order to determine
8 the quality and nature of services provided hereunder. ADMINISTRATOR will be specific as to the
9 nature of information requested and may allow up to thirty (30) calendar days for CONTRACTOR to
10 respond.

11 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
12 Reports Paragraph of this Exhibit A to the Contract.

13
14
15 **VI. SERVICES**

16 A. FACILITY – CONTRACTOR shall provide Psychiatric Inpatient Hospital Services at the
17 following Medi-Cal Certified and LPS Designated facility:

- 18 Facility Name
- 19 Street Address
- 20 City, State, Zip Code

21
22
23 B. CLIENTS SERVED – CONTRACTOR shall provide acute psychiatric inpatient services to
24 Orange County Medi-Cal beneficiaries living with serious and persistent mental health issues, serious
25 emotional disturbance and those who are experiencing a psychiatric crisis requiring immediate
26 stabilization.

27 1. CONTRACTOR shall admit and serve all Clients referred by ADMINISTRATOR who
28 meet ADMINISTRATOR’s criteria for acute psychiatric hospitalization and who also meet the criteria
29 approved by DHCS and the guidelines under Title 9, Chapter 11, Section 1820.205. This may include
30 Clients with co-morbid medical conditions and substance use disorder. CONTRACTOR shall not refuse
31 admissions of Clients if they meet all the admission criteria identified above.

32 2. Clients may be deemed dangerous to themselves and/or others, gravely disabled and
33 require this highly restrictive level of care to ensure the safety of themselves and/or others.

34 3. Referrals from COUNTY and COUNTY-Contracted Crisis Stabilization Units will be
35 prioritized for admission.

36 **C. SERVICES PROVIDED**

37 1. Medi-Cal Managed Care Mental Health Acute Psychiatric Inpatient hospital services

1 are provided twenty-four (24) hours a day, seven (7) days a week to individuals who are living with
 2 serious and persistent mental health issues and who may also have a co-occurring medical and or
 3 substance use diagnosis, and who require this acute level of care to ensure the safety of themselves and
 4 others.

5 2. CONTRACTOR shall provide Psychiatric Inpatient Hospital Services in the same
 6 manner to Medi-Cal Clients as it provides to all other Clients and not discriminate against Medi-Cal
 7 Clients in any manner, including admission practices, placement in special wings or rooms, or provision
 8 of special or separate meals.

9 3. CONTRACTOR shall provide Psychiatric Inpatient Hospital Services, which
 10 include but are not limited to physician services, psychologist services, and transportation
 11 services, in accordance with WIC, Sections 5774, et seq. and 14680, et seq.

12 4. CONTRACTOR services will be recovery-oriented and trauma informed. Clients will
 13 be treated with the highest level of dignity and respect at all times and inpatient staff will engage Clients
 14 with non-coercion, focusing on assisting Clients in reaching psychiatric stabilization sufficient to be
 15 discharged or transferred to a lower level of care.

16 5. CONTRACTOR's services shall be designed to engage seriously mentally ill adults
 17 and/or seriously emotionally disturbed youth, including those who are dually diagnosed, in a partnership
 18 to achieve the individual's wellness and recovery goals. CONTRACTOR shall provide services in
 19 collaboration with COUNTY's Director of Behavioral Health, or designee.

20 6. CONTRACTOR shall provide services that include but are not limited to
 21 psychiatric, ancillary, testimony, medical, specialized services, and additional services required of
 22 general acute care hospitals. CONTRACTOR's services shall be designed to engage seriously mentally
 23 ill adults, including those who are dually diagnosed, in a partnership to achieve the individual's wellness
 24 and recovery goals. CONTRACTOR shall provide services in collaboration with COUNTY's Director
 25 of Behavioral Health, or designee.

26 D. PSYCHIATRIC SERVICES – CONTRACTOR shall provide psychiatric treatment and support
 27 services in accordance with all applicable laws and regulations, including but not be limited to:

28 1. Psychiatric evaluation, within twenty-four (24) hours of admission, by a licensed
 29 psychiatrist, which shall include a psychiatric history, diagnosis, and evaluation and documentation
 30 completed accordance with the current DSM/ICD.

