

**AMENDMENT NO. 1**  
**TO**  
**CONTRACT NO. MA-042-18012113**  
**FOR**  
**INPATIENT MENTAL HEALTH SERVICES FOR YOUTH**

This Amendment (“Amendment No. 1”) to ~~Contract No. MA-042-18012113 for Inpatient Mental Health Services for Youth is made and entered into on July 1, 2020 (“Effective Date”) between Children’s Hospital of Orange County dba CHOC Children’s (“Contractor”), with a place of business at 1201 West La Veta Ave., Orange, CA 92868, and the County of Orange, a political subdivision of the State of California (“County”), through its Health Care Agency, with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Contractor and County may sometimes be referred to individually as “Party” or collectively as “Parties”.~~

**RECITALS**

~~WHEREAS, the Parties executed Contract No. MA-042-18012113 (“Contract”) for Inpatient Mental Health Services for Youth, effective April 1, 2018 through June 30, 2020, renewable for two additional one-year terms; and~~

~~WHEREAS, the Parties now desire to enter into this Amendment No. 1 to amend Paragraphs IV. and VI. of the Contract, to amend Exhibit A of the Contract and to renew the Contract for one year for County to continue receiving and Contractor to continue providing the services set forth in the Contract.~~

**AMENDMENT NO. 2**  
**TO**  
**CONTRACT NO. MA-042-18012113**  
**FOR**  
**INPATIENT MENTAL HEALTH SERVICES FOR YOUTH**

This Amendment (“Amendment No. 2”) to Contract No. MA-042-18012113 for Inpatient Mental Health Services for Youth is made and entered into on July 1, 2021 (“Effective Date”) between Children’s Hospital of Orange County dba CHOC Children’s (“Contractor”), with a place of business at 1201 West La Veta Ave., Orange, CA 92868, and the County of Orange, a political subdivision of the State of California (“County”), through its Health Care Agency, with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Contractor and County may sometimes be referred to individually as “Party” or collectively as “Parties”.

**RECITALS**

WHEREAS, the Parties executed Contract No. MA-042-18012113 (“Contract”) for Inpatient Mental Health Services for Youth, effective April 1, 2018 through June 30, 2020, renewable for two additional one-year terms; and

WHEREAS, the Parties executed Amendment No. 1 to amend Paragraphs IV., VI. and Exhibit A of the Contract and to renew the Contract for one year, effective July 1, 2020, through June 20, 2021; and

WHEREAS, the Parties now desire to enter into this Amendment No. 2 to amend Paragraph IV, and Exhibit A of the Contract and to renew the Contract for one year for County to continue receiving and Contractor to continue providing the services set forth in the Contract.

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

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**REFERENCED CONTRACT PROVISIONS**

~~Term: April 1, 2018 through June 30, 2021~~

~~Period One means the period from April 1, 2018 through June 30, 2018~~

~~Period Two means the period from July 1, 2018 through June 30, 2019~~

~~Period Three means the period from July 1, 2019 through June 30, 2020~~

~~Period Four means the period from July 1, 2020 through June 30, 2021~~

Term: April 1, 2018 through June 30, 2022

Period One means the period from April 1, 2018 through June 30, 2018

Period Two means the period from July 1, 2018 through June 30, 2019

Period Three means the period from July 1, 2019 through June 30, 2020

Period Four means the period from July 1, 2020 through June 30, 2021

Period Five means the period from July 1, 2021 through June 30, 2022

**Maximum Obligation:** N/A

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

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 76-602-4966

**CONTRACTOR TAX ID Number:** 95-2321786

**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: Children's Hospital of Orange County  
1201 West La Veta Ave.  
Orange, California 92868

1 Kerri Ruppert Schiller,  
 2 Executive Vice President and Chief Financial Officer  
 3 kschiller@choc.org

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## 6 I. ACRONYMS

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

9	A. AA	Alcoholics Anonymous
10	B. ADL	Activities of Daily Living
11	C. AES	Advanced Encryption Standard
12	D. AOABS	Adult and Older Adult Behavioral Health
13	E. ABC	Allied Behavioral Care
14	F. ARRA	American Recovery and Reinvestment Act
15	G. ASIST	Applied Suicide Intervention Skills Training
16	H. ASO	Administrative Services Organization
17	I. ASRS	Alcohol and Drug Programs Reporting System
18	J. AQIS	Authority and Quality Improvement Services
19	K. BBS	Board of Behavioral Sciences
20	L. BCP	Business Continuity Plan
21	M. BHS	Behavioral Health Services
22	N. CalWORKs	California Work Opportunity and Responsibility for Kids
23	O. CAT	Centralized Assessment Team
24	P. CCC	California Civil Code
25	Q. CCR	California Code of Regulations
26	R. CD/DVD	Compact Disc/Digital Video or Versatile Disc
27	S. CFR	Code of Federal Regulations
28	T. CHHS	California Health and Human Services Agency
29	U. CHPP	COUNTY HIPAA Policies and Procedures
30	V. CHS	Correctional Health Services
31	W. CIPA	California Information Practices Act
32	X. CMPPA	Computer Matching and Privacy Protection Act
33	Y. COI	Certificate of Insurance
34	Z. CSI	Client and Services Information
35	AA. CSW	Clinical Social Worker
36	AB. CYBH	Children and Youth Behavioral Health Services
37	AC. D/MC	Drug/Medi-Cal

1	AD. DCR	Data Collection and Reporting
2	AE. DD	Dual Disorders
3	AF. DHCS	Department of Health Care Services
4	AG. DoD	Department of Defense
5	AH. DPFS	Drug Program Fiscal Systems
6	AI. DRP	Disaster Recovery Plan
7	AJ. DRS	Designated Record Set
8	AK. DSM	Diagnostic and Statistical Manual of Mental Disorders
9	AL. DSM-V	Diagnostic and Statistical Manual of Mental Disorders 5th Edition
10	AM. EBP	Evidence-Based Practice
11	AN. EHR	Electronic Health Record
12	AO. E-Mail	Electronic Mail
13	AP. EPSDT	Early and Periodic Screening, Diagnosis and Treatment
14	AQ. FAX	Facsimile Machine
15	AR. FFS	Fee For Service
16	AS. FIPS	Federal Information Processing Standards
17	AT. FSP	Full Service Partnership
18	AU. FTE	Full Time Equivalent
19	AV. GAAP	Generally Accepted Accounting Principles
20	AW. HCA	Health Care Agency
21	AX. HHS	Health and Human Services
22	AY. HIPAA	Health Insurance Portability and Accountability Act
23	AZ. HSC	California Health and Safety Code
24	BA. ID	Identification
25	BB. IEA	Information Exchange Agreement
26	BC. IMD	Institute for Mental Disease
27	BD. IBNR	Incurred But Not Reported
28	BE. IRIS	Integrated Records Information System
29	BF. LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
30	BG. LCSW	Licensed Clinical Social Worker
31	BH. LPT	Licensed Psychiatric Technician
32	BI. MEDS	Medi-Cal Eligibility Determination System
33	BJ. MFT	Marriage and Family Therapist
34	BK. MHP	Mental Health Plan
35	BL. MHRC	Mental Health Rehabilitation Centers
36	BM. MHS	Mental Health Specialist
37	BN. MHSA	Mental Health Services Act

1	BO. MIHS	Medical and Institutional Health Services
2	BP. MORS	Milestones of Recovery Scale
3	BQ. MTP	Master Treatment Plan
4	BR. NA	Narcotics Anonymous
5	BS. NIST	National Institute of Standards and Technology
6	BT. NOA	Notice of Action
7	BU. NP	Nurse Practitioner
8	BV. NPDB	National Provider Data Bank
9	BW. NPI	National Provider Identifier
10	BX. NPP	Notice of Privacy Practices
11	BY. OCJS	Orange County Jail System
12	BZ. OCPD	Orange County Probation Department
13	CA. OCR	Office for Civil Rights
14	CB. OCSD	Orange County Sheriff's Department
15	CC. OIG	Office of Inspector General
16	CD. OMB	Office of Management and Budget
17	CE. OPM	Federal Office of Personnel Management
18	CF. P&P	Policy and Procedure
19	CG. PADSS	Payment Application Data Security Standard
20	CH. PAF	Partnership Assessment Form
21	CI. PAR	Prior Authorization Request
22	CJ. PBM	Pharmaceutical Benefits Management
23	CK. PC	Penal Code
24	CL. PCP	Primary Care Provider
25	CM. PHI	Protected Health Information
26	CN. PI	Personal Information
27	CO. PII	Personally Identifiable Information
28	CP. PRA	Public Records Act
29	CQ. PSC	Personal Services Coordinator
30	CR. QI	Quality Improvement
31	CS. QIC	Quality Improvement Committee
32	CT. RN	Registered Nurse
33	CU. RSA	Remote Site Access
34	CV. SNF	Skilled Nursing Facility
35	CW. SSI	Supplemental Security Income
36	CX. SSA	Social Services Agency
37	CY. HITECH Act	The Health Information Technology for Economic and Clinical Health Act,



1		Public Law 111-005
2	CZ. TAR	Treatment Authorization Request
3	DA. TAY	Transitional Age Youth
4	DB. TTY	Teletypewriter
5	DC. UMDAP	Universal Method of Determining Ability to Pay
6	DD. USC	United States Code
7	DE. WIC	State of California Welfare and Institutions Code

## 8

## 9 **II. ALTERATION OF TERMS**

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

13 B. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of  
14 this Agreement 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 Agreement, which has  
16 been formally approved and executed by both parties.

## 17

## 18 **III. ASSIGNMENT OF DEBTS**

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

## 26

## 27 **IV. COMPLIANCE**

28 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for  
29 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

1 elements by ADMINISTRATOR's Compliance Officer as described in this Paragraph IV  
2 (COMPLIANCE). 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 acknowledge to comply with ADMINISTRATOR's  
12 Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR  
13 within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that  
14 CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program and Code of Conduct.

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

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

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

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

3 1. For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all  
4 employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide health  
5 care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR.  
6 Notwithstanding the above, this term does not include part-time or per-diem employees, contractors,  
7 subcontractors, agents, and other persons who are not reasonably expected to work more than one  
8 hundred sixty (160) hours per year; except that any such individuals shall become Covered Individuals at  
9 the point when they work more than one hundred sixty (160) hours during the calendar year.  
10 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of  
11 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or  
12 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if  
13 CONTRACTOR has elected to use its own).

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

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

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

20 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.  
21 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this  
22 Agreement.

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

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

34 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal  
35 and state funded health care services by contract with COUNTY in the event that they are currently  
36 sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If  
37 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,

1 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY  
2 business operations related to this Agreement.

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

10 C. GENERAL COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance  
11 Training available to Covered Individuals.

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

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

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

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

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

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

27 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered  
28 Individuals relative to this Agreement.

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

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

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

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

1 E. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

2 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care  
3 claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner  
4 and are consistent with federal, state and county laws and regulations. This includes compliance with

5 //  
6 federal and state health care program regulations and procedures or instructions otherwise communicated  
7 by regulatory agencies including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

16 5. CONTRACTOR shall promptly return any overpayments within sixty (60) business days  
17 after the overpayment is verified by the ADMINISTRATOR.

18 F. Failure to comply with the obligations stated in this Paragraph IV (COMPLIANCE) shall  
19 constitute a breach of the Agreement on the part of CONTRACTOR and ground for COUNTY to  
20 terminate the Agreement. Unless the circumstances require a sooner period of cure, CONTRACTOR  
21 shall have thirty (30) calendar days from the date of the written notice of default to cure any defaults  
22 grounded on this Paragraph IV (COMPLIANCE) prior to ADMINISTRATOR's right to terminate this  
23 Agreement on the basis of such default.

24  
25 **V. CONFIDENTIALITY**

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

29 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this  
30 Agreement are Clients of the Orange County Inpatient services system, and therefore it may be necessary  
31 for authorized staff of ADMINISTRATOR to audit Client files, or to exchange information regarding  
32 specific Clients with COUNTY or other providers of related services contracting with COUNTY.

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

37 3. In the event of a collaborative service agreement between Inpatient services providers,

1 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,  
2 from the collaborative agency, for Clients receiving services through the collaborative agreement.

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

10 C. CONTRACTOR shall have in effect a system to protect patient records from inappropriate  
11 disclosure in connection with activity funded under this Agreement. This system shall include  
12 provisions for employee education on the confidentiality requirements, and the fact that disciplinary  
13 action may occur upon inappropriate disclosure. CONTRACTOR agrees to implement administrative,  
14 physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity,  
15 and availability of all confidential information that it creates, receives, maintains or transmits.  
16 CONTRACTOR shall provide ADMINISTRATOR with information concerning such safeguards.