31 2. On-Call psychiatric coverage twenty-four (24) hours per day, seven (7) days per week.

32 3. Assessment and re-assessment for voluntary and involuntary treatment.

33 4. Ongoing psychiatric re-evaluation and daily rounds by psychiatrists; Daily face to face and
 34 documented progress notes by psychiatrists on all COUNTY clients.

35 a. Daily progress notes on all Clients by the Psychiatrist or a Nurse Practitioner working
 36 under the supervision as evidenced by psychiatrists countersigning the progress note(s)
 37 within 48 hours.

- 1 5. Psycho-social assessment completed within forty-eight (48) hours of admission.
- 2 6. Psychometrics upon admission to gather clinical baseline and inform treatment decision-
- 3 making and evidence-based practices.
- 4 7. Medical history and physical examination of each COUNTY client within twenty-four (24)
- 5 hours of admission.
- 6 8. Laboratory and diagnostic services as indicated throughout admission; this includes urine
- 7 drug screens as applicable within the first twenty-four (24) hours of admission to assess underlying
- 8 causes of the current crisis.
- 9 9. Medication Services, including ongoing psychiatric medication evaluation and monitoring.
- 10 10. Pharmaceutical Services.
- 11 E. TREATMENT SERVICES – CONTRACTOR shall provide ongoing interdisciplinary
- 12 treatment services to address the whole health of the Clients served under this Contract; this includes but
- 13 is not limited to:
- 14 1. Creating an Initial Individualized Treatment Plan (ITP) for each COUNTY client developed
- 15 with the interdisciplinary team and Client, and completed with signatures of the treatment team and the
- 16 Client (or explanation of the inability to obtain client signature) within seventy-two (72) hours of
- 17 admission;
- 18 2. Nursing, Psychological, Therapeutic, and Social Services compatible with ITPs;
- 19 3. Treatment for co-occurring substance use disorders based on either harm-reduction or
- 20 abstinence-based models to wellness and recovery;
- 21 4. Individual, group and collateral therapies which includes provision or supervision of family
- 22 therapy sessions as indicated for youth; therapies will include but not limited to:
- 23 a. Documentation of Client’s attendance/participation in collateral therapy including
- 24 schedule of therapies, attendance log, and medical record progress notes.
- 25 b. Appropriate one-on-one client-to-staff counseling as appropriate to the diagnosis and
- 26 ITP.
- 27 c. Use of Evidence-Based Practices including but not limited to: motivational
- 28 interviewing, solution-focused therapy, seeking safety, cognitive behavioral therapy,
- 29 and/or Dialectical-Behavioral Therapy, to address the unique symptoms and behaviors
- 30 presented by Clients in accordance to ITP goals.
- 31 d. Promote recovery in individual and group sessions. Group topics may include but not
- 32 be limited to: building a wellness toolbox or resource, list, WRAP plans, symptom
- 33 monitoring, identifying and coping with triggers, developing a crisis prevention plan,
- 34 etc.
- 35 5. Activities therapy;
- 36 6. Crisis Intervention;
- 37 7. Education, including psychoeducational support, to COUNTY client and family/support

1 Network;

2 8. Transportation Services;

3 9. Services will involve families, significant others, or natural support systems throughout the
4 duration of the treatment episode;

5 10. Provide all necessary substance use disorder treatment services for Clients who are living
6 with a co-occurring substance use disorder problem in addition to their behavioral health
7 issues as appropriate;

8 11. Develop strategies to advance trauma-informed care and to accommodate the vulnerabilities
9 of trauma survivors;

10 12. Provide services in an environment which is compatible with and supportive of a
11 recovery model. Services shall be delivered in the spirit of recovery and resiliency, tailored to the unique
12 strengths of each Client. The focus will be on personal responsibility for mental disorder management
13 and independence, which fosters empowerment, hope, and an expectation of recovery from mental
14 health issues. Recovery oriented language and principles shall be evident and incorporated in
15 CONTRACTOR's policies, program design and space, and practice.

16 13. Collaborate with Peer Mentors, as available, to provide direct support, education, and
17 advocacy, as well as resource and linkage assistance to Clients;

18 a. CONTRACTOR shall sustain a culture that supports and employs Peer Recovery
19 Specialist/Counselors in providing supportive socialization for Clients that will assist in their recovery,
20 self-sufficiency and in seeking meaningful life activities and relationships. Peers shall be encouraged to
21 share their stories of recovery as much as possible to infiltrate the milieu with the notion that recovery is
22 possible.

23 14. Weekly Interdisciplinary Treatment Team meetings for each COUNTY Client;

24 15. Additional laboratory and diagnostic services when necessary for the initiation and
25 monitoring of psychiatric medication treatments.

26 F. DISCHARGE PLANNING- CONTRACTOR shall provide discharge planning that includes but
27 is not limited to continuing care planning and referral services. COUNTY shall provide such assistance,
28 as COUNTY deems necessary, to assist providers' Social Services staff to initiate, develop and finalize
29 discharge planning and necessary follow-up services. Discharge planning must begin upon admission
30 and occur seven (7) days per week. Discharge planning and coordination of care services include, but
31 are not limited to:

32 1. Coordination with current outpatient providers for continuity of treatment during Clients'
33 admissions;

34 2. Referral and linkage to aftercare providers for continued treatment to address the
35 Client's whole health, including primary care linkage, peer support, substance use treatment and HCA
36 outpatient mental health and recovery services providers; Referrals must be documented in the Client's
37 medical record.

1 3. CONTRACTOR shall arrange a specific date and time within twenty-four (24) hours of
2 discharge for an aftercare appointment with a COUNTY outpatient clinic.

3 4. CONTRACTOR shall fax or secure email to COUNTY outpatient clinic, at the time of
4 discharge, the Hospital Discharge Referral Form or the hospital's aftercare plan, the initial psychiatric
5 evaluation, the history and physical examination report, recent lab studies, the medication list, and any
6 medical consults.

7 5. Discharge Planning to non-acute licensed residential treatment or Long-Term Care (LTC):

8 a. CONTRACTOR shall document in the Client's medical record for those Clients being
9 referred to a SNF at discharge, at least five (5) SNF contacts daily, Monday through Friday, until the
10 Client is either discharged or no longer requires a SNF level of care.

11 b. CONTRACTOR shall document in the Client's medical record, for those Clients
12 awaiting LTC placement, contact with ADMINISTRATOR's LTC Unit at least once every seven (7)
13 days until the Client is either discharged or no longer requires LTC services. Contact may be made by
14 fax, email, or direct telephone discussion with ADMINISTRATOR. If CONTRACTOR fails to
15 document contact with ADMINISTRATOR within a seven (7) calendar day period, CONTRACTOR
16 will be ineligible for Administrative Day reimbursement until next contact with ADMINISTRATOR.

17 c. CONTRACTOR shall contact COUNTY clinics daily, Monday through Friday,
18 excluding holidays, if the Client requires Board and Care placement, or until the Client is either
19 discharged or no longer requires Board and Care placement. CONTRACTOR shall comply with P&P's,
20 established by ADMINISTRATOR, for placing Board and Care Clients.

21 6. Medi-Cal Clients shall be discharged with seven (7) calendar days of medications. This
22 includes psychiatric medications and other medications needed to treat concurrent medical
23 conditions.

24 7. All discharges must be completed by a psychiatrist. Discharge documentation shall include
25 discharge orders and discharge summary.

26 G. TESTIMONY SERVICES – CONTRACTOR will provide expert witness testimony by
27 appropriate mental health professionals in all legal proceedings required for the institutionalization,
28 admission, or treatment of COUNTY Clients. These services shall include, but not be limited to, writs
29 of habeas corpus, capacity hearings, conservatorship, probable cause hearings, court-ordered evaluation,
30 and appeal and post-certification proceedings.