17 D. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to  
18 CONTRACTOR, or its subcontractors or agents in violation of the applicable state and federal  
19 regulations regarding confidentiality.

20 E. CONTRACTOR shall monitor compliance with the above provisions on confidentiality and  
21 security, and shall include them in all subcontracts.

22 F. CONTRACTOR shall notify ADMINISTRATOR within twenty-four (24) hours during a work  
23 week of any actual breach, as defined under HIPAA, the HITECH Act, and the HIPAA Regulations,  
24 involving COUNTY Client information in CONTRACTOR's possession, in any medium, that  
25 CONTRACTOR becomes aware of, through exercise of reasonable care, and is legally required to report  
26 in accordance with applicable State and/or Federal breach notification laws. The aforementioned  
27 COUNTY Client information is solely related to the services rendered by CONTRACTOR pursuant to  
28 this Agreement.

## 30 **VI. COST REPORT**

31 ~~A. CONTRACTOR shall submit a separate individual and/or consolidated Cost Report for~~  
32 ~~Period One, Period Two, Period Three and Period Four, or for a portion therefore, to COUNTY no later~~  
33 ~~than sixty (60) calendar days following the period for which they are prepared or termination of this~~  
34 ~~Agreement. CONTRACTOR shall prepare the individual and/or consolidated Cost Report in accordance~~  
35 ~~with all applicable federal, state and COUNTY requirements, GAAP and the Special Provisions~~  
36 ~~Paragraph of this Agreement. CONTRACTOR shall allocate direct and indirect costs to and between~~  
37 ~~programs, cost centers, services, and funding sources in accordance with such requirements and~~

~~consistent with prudent business practice, which costs and allocations shall be supported by source documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice. In the event CONTRACTOR has multiple Agreements for mental health services that are administered by HCA, consolidation of the individual Cost Reports into a single consolidated Cost Report may be required, as stipulated by ADMINISTRATOR. CONTRACTOR shall submit the consolidated Cost Report to COUNTY no later than five (5) business days following approval by ADMINSTRATOR of all individual Cost Reports to be incorporated into a consolidated Cost Report.~~

CONTRACTOR shall submit a separate individual and/or consolidated Cost Report for Period One, Period Two, Period Three, Period Four and Period Five, or for a portion therefore, to COUNTY no later than sixty (60) calendar days following the period for which they are prepared or termination of this Contract. CONTRACTOR shall prepare the individual and/or consolidated Cost Report in accordance with all applicable federal, state and COUNTY requirements, GAAP and the Special Provisions Paragraph of this Contract. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers, services, and funding sources in accordance with such requirements and consistent with prudent business practice, which costs and allocations shall be supported by source documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice. In the event CONTRACTOR has multiple contracts for mental health services that are administered by HCA, consolidation of the individual Cost Reports into a single consolidated Cost Report may be required, as stipulated by ADMINISTRATOR. CONTRACTOR shall submit the consolidated Cost Report to COUNTY no later than five (5) business days following approval by ADMINSTRATOR of all individual Cost Reports to be incorporated into a consolidated Cost Report.

1. If CONTRACTOR fails to submit an accurate and complete individual and/or consolidated Cost Report within the time period specified above, ADMINISTRATOR may withhold outstanding payments in an amount no greater than \$5,000 limited only to payments due to CONTRACTOR pursuant to this Agreement until such time that the accurate and complete individual and/or consolidated Cost Report is delivered to ADMINISTRATOR.

2. CONTRACTOR may request, in advance and in writing, an extension of the due date of the individual and/or consolidated Cost Report setting forth good cause for justification of the request. Approval of such requests shall be at the sole discretion of ADMINISTRATOR and shall not be unreasonably denied.

B. The individual and/or consolidated Cost Report prepared for each period shall be the final financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to CONTRACTOR for that period. CONTRACTOR shall document that costs are reasonable and allowable and directly or indirectly related to the services to be provided hereunder. The individual and/or consolidated Cost Report shall be the final financial record for subsequent audits, if any.

C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,

1 less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set  
2 forth in the Referenced Contract Provisions of this Agreement. CONTRACTOR shall not claim  
3 expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and  
4 COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR,  
5 which is subsequently determined to have been for an unreimbursable expenditure or service, shall be  
6 repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30)  
7 calendar days of submission of the individual and/or consolidated Cost Report or COUNTY may elect  
8 to reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due  
9 COUNTY.

10 D. Unless approved by ADMINISTRATOR, costs that exceed the Statewide Maximum Allowance  
11 (SMA) rates per Medi-Cal Unit of Services, as determined by the DHCS, shall be unreimbursable to  
12 CONTRACTOR.

13 E. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in  
14 the Budget Paragraph of Exhibit A to this Agreement, CONTRACTOR shall specify in the individual  
15 and/or consolidated Cost Report the services rendered with such revenues.

16 F. All Cost Reports shall contain the following attestation, which may be typed directly on or  
17 attached to the Cost Report:

18  
19 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and  
20 supporting documentation prepared by \_\_\_\_\_ for the cost report period  
21 beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my  
22 knowledge and belief, costs reimbursed through this Agreement are reasonable and  
23 allowable and directly or indirectly related to the services provided and that this Cost  
24 Report is a true, correct, and complete statement from the books and records of  
25 (provider name) in accordance with applicable instructions, except as noted. I also  
26 hereby certify that I have the authority to execute the accompanying Cost Report.

27  
28 Signed \_\_\_\_\_  
29 Name \_\_\_\_\_  
30 Title \_\_\_\_\_  
31 Date \_\_\_\_\_"

32  
33 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

34 A. CONTRACTOR certifies that it and its principals:

- 35 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or  
36 voluntarily excluded by any federal department or agency.  
37 2. Have not within a three-year period preceding this Agreement been convicted of or had a



1 civil judgment rendered against them for commission of fraud or a criminal offense in connection with  
 2 obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract  
 3 under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement,  
 4 theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen  
 5 property.

6 3. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state,  
 7 or local governmental entity with commission of any of the offenses enumerated in Subparagraph A.2.  
 8 above.

9 4. Have not within a three-year period preceding this Agreement had one or more public  
 10 transactions (federal, state, or local) terminated for cause or default.