31 1. ADMINISTRATOR shall provide representation to CONTRACTOR, at
32 ADMINISTRATOR's cost and expense, in all legal proceedings required for conservatorship.
33 CONTRACTOR shall cooperate with ADMINISTRATOR in all such proceedings.

34 2. ADMINISTRATOR will provide hearing officers for probable cause hearings for Clients
35 approved by ADMINISTRATOR only, all other hearings will be provided at CONTRACTOR's cost
36 and expense.

37 H. MEDICAL SERVICES – CONTRACTOR shall provide all medical care services deemed

1 appropriate according to usual and customary hospital practices without regard for payer status.
 2 Medical services include physician and/or other professional services required by the Client.
 3 CONTRACTOR shall provide transportation to the medical treatment and an escort to and from the
 4 service.

5 1. INPATIENT/OUTPATIENT ECT and MRI – CONTRACTOR shall provide ECT and MRI
 6 services for Clients. ECT and MRI services must be performed pursuant to all legal and regulatory
 7 requirements and be approved by ADMINISTRATOR in advance to treatment. ADMINISTRATOR
 8 approval shall be documented in the Client’s medical record.

9 2. COMPUTERIZED TOMOGRAPHY (CT) – CONTRACTOR shall provide CT scans as
 10 part of the diagnosis and evaluation of a Client’s psychiatric condition when indicated. CT scans must
 11 be approved by ADMINISTRATOR in advance of treatment. ADMINISTRATOR approval shall be
 12 documented in the Client’s medical record.

13 3. A conflict resolution process may be initiated by either party to the Contract in the event
 14 of a disagreement between CONTRACTOR and ADMINISTRATOR regarding the appropriateness of
 15 proposed laboratory and/or diagnostic services. ADMINISTRATOR’s designated psychiatrist will
 16 review said proposed services and render a decision that will be binding on both parties.

17 I. ADDITIONAL SERVICES – CONTRACTOR shall provide additional services required of
 18 general acute care hospitals. Additional services shall include, but not be limited to, the following:

19 1. Direct Services – including a therapeutic milieu, room and dietetic services, nursing
 20 services, including drug administration and client care, and a client activity program including
 21 adjunctive therapy and rehabilitation services.

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

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

26 4. Program Description – Maintain an ADMINISTRATOR approved written description of
 27 the inpatient psychiatric program, which shall include goals, objectives, philosophy, and activities which
 28 reflect the active involvement of nursing personnel in all aspects of the inpatient therapeutic milieu.

29 J. CONTRACTOR shall provide a copy of the “COUNTY Guide to Medi-Cal Mental Health
 30 Services” and “County Behavioral Health Services Plan Provider List” to each
 31 Client/guardian/conservator at the time of admission. CONTRACTOR shall ensure that the Client signs
 32 a form indicating receipt of both handbooks, and this form shall become part of the Client’s medical
 33 record. If the Client refuses to sign or receive the handbooks, a hospital staff member shall document
 34 that the handbooks were provided.

35 K. CONTRACTOR shall provide the Client/guardian/conservator the DHCS notification materials
 36 entitled, “EPSDT”, and “TBS” to each full-scope Medi-Cal client under twenty-one (21) years of age
 37 admitted for acute psychiatric inpatient services. CONTRACTOR shall document in the Client’s

1 | medical record that these materials were provided.

2 | L. CONTRACTOR shall provide, the NPP for COUNTY, as the MHP, to any individual who
3 | received services under the Contract.

4 | M. CONTRACTOR shall allow ADMINISTRATOR to conduct a face-to-face evaluation of the
5 | Client for assessment and recommendation to CONTRACTOR regarding the appropriate level of care
6 | and need for the Clients' hospitalization.