11 5. Shall not knowingly enter into any lower tier covered transaction with a person who is  
 12 proposed for debarment under federal regulations (i.e., 48 CFR Part 9, Subpart 9.4), debarred, suspended,  
 13 declared ineligible, or voluntarily excluded from participation in such transaction unless authorized by  
 14 the State of California.

15 6. Shall include without modification, the clause titled "Certification Regarding Debarment,  
 16 Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction," (i.e., transactions  
 17 with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in  
 18 accordance with 2 CFR Part 376.

19 B. The terms and definitions of this paragraph have the meanings set out in the Definitions and  
 20 Coverage sections of the rules implementing 51 F.R. 6370.

## 21 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

28 B. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the  
 29 prior written consent of COUNTY.

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

36 2. If CONTRACTOR is a for-profit organization, any change in the business structure,  
 37 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of

1 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a  
 2 change in fifty percent (50%) or more of Board of Directors of CONTRACTOR at one time shall be  
 3 deemed an assignment pursuant to this Paragraph. Any attempted assignment or delegation in derogation  
 4 of this Subparagraph shall be void.

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

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

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

18 C. CONTRACTOR's obligations undertaken pursuant to this Agreement may be carried out by  
 19 means of subcontracts, provided such subcontracts meet the requirements of this Agreement as they  
 20 relate to the service or activity under subcontract, and include any provisions that ADMINISTRATOR  
 21 may require.

22 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a  
 23 subcontract upon five (5) calendar day's written notice to CONTRACTOR if the subcontract  
 24 subsequently fails to meet the requirements of this Agreement or any provisions that  
 25 ADMINISTRATOR has required.

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

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

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

### 33 34 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

35 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations  
 36 regarding the employment of aliens and others and to ensure that employees, subcontractors, and  
 37 consultants performing work under this Agreement meet the citizenship or alien status requirement set

1 | forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,  
 2 | subcontractors, and consultants performing work hereunder, all verification and other documentation of  
 3 | employment eligibility status required by federal or state statutes and regulations including, but not  
 4 | limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist  
 5 | and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all  
 6 | covered employees, subcontractors, and consultants for the period prescribed by the law.

## 8 | **X. EQUIPMENT**

9 | A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all  
 10 | property of a Relatively Permanent nature with significant value, purchased in whole or in part by  
 11 | ADMINISTRATOR to assist in performing the services described in this Agreement. “Relatively  
 12 | Permanent” is defined as having a useful life of one year or longer. Equipment which costs \$5,000 or  
 13 | over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital  
 14 | Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and  
 15 | other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained  
 16 | PHI and/or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited  
 17 | to phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of  
 18 | Equipment purchased, in whole or in part, with funds paid pursuant to this Agreement shall be  
 19 | depreciated according to GAAP.

20 | B. CONTRACTOR shall obtain ADMINISTRATOR’s prior written approval to purchase any  
 21 | Equipment with funds paid pursuant to this Agreement. Upon delivery of Equipment, CONTRACTOR  
 22 | shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other supporting  
 23 | documentation, which includes delivery date, unit price, tax, shipping and serial numbers.  
 24 | CONTRACTOR shall request an applicable asset tag for said Equipment and shall include each  
 25 | purchased asset in an Equipment inventory.

26 | C. Upon ADMINISTRATOR’s prior written approval, CONTRACTOR may expense to COUNTY  
 27 | the cost of the approved Equipment purchased by CONTRACTOR. To “expense,” in relation to  
 28 | Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it is  
 29 | purchased. Title of expensed Equipment shall be vested with COUNTY.

30 | D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part with  
 31 | funds paid through this Agreement, including date of purchase, purchase price, serial number, model and  
 32 | type of Equipment. Such inventory shall be available for review by ADMINISTRATOR, and shall  
 33 | include the original purchase date and price, useful life, and balance of depreciated Equipment cost, if  
 34 | any.

35 | E. CONTRACTOR shall cooperate with ADMINISTRATOR in conducting periodic physical  
 36 | inventories of all Equipment. Upon demand by ADMINISTRATOR, CONTRACTOR shall return any  
 37 | or all Equipment to COUNTY.

1 F. CONTRACTOR must report any loss or theft of Equipment in accordance with the procedure  
 2 approved by ADMINISTRATOR and the Notices Paragraph of this Agreement. In addition,  
 3 CONTRACTOR must complete and submit to ADMINISTRATOR a notification form when items of  
 4 Equipment are moved from one location to another or returned to COUNTY as surplus.

5 G. Unless this Agreement is followed without interruption by another agreement between the  
 6 parties for substantially the same type and scope of services, at the termination of this Agreement for any  
 7 cause, CONTRACTOR shall return to COUNTY all Equipment purchased with funds paid through this  
 8 Agreement.

9 H. CONTRACTOR shall maintain and administer a sound business program for ensuring the proper  
 10 use, maintenance, repair, protection, insurance, and preservation of COUNTY Equipment.

### 11 **XI. FACILITIES, PAYMENTS AND SERVICES**

12 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance  
 13 with this Agreement. COUNTY shall compensate, and authorize, when applicable, said services.  
 14 CONTRACTOR shall operate continuously throughout the term of this Agreement with at least the  
 15 minimum number and type of staff which meet applicable federal and state requirements, and which are  
 16 necessary for the provision of the services hereunder.  
 17

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

### 25 **XII. INDEMNIFICATION AND INSURANCE**

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

36 B. COUNTY agrees to indemnify, defend with counsel, and hold CONTRACTOR, its Board of  
 37 Directors, officers, employees, contractors, physicians and agents ("CONTRACTOR INDEMNITEES")

1 harmless from any claims, demands or liability of any kind or nature, including but not limited to  
 2 personal injury or property damage, to the extent arising from or related to, the actions, determinations or  
 3 other performance provided by COUNTY pursuant to this Agreement upon which CONTRACTOR  
 4 reasonably relies (collectively, "COUNTY DETERMINATIONS"). By way of example only,  
 5 COUNTY DETERMINATIONS may include, without limitation, directions on authorizations,  
 6 associated diagnoses, 5150 descriptors, and child abuse designations, that CONTRACTOR relies upon for  
 7 the provision of service, admissions and/or discharges. CONTRACTOR shall have the opportunity to  
 8 provide objection to COUNTY'S selection of counsel with cause in which case COUNTY shall select  
 9 alternative counsel.

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

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

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

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

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

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

4 F. If CONTRACTOR fails to maintain insurance as required in this Paragraph XII  
 5 (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall  
 6 constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate this  
 7 Agreement.

8 G. QUALIFIED INSURER

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

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

17 H. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum  
 18 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
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$5,000,000 per claims made \$5,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

1 I. REQUIRED COVERAGE FORMS

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

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

6 J. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

34 N. If CONTRACTOR's Professional Liability and/or Network Security & Privacy Liability are  
35 "Claims Made" policy(ies), CONTRACTOR shall agree to maintain coverage for two (2) years  
36 following the completion of the Agreement.

37 O. The Commercial General Liability policy shall contain a "severability of interests" clause also

1 known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

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

6 Q. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If  
7 CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY  
8 incorporating such changes within thirty (30) calendar days of receipt of such notice, such failure shall  
9 constitute a breach of CONTRACTOR’s obligation hereunder and ground for termination of this  
10 Agreement by COUNTY.

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

14 S. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

25 a. ADMINISTRATOR may withhold or delay any or all outstanding payments due to  
26 CONTRACTOR pursuant to this Agreement until such time that the required COI and endorsements that  
27 meet the insurance provisions stipulated in this Agreement are submitted to ADMINISTRATOR.

28 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any  
29 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs  
30 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.

31  
32 **XIII. INSPECTIONS AND AUDITS**

33 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative  
34 of the State of California, the Secretary of the United States Department of Health and Human Services,  
35 the Comptroller General of the United States, or any other of their authorized representatives, shall have  
36 access to any books, documents, and records, including but not limited to, financial statements, general  
37 ledgers, relevant accounting systems, medical and Client records, of CONTRACTOR that are directly



1 | pertinent to this Agreement, for the purpose of responding to a beneficiary complaint or conducting an  
 2 | audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth  
 3 | in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all  
 4 | reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and the  
 5 | premises in which they are provided.

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

10 | C. AUDIT RESPONSE

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

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

23 | D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare an annual  
 24 | Single Audit as required by 31 USC 7501 – 7507, as well as its implementing regulations under  
 25 | 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for  
 26 | Federal Awards. CONTRACTOR shall forward the Single Audit to ADMINISTRATOR within fourteen  
 27 | (14) calendar days of receipt.

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

32 | **XIV. LICENSES AND LAWS**

33 | A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout  
 34 | the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates,  
 35 | accreditations, waivers, and exemptions necessary for the provision of the services hereunder and  
 36 | required by the laws, regulations and requirements of the United States, the State of California,  
 37 |

1 COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify  
 2 ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the  
 3 pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers  
 4 and exemptions. Said inability shall be cause for termination of this Agreement.

5 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

14 a. In the case of an individual CONTRACTOR, his/her name, date of birth, social security  
 15 number, and residence address; (the Parties acknowledge that this section is not applicable to CHOC  
 16 Children's as it is a California not-for-profit corporation and not an individual);

17 b. In the case of CONTRACTOR doing business in a form other than as an individual, the  
 18 name, date of birth, social security number, and residence address of each individual who owns an  
 19 interest of ten percent (10%) or more in the contracting entity; (the Parties acknowledge that this section  
 20 is not applicable as there is no individual that owns an interest of ten percent (10%) or more of CHOC  
 21 Children's).

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

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

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

- 1 11. CFR, Title 45, Public Welfare.
- 2 12. USC Title 42. Public Health and Welfare.
- 3 13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 4 14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 5 15. 42 USC §1857, et seq., Clean Air Act.
- 6 16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 7 17. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 8 18. Policies and procedures set forth in Mental Health Services Act.
- 9 19. Policies and procedures set forth in DHCS Letters.
- 10 20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 11 21. 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
- 13 Federal Awards.

14 D. CONTRACTOR shall at all times be capable and authorized by the State of California to  
 15 provide treatment and bill for services provided to Medi-Cal eligible Clients while working under the  
 16 terms of this Agreement.

17 E. CONTRACTOR shall make every reasonable effort to obtain appropriate licenses and/or  
 18 waivers to provide Medi-Cal billable treatment services at school or other sites identified by  
 19 ADMINISTRATOR, if both Parties have mutually agreed to do so.

## 20 **XV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

21 A. COUNTY owns all rights to the name, logos, and symbols of COUNTY. The use and/or  
 22 reproduction of COUNTY's name, logos, or symbols for any purpose, including commercial  
 23 advertisement, promotional purposes, announcements, displays, or press releases, without COUNTY's  
 24 prior written consent is expressly prohibited.

25 B. CONTRACTOR may develop and publish information related to County patients or the specific  
 26 services provided under this Agreement to County patients where all of the following conditions are  
 27 satisfied:

28 1. Unless directed otherwise by ADMINISTRATOR, the information includes a statement that  
 29 the program, wholly or in part, is funded through COUNTY, State and Federal government funds;

30 2. The information does not give the appearance that the COUNTY, its officers, employees, or  
 31 agencies endorse:

32 a. any commercial product or service; and,

33 b. any product or service provided by CONTRACTOR, unless approved in writing by  
 34 ADMINISTRATOR; and,

35 4. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other  
 36 publicly available social media sites) to publish information related to this Agreement, CONTRACTOR  
 37

1 shall develop social media policies and procedures and have them available to ADMINISTRATOR.  
 2 CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as they pertain  
 3 to any social media developed in support of the services described within this Agreement. The policy is  
 4 available on the Internet at <http://www.ocgov.com/gov/ceo/cio/govpolicies>.

## 6 **XVI. MINIMUM WAGE LAWS**

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

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

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

## 22 **XVII. NONDISCRIMINATION**

### 23 A. EMPLOYMENT

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

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

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

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

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

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

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

- 31 1. Denying a Client or potential Client any service, benefit, or accommodation.
- 32 2. Providing any service or benefit to a Client which is different or is provided in a different  
33 manner or at a different time from that provided to other Clients.
- 34 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by  
35 others receiving any service or benefit.
- 36 4. Treating a Client differently from others in satisfying any admission requirement or  
37 condition, or eligibility requirement or condition, which individuals must meet in order to be provided

1 any service or benefit.

2 5. Assignment of times or places for the provision of services.

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

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

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

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

16 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as  
17 to the findings regarding the alleged complaint and, if not satisfied with the decision, may file an appeal.