7 | N. QUALITY IMPROVEMENT –

8 | 1. CONTRACTOR shall develop and maintain a plan for Quality Improvement, the overall
9 | goal of which is the maintenance of high-quality client care and effective utilization of services offered.
10 | This plan shall include utilization review, peer review, and medication monitoring as mandated by the
11 | DCHS. CONTRACTOR shall adhere to the standards set forth in Title 9 of the CCR.

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

14 | 3. ADMINISTRATOR may conduct periodic treatment reviews at any time during the course
15 | of a COUNTY client's hospitalization.

16 | 4. CONTRACTOR shall cooperate with ADMINISTRATOR in meeting quality improvement
17 | and utilization review requirements. Quality improvement and utilization reviews shall
18 | include, but not be limited to, performance outcome studies and client satisfaction surveys.
19 | CONTRACTOR shall cooperate with concurrent review and managed care procedures
20 | related to treatment authorization, including the provision of working space for
21 | ADMINISTRATOR to conduct visits with the Client, interview staff and perform chart
22 | reviews.

23 | O. MEETINGS – CONTRACTOR shall attend meetings as requested by COUNTY, including but
24 | not limited to:

25 | 1. Case conferences, as requested by ADMINISTRATOR, to address any aspect of
26 | clinical care and implement any recommendations made by COUNTY to improve client care.

27 | 2. Monthly COUNTY management meetings with ADMINISTRATOR to discuss contractual
28 | and other issues related to, but not limited to whether it is or is not progressing satisfactorily in
29 | achieving all the terms of the Contract and, if not, what steps will be taken to achieve satisfactory
30 | progress, compliance with P&Ps, review of statistics and clinical services.

31 | P. PERFORMANCE OUTCOMES

32 | 1. CONTRACTOR shall perform outcome studies, on-site reviews, and written reports to be
33 | made available to ADMINISTRATOR upon request.

34 | 2. One hundred percent (100%) of all Orange County Medi-Cal Clients discharged to the
35 | community will be scheduled a follow-up outpatient services appointment to occur within twenty-four
36 | (24) hours of discharge.

37 | 3. CONTRACTOR shall track and report to ADMINISTRATOR for Orange County Medi-

Cal clients:

- a. Percentage of all COUNTY Clients discharged to the community scheduled a follow-up outpatient services appointment within twenty-four (24) hours of discharge.
- b. Seclusion and restraint incidents and percentages;
- c. Admissions per month for youth, adult, and older adult populations;
- d. Admission referral sources, i.e. number of Clients admitted from each of the Crisis Stabilization Units (CSUs), Emergency Departments, Orange County Jail, or Long-Term Care Facilities, etc.;
- e. Average length of stay (LOS) per month.

4. CONTRACTOR shall perform outcome studies, on-site reviews and any other written reports to be made available to ADMINISTRATOR upon request.

Q. CONTRACTOR shall provide services pursuant to the Contract in a manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR shall maintain documentation of such efforts which may include, but not be limited to: records of participation in COUNTY sponsored or other applicable training; recruitment and hiring P&Ps; 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.

R. CONTRACTOR shall provide Inpatient Psychiatric Hospital Services that are non-discriminatory and tailored to meet the individual needs of the multi-cultural clients served under the Contract. CONTRACTOR shall demonstrate program access, linguistically appropriate and timely mental health service delivery, staff training, and organizational P&P's related to the treatment of culturally diverse populations. CONTRACTOR shall ensure that high quality accessible mental health care includes:

- 1. Clinical care and therapeutic interventions which are linguistically and culturally appropriate; including, at a minimum, admission, discharge, and medication consent forms available in all County threshold languages;
- 2. Medically appropriate interventions which acknowledge specific cultural influences;
- 3. Provision and utilization of qualified interpreters within twenty-four (24) hours of identified need;
- 4. Screening and certification of interpreters;
- 5. Client related information translated into the various languages of the diverse populations served.

S. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Services Paragraph of this Exhibit A to the Contract.