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

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

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

### 34 **XVIII. NOTICES**

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

37 1. When written and deposited in the United States mail, first class postage prepaid and

1 addressed as specified in the Referenced Contract Provisions of this Agreement or as otherwise directed  
2 by ADMINISTRATOR;

3 2. When faxed, transmission confirmed;

4 3. When sent by Email; or

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

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

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

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

### 17 18 **XIX. NOTIFICATION OF DEATH**

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

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

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

#### 29 2. WRITTEN NOTIFICATION

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

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

37 C. If there are any questions regarding the cause of death of any person served pursuant to this

1 Agreement who was diagnosed with a terminal illness, or if there are any unusual circumstances related  
 2 to the death, CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with this  
 3 Notification of Death Paragraph.

#### 4 5 **XX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

#### 13 14 **XXI. RECORDS MANAGEMENT AND MAINTENANCE**

15 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of  
 16 this Agreement, prepare, maintain and manage records appropriate to the services provided and in  
 17 accordance with this Agreement and all applicable requirements.

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

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

26 D. CONTRACTOR shall ensure appropriate financial records related to cost reporting, expenditure,  
 27 revenue, billings, etc., are prepared and maintained accurately and appropriately.

28 E. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,  
 29 preparation, and confidentiality of records related to participant, Client and/or patient records are met at  
 30 all times.

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

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

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



1 systems maintained by or for a health plan; or

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

3 G. CONTRACTOR may retain participant, Client, and/or patient documentation electronically in  
4 accordance with the terms of this Agreement and common business practices. If documentation is  
5 retained electronically, upon reasonable notice and during normal business hours, CONTRACTOR shall,  
6 in the event of an audit or site visit:

7 1. Have documents readily available within forty-eight (48) hour notice of a scheduled audit or  
8 site visit.

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

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

12 H. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
13 security of PII and/or PHI. CONTRACTOR shall notify COUNTY immediately by telephone call plus  
14 email or fax upon the discovery of a Breach of unsecured PHI and/or PII.

15 I. CONTRACTOR shall be required to pay actual costs associated with a Breach of privacy and/or  
16 security of PII and/or PHI possessed or controlled by CONTRACTOR, including but not limited to the  
17 costs of notification.

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

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

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

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

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

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

35  
36 **XXII. RESEARCH AND PUBLICATION**

37 CONTRACTOR shall not utilize information and data received from COUNTY or developed as a

1 result of this Agreement for the purpose of personal or professional publication, without prior written  
2 approval of ADMINISTRATOR.

### 3 **XXIII. REVENUE**

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

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

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

### 22 **XXIV. SEVERABILITY**

23  
24 If a court of competent jurisdiction declares any provision of this Agreement or application thereof  
25 to any person or circumstances to be invalid or if any provision of this Agreement contravenes any  
26 federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or  
27 the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in  
28 full force and effect, and to that extent the provisions of this Agreement are severable.

### 29 **XXV. SPECIAL PROVISIONS**

30  
31 A. CONTRACTOR shall not use the funds provided by means of this Agreement for the following  
32 purposes:

- 33 1. Making cash payments to intended recipients of services through this Agreement.
- 34 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications  
35 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use  
36 of appropriated funds to influence certain federal contracting and financial transactions).
- 37 3. Fundraising.

1 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
2 CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.

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

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

8 7. Paying an individual salary or compensation for services at a rate in excess of the current  
9 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary  
10 Schedule may be found at [www.opm.gov](http://www.opm.gov).

11 8. Severance pay for separating employees.

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

14 10. Supplanting current funding for existing services.

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

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

18 2. Making phone calls outside of the local area unless documented to be directly for the  
19 purpose of Client care.

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

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

23 5. Purchasing or improving land, including constructing or permanently improving any  
24 building or facility, except for tenant improvements.

25 6. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal  
26 funds (matching).

27 7. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
28 CONTRACTOR's Clients.

### 30 **XXVI. STATUS OF CONTRACTOR**

31 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
32 wholly responsible for the manner in which it performs the services required of it by the terms of this  
33 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
34 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the  
35 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
36 or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR  
37 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or

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

#### 6 **XXVII. TERM**

7 A. The term of this Agreement shall commence as specified in the Referenced Contract Provisions  
 8 of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified  
 9 in the Referenced Contract Provisions of this Agreement unless otherwise sooner terminated as provided  
 10 in this Agreement; provided, however, CONTRACTOR shall be obligated to perform such duties as  
 11 would normally extend beyond this term, including but not limited to, obligations with respect to  
 12 confidentiality, indemnification, audits, reporting and accounting.

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

#### 16 **XXVIII. TERMINATION**

17 A. Either Party may terminate this Agreement, without cause, upon ninety (90) calendar days'  
 18 written notice given the other Party.

19 B. Unless otherwise specified in this Agreement, COUNTY may terminate this Agreement upon  
 20 five (5) calendar days written notice if CONTRACTOR fails to perform any of the terms of this  
 21 Agreement. At ADMINISTRATOR's sole discretion, CONTRACTOR may be allowed up to thirty (30)  
 22 calendar days' for corrective action.

23 C. COUNTY may terminate this Agreement immediately, upon written notice, on the occurrence of  
 24 any of the following events:

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

1 this Agreement.

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

6 D. CONTINGENT FUNDING

7 1. Any obligation of COUNTY under this Agreement is contingent upon the following:

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

10 b. Inclusion of sufficient funding for the services hereunder in the applicable budget  
11 approved by the Board of Supervisors.

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

16 E. In the event this Agreement is suspended or terminated prior to the completion of the term as  
17 specified in the Referenced Contract Provisions of this Agreement, ADMINISTRATOR may, at its sole  
18 discretion, reduce the Maximum Obligation of this Agreement in an amount consistent with the reduced  
19 term of this Agreement.

20 F. In the event this Agreement is terminated by either Party pursuant to Subparagraphs B., C. or D.  
21 above, CONTRACTOR shall do the following:

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

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

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

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

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

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

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

37 8. To the extent services are terminated, cancel outstanding commitments covering the

1 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding  
2 commitments which relate to personal services. With respect to these canceled commitments,  
3 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims  
4 arising out of such cancellation of commitment which shall be subject to written approval of  
5 ADMINISTRATOR.

6 9. Provide written notice of termination of services to each Client being served under this  
7 Agreement, within thirty (30) calendar days of receipt of termination notice. A copy of the notice of  
8 termination of services must also be provided to ADMINISTRATOR within the thirty (30) calendar day  
9 period.

10 G. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be  
11 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

12  
13 **XXIX. THIRD PARTY BENEFICIARY**

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

17  
18 **XXX. WAIVER OF DEFAULT OR BREACH**

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

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

3  
4 CHILDREN’S HOSPITAL OF ORANGE COUNTY DBA CHOC CHILDREN’S

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

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

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15 COUNTY OF ORANGE

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17  
18 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

19 HEALTH CARE AGENCY

20  
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 the contracting party 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 or  
36 any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution or  
37 by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her signature  
alone is required by ADMINISTRATOR..

EXHIBIT A  
 TO AGREEMENT FOR PROVISION OF  
 INPATIENT MENTAL HEALTH SERVICES FOR YOUTH  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 CHILDREN'S HOSPITAL OF ORANGE COUNTY DBA CHOC CHILDREN'S  
 APRIL 1, 2018 THROUGH JUNE 30, 2020

**I. COMMON TERMS AND DEFINITIONS**

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

1. Admission means documentation, by CONTRACTOR, for completion of entry and evaluation services provided to Clients.

2. Care Plan means a written plan, including by reference any juvenile court order(s), developed and signed by the Family Team that includes the following elements:

a. A statement of an overall goal or vision for the Client and Client's family.

b. The strengths of the Client and Client's family.

c. The needs, as defined by specific life areas that must be met to achieve the goal(s) of the Client and Client's family.

d. Prevention and intervention safety plans.

e. The type, frequency, and duration of intervention strategies.

f. Financial responsibility for the components of the POC.

g. Desired outcomes.

3. Crisis Assessment Team (CAT) means the team of behavioral health specialists operated by the COUNTY to provide community based assessment and intervention for youth in crisis operating 24/7. The CAT serves as the central point for locating psychiatric beds for youth and facilitating admission for those who require this level of care.

4. Client means any individual, referred or enrolled, for services under the Agreement who is living with mental, emotional, or behavioral disorders.

5. Crisis Stabilization Unit (CSU) means a County operated or contracted facility operating twenty-four hour for the evaluation of Clients who are experiencing a behavioral health crisis. Those Clients who don't stabilize require inpatient treatment.

6. Diagnosis means identifying the nature of a Client's disorder. When formulating the Diagnosis of Client, CONTRACTOR shall use the diagnostic codes as specified in the most current International Classification of Diseases –Clinical Modification (ICD-CM) and further defined in the

//



1 current Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American  
2 Psychiatric Association.

3 7. Early Periodic Screening Diagnostic and Treatment (EPSDT) means the State of  
4 California's implementation of the Federal child health component of Medicaid program which provides  
5 physical, mental, and developmental health services for children and young adults.

6 8. Education Coordinator means an individual who is responsible for providing assistance and  
7 support with educational and vocational services as well as coordinating instruction on the unit and  
8 linkage back to the home school at discharge.

9 9. Engagement means the process where a trusting relationship between CONTRACTOR's  
10 staff and Client is developed over a short period of time, so CONTRACTOR and Client can develop a  
11 plan to link the Client to appropriate services within the community. Engagement of the Client is the  
12 objective of a successful outreach.

13 10. Full Service Partnership/Wraparound (FSP/W) means a program model described in  
14 COUNTY's MHSA plan that has been approved by the state. The MHSA plan describes how  
15 COUNTY will use MHSA funds to develop and implement treatment plans for mental health Clients  
16 through FSP/Ws. A FSP/W is an evidence-based and strength-based model with the focus on the  
17 individual rather than the disease. It is culturally competent in-home, intensive, mental health care  
18 coordination services that will address family needs across all life domains of the Client. This level of  
19 care is a possible linkage after discharge from inpatient services.

20 11. Head of Service means an individual ultimately responsible for overseeing the program and  
21 is required to be licensed as a mental health professional.

22 12. Licensed Clinical Social Worker (LCSW) means a licensed individual, pursuant to the  
23 provisions of Chapter 14 of the California Business and Professions Code, who can provide clinical  
24 services to Clients. The license must be current and in force, and has not been suspended or revoked.  
25 Also, it is preferred that the individual has at least one (1) year of experience treating children and TAY.

26 13. Licensed Marriage Family Therapist (MFT) means a licensed individual, pursuant to the  
27 provisions of Chapter 13 of the California Business and Professions Code, pursuant to the provisions of  
28 Chapter 14 of the California Business and Professions Code, who can provide clinical services to  
29 Clients. The license must be current and in force, and has not been suspended or revoked. Also, it is  
30 preferred that the individual has at least one (1) year of experience treating children and TAY.

31 14. Licensed Professional Clinical Counselor (LPCC) means a licensed individual, pursuant to  
32 the provisions of Chapter 13 of the California Business and Professions Code, pursuant to the provisions  
33 of Chapter 16 of the California Business and Professions Code, who can provide clinical service to  
34 Clients. The license must be current and in force, and has not been suspended or revoked. Also, it is  
35 preferred that the individual has at least one (1) year of experience treating children and TAY.

36 15. Licensed Psychiatric Technician (LPT) means a licensed individual, pursuant to the  
37 provisions of Chapter 10 of the California Business and Professions Code, who can provide clinical

1 services to Clients. The license must be current and in force, and has not been suspended or revoked.  
2 Also, it is preferred that the individual has at least one (1) year of experience treating children and TAY.

3 16. Licensed Psychologist means a licensed individual, pursuant to the provisions of Chapter  
4 6.6 of the California Business and Professions Code, who can provide clinical services to Clients. The  
5 license must be current and in force, and has not been suspended or revoked. Also, it is preferred that  
6 the individual has at least one (1) year of experience treating children and TAY.

7 17. Licensed Vocational Nurse (LVN) means a licensed individual, pursuant to the provisions  
8 of Chapter 6.5 of the California Business and Professions Code, who can provide clinical services to  
9 Clients. The license must be current and in force, and has not been suspended or revoked. Also, it is  
10 preferred that the individual has at least one (1) year of experience treating children and TAY.

11 18. Medi-Cal means the State of California's implementation of the federal Medicaid health  
12 care program which pays for a variety of medical services for children and adults who meet eligibility  
13 criteria.