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VII. STAFFING

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2 A. CONTRACTOR shall provide clinical staffing as required by CCR, Title 9, Section 663. This
3 includes:

4 1. Administrative Director who qualifies under Title 9, CCR, Section 620(d), 623, 624, 625,
5 or 627;

6 2. Clinical Program Director who qualifies under Title 9, CCR, Section 623, 624, 625, 626, or
7 627;

8 3. Psychiatric Medical Director who qualifies under Title 9, CCR, Section 623 who shall
9 assume medical responsibility as defined in Title 9, CCR, Section 522

10 B. CONTRACTOR shall provide professional, allied, and supportive paramedical personnel to
11 provide all necessary and appropriate Psychiatric Inpatient Hospital services.

12 C. CONTRACTOR shall provide administrative and clerical staff to support the above mentioned
13 staffing and the services provided pursuant to the Contract, including Treatment Authorization Request
14 (TAR) processing, and Concurrent Review processes ensuring notification of client admission within 24
15 hours of admission to the County Administrative Services Organization (ASO), as well as ongoing
16 review and authorization of inpatient psychiatric services;

17 D. NPI – All HIPAA covered healthcare providers, individuals and organizations must obtain an
18 NPI for use to identify themselves in HIPAA standard transactions. The NPI is assigned to individuals
19 for life.

20 E. NPP – CONTRACTOR shall provide, upon request, the NPP for COUNTY, as MHP, to any
21 individual who received services under the Contract.

22 F. CONTRACTOR shall provide staff which reflect the cultural and linguistic makeup of the
23 population served.

24 G. CONTRACTOR shall maintain personnel files for each staff person, including management and
25 other administrative positions, both direct and indirect to the Contract, which shall include, but not be
26 limited to, an application for employment, qualifications for the position, applicable licenses, Live Scan
27 results, waivers, registrations, documentation of bicultural/bilingual capabilities (if applicable), pay rate
28 and evaluations justifying pay increases.

29 H. CONTRACTOR shall provide ongoing supervision throughout all shifts to all staff, paid or
30 unpaid, direct line staff or supervisors/directors, to enhance service quality and program effectiveness.
31 Supervision methods should include debriefings and consultation as needed, individual supervision or
32 one-on-one support, and team meetings. Supervision should be provided by a supervisor who has
33 extensive knowledge regarding mental health issues.

34 I. CONTRACTOR shall ensure that a bilingual professional or qualified interpreter is fluent in
35 English and in the primary language spoken by the Client. The bilingual professional or qualified
36 interpreter must have the ability to accurately speak, read and interpret the Client's primary language.
37 CONTRACTOR shall ensure that, when needed, a qualified interpreter is available who can accurately

1 provide sign language services. The bilingual professional or qualified interpreter must have the ability
2 to translate mental health terminology necessary to convey information such as symptoms or
3 instructions to the Client. CONTRACTOR shall ensure that the bilingual person and/or the qualified
4 interpreter, completes appropriate courses that cover terms and concepts associated with mental health
5 issues, psychotropic medications, and cultural beliefs and practices which may influence the Client's
6 mental health condition, if they have not been not been trained in the provision of mental health
7 services.

8 J. CONTRACTOR shall ensure that all staff is trained and is knowledgeable in treatment issues
9 reflecting the diversity of the Medi-Cal population. CONTRACTOR shall develop and maintain in-
10 service staff training programs which will train staff to respect and respond with sensitivity to the
11 language and cultural experiences of the Clients. CONTRACTOR staff shall participate in cultural
12 competency and/or awareness training on an annual basis. Training shall be designed to help staff
13 understand cultural diversity and may include but not be limited to such topics such as: mental health
14 care that is unique to the client including awareness; sensitivity to the client's cultural and spiritual
15 beliefs, and the role of the family in diverse cultures and ethnic groups. Additionally, training
16 components shall include:

- 17 1. Background information for identifying and treating mental health disorders and related
- 18 health conditions not commonly found in the dominant client population;
- 19 2. Utilization of non-psychiatrically trained interpreters in taking client histories and assisting
- 20 with communication relating to mental health treatment; and
- 21 3. Strategies for utilizing the belief patterns and family support systems of clients to promote
- 22 adherence to the course of treatment and assuming responsibility for preventive mental health behaviors.

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

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EXHIBIT B
 TO CONTRACT FOR PROVISION OF
 MEDI-CAL MENTAL HEALTH MANAGED CARE
 PSYCHIATRIC INPATIENT HOSPITAL SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 PROVIDER NAME
 JULY 1, 2022 THROUGH JUNE 30, 2025

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

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

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

4. The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Contract in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH 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 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 terms of this Business Associate Contract and the applicable standards, implementation specifications,

1 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,
 2 with respect to PHI and ePHI created, received, maintained, transmitted, used, or disclosed pursuant to
 3 the Contract.

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
 7 conduct of CONTRACTOR's workforce in relation to the protection of that information.

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

35 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in
 36 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
8 and environmental hazards, and unauthorized intrusion.

9 9. “The HIPAA Privacy Rule” shall mean the Standards for Privacy of Individually
10 Identifiable 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 regulations in
24 45 CFR § 160.103.

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

27 17. “Unsecured PHI” or “PHI that is unsecured” means PHI that is not rendered unusable,
28 unreadable, or indecipherable to unauthorized individuals through the use of a technology or
29 methodology specified by the Secretary of HHS in the guidance issued on the
30 HHS Web site.

31 18. “Use” shall have the meaning given to such term under the HIPAA regulations in
32 45 CFR § 160.103.

33 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

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

1 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
2 Associate Contract and the Contract, to prevent use or disclosure of PHI COUNTY discloses to
3 //

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

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

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

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

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

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

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

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

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

1 45 CFR § 164.528.

2 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
3 a time and manner to be determined by COUNTY, that information collected in accordance with the
4 //
5 Contract, in order to permit COUNTY to respond to a request by an Individual for an accounting of
6 Disclosures of PHI in accordance with 45 CFR § 164.528.

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

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

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

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

29 16. The Parties acknowledge that federal and state laws relating to electronic data security and
30 privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to
31 provide for procedures to ensure compliance with such developments. The Parties specifically agree to
32 take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH
33 Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon
34 COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY
35 concerning an amendment to this Business Associate Contract embodying written assurances consistent
36 with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other

1 applicable laws. COUNTY may terminate the Contract upon thirty (30) days written notice in the event:

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

4 b. CONTRACTOR does not enter into an amendment providing assurances regarding the
5 safeguarding of PHI that COUNTY deems are necessary to satisfy the standards and requirements of
6 HIPAA, the HITECH Act, and the HIPAA regulations.

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

10 D. SECURITY RULE

11 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish
12 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with
13 45 CFR § 164.308, § 164.310, and § 164.312, with respect to ePHI COUNTY discloses to
14 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.
15 CONTRACTOR shall develop and maintain a written information privacy and security program that
16 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of
17 CONTRACTOR's operations and the nature and scope of its activities.

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

22 3. CONTRACTOR shall ensure the continuous security of all computerized data systems
23 containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
24 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents
25 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
26 maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

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

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

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

35 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or
36 transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same

1 restrictions and requirements contained in this Subparagraph D. of this Business Associate Contract.

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

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

8 E. DATA SECURITY REQUIREMENTS

9 1. Personal Controls

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

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

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

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

35 2. Technical Security Controls

36 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY
37

1 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
2 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which
3 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the
4 COUNTY.

5 b. Server Security. Servers containing unencrypted PHI COUNTY discloses to
6 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
7 must have sufficient administrative, physical, and technical controls in place to protect that data, based
8 upon a risk assessment/system security review.

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

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

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

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

31 g. User IDs and Password Controls. All users must be issued a unique user name for
32 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
33 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password
34 changed upon the transfer or termination of an employee with knowledge of the password, at maximum
35 within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight
36 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the

1 computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days.
2 Passwords must be changed if revealed or compromised. Passwords must be composed of characters
3 from at least three (3) of the following four (4) groups from the standard keyboard:

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

8 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to
9 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
10 must be wiped using the Gutmann or US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media
11 may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods
12 require prior written permission by COUNTY.

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

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

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

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

32 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
34 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
35 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
36 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as

1 website access, file transfer, and E-Mail.

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

6 3. Audit Controls

7 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that
8 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY
9 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
10 COUNTY must have at least an annual system risk assessment/security review which provides
11 assurance that administrative, physical, and technical controls are functioning effectively and providing
12 adequate levels of protection. Reviews should include vulnerability scanning tools.

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

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

20 4. Business Continuity/Disaster Recovery Control

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

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

33 5. Paper Document Controls

34 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
35 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left
36 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means

1 that information is not being observed by an employee authorized to access the information. Such PHI
2 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
3 baggage on commercial airplanes.

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

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

10 d. Removal of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
11 creates, receives, maintains, or transmits on behalf of COUNTY must not be removed from the premises
12 of CONTRACTOR except with express written permission of COUNTY.

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

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

25 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

35 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY
36 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written

1 notification within twenty-four (24) hours of the oral notification.

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

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

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

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

11 2) A description of the types of Unsecured PHI that were involved in the Breach (such
12 as whether full name, social security number, date of birth, home address, account number, diagnosis,
13 disability code, or other types of information were involved);

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

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

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

20 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
21 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
22 COUNTY.

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

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

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

35 8. CONTRACTOR shall continue to provide all additional pertinent information about the
36 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after

1 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable
 2 requests for further information, or follow-up information after report to COUNTY, when such request
 3 is made by COUNTY.

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

8 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

13 a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary,
 14 for the proper management and administration of CONTRACTOR.

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

18 1) The Disclosure is required by law; or

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

24 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to
 25 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of
 26 CONTRACTOR.

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

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

31 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
 32 required by law.

33 H. PROHIBITED USES AND DISCLOSURES

34 1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or
 35 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to
 36 a health plan for payment or health care operations purposes if the PHI pertains solely to a health care

1 item or service for which the health care provider involved has been paid out of pocket in full and the
2 individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

3 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
4 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
5 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
6 42 USC § 17935(d)(2).

7 I. OBLIGATIONS OF COUNTY

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

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

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

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

19 J. BUSINESS ASSOCIATE TERMINATION

20 1. Upon COUNTY's knowledge of a material Breach or violation by CONTRACTOR of the
21 requirements of this Business Associate Contract, COUNTY shall:

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

24 b. Immediately terminate the Contract, if CONTRACTOR is unwilling or unable to cure
25 the material Breach or end the violation within thirty (30) days, provided termination of the Contract is
26 feasible.

27 2. Upon termination of the Contract, CONTRACTOR shall either destroy or return to
28 COUNTY all PHI CONTRACTOR received from COUNTY or CONTRACTOR created, maintained,
29 or received on behalf of COUNTY in conformity with the HIPAA Privacy Rule.

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

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

33 c. In the event that CONTRACTOR determines that returning or destroying the PHI is not
34 feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or
35 destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,
36 CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit

1 further Uses and Disclosures of such PHI to those purposes that make the return or destruction
2 infeasible, for as long as CONTRACTOR maintains such PHI.

3 3. The obligations of this Business Associate Contract shall survive the termination of the
4 Contract.

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EXHIBIT C
 TO CONTRACT FOR PROVISION OF
 MEDI-CAL MENTAL HEALTH MANAGED CARE
 PSYCHIATRIC INPATIENT HOSPITAL SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 PROVIDER
 JULY 1, 2022 THROUGH JUNE 30, 2025

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 Contract" means the CMPPA Contract 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 Contract 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

1 participation with respect to health care providers participating in the program, and statutes or
 2 regulations that require the production of information, including statutes or regulations that require such
 3 information if payment is sought under a government program providing public benefits.

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

7 **B. TERMS OF CONTRACT**

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

12 2. Responsibilities of CONTRACTOR

13 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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