14 19. Medical Necessity means health-care services or supplies needed to prevent, diagnose, or  
15 treat an illness, injury, condition, disease, or its symptoms and that meet accepted standards of medicine.  
16 It is a level of impairment, and needed intervention related to criteria as defined in the COUNTY's MHP  
17 under Medical Necessity for Medi-Cal reimbursed Specialty Mental Health Services.

18 20. Mental Health Services are individual or a group therapy and intervention being provided to  
19 Clients that are designed to reduce mental disability and restores or improves daily functioning. Mental  
20 Health Services must be consistent with goals of learning and development, as well as independent  
21 living and enhanced self-sufficiency. In addition, these services cannot be provided as a component of  
22 adult residential services, crisis residential treatment services, Crisis Intervention, crisis stabilization,  
23 day rehabilitation, or day treatment intensive. Service activities may include, but are not limited to:  
24 Assessment, plan development, rehabilitation, and collateral. Also, Mental Health Services may be  
25 either Face-to-Face Contact, or by telephone with Clients or significant support individuals, and services  
26 may be provided anywhere in the community.

27 a. Assessment means a service activity, which may include a clinical analysis of the history  
28 and current status of a Client's mental, emotional, behavioral disorder, and relevant cultural issues. The  
29 Assessment also needs to include history of services being provided, diagnosis, and any testing  
30 procedures that were used.

31 b. Collateral means significant support individual(s) in a Client's life and is/are used to  
32 define services provided to the Client with the intent of improving or maintaining the mental health  
33 status of the Client. The Client may or may not be present for this service activity.

34 c. Intensive Care Coordination (ICC) means a medically necessary service provided to  
35 Medi-Cal beneficiaries under the EPSDT benefit. ICC includes assessment, care planning and  
36 coordination of services across child services systems and providers, including intensive services for  
37 children/youth who meet the Katie A. Subclass criteria.

1 d. Intensive Home-Based Services (IHBS) means a medically necessary service provided to  
 2 Medi-Cal beneficiaries under the EPSDT benefit. IHBS are individualized, strength-based mental  
 3 health treatment interventions designed to ameliorate mental health conditions that interfere with a  
 4 Client's functioning. IHBS are provided only in conjunction with ICC and are recommended by the  
 5 Child and Family Team. IHBS is also provided to the Katie A. Subclass population.

6 e. Medication Support Services means services provided by licensed physicians, registered  
 7 nurses, or other qualified medical staff, which include: prescribing, administering, dispensing and  
 8 monitoring of psychiatric medications or biologicals that are necessary to alleviate symptoms of mental  
 9 illness. These services also include evaluation and documentation of the clinical justification and  
 10 effectiveness of medication, dosage, side effects, compliance, and response to medication. In addition,  
 11 the licensed physicians, registered nurses, or other qualified medical staff must obtain informed consent  
 12 from Clients prior to providing medication education and plan development related to the delivery of  
 13 these services and/or Assessment to Clients.

14 f. Rehabilitation Service means an activity which includes assistance to improving,  
 15 maintaining, or restoring a Client's or group of Clients' functional skills, daily living skills, social and  
 16 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or  
 17 medication education.

18 g. Substance Use treatment means a program that uses a stage-wise treatment model and is  
 19 non-confrontational, follows behavioral principles, considers interactions between mental illness and  
 20 substance abuse, and has gradual expectations of abstinence. Mental illness and substance abuse  
 21 research has strongly indicated that a Client with a disorder needs treatment for both problems to  
 22 recover fully. Focusing on one does not ensure the other will go away. Substance use services integrate  
 23 assistance for each condition by helping Clients recover from mental illness and substance abuse in one  
 24 setting and at the same time.

25 h. Therapeutic Behavioral Services (TBS) means one-on-one behavioral interventions with  
 26 a Client, which is designed to reduce or eliminate targeted behaviors as identified in the Client's  
 27 treatment plan. Collateral services are also provided to parent(s)/guardian(s) as part of TBS. Clients  
 28 must be Medi-Cal eligible and meet TBS class membership and service need requirements.  
 29 Documentation in the medical record must support Medical Necessity for these intensive services.  
 30 Cases in which Clients are receiving more than twenty (20) hours per week of TBS or those who are  
 31 expected to receive more than four months (120 days) of TBS must be approved by  
 32 ADMINISTRATOR. ADMINISTRATOR has to approve individuals that are delivering these  
 33 intervention services to ensure they are qualified to deliver these services.

34 i. Targeted Case Management (TCM) means services that assist a Client to access needed  
 35 medical, educational, social, prevocational, vocational, rehabilitative, or other community services.  
 36 These service activities may include, but are not limited to: communicating and coordinating services  
 37 //

1 through referral; monitoring service delivery to ensure Clients' access to service and the service delivery  
2 system; and tracking of Clients' progress and plan development.

3 j. Treatment Foster Care (TFC) also known as Therapeutic Foster Care, consists of  
4 intensive and highly coordinated mental health and support services provided to a foster parent or  
5 caregiver in which the foster parent/caregiver becomes an integral part of the child's treatment team.

6 k. Therapy means a therapeutic intervention that focuses primarily on symptom reduction as  
7 a means to improve functional impairments. Therapy may be delivered to a Client or a group of Clients,  
8 which may include family Therapy with Client being present.

9 21. The Mental Health Services Act (MHSA) is a voter-approved initiative to develop a  
10 comprehensive approach to providing community-based mental health services and supports for  
11 California residents. It is also known as "Proposition 63."

12 22. National Provider Identifier (NPI) means the standard unique health identifier that was  
13 adopted by the Secretary of HHS Services under HIPAA for health care providers. All HIPAA covered  
14 healthcare providers, individuals, and organizations must obtain an NPI for use to identify themselves in  
15 HIPAA standard transactions. The NPI is assigned for life.

16 23. Notice of Action-A (NOA-A) means a Medi-Cal requirement that informs the beneficiary  
17 that she/he is not entitled to any specialty mental health service. The COUNTY has expanded the  
18 requirement for an NOA-A to all beneficiaries requesting an Assessment for services and found not to  
19 meet the Medical Necessity criteria for specialty Mental Health Services.

20 24. Notice of Privacy Practices (NPP) means a document that notifies Clients of uses and  
21 disclosures of PHI/PII. The NPP may be made by, or on behalf of, the health plan or health care  
22 provider as set forth in HIPAA.

23 25. Outcomes Analyst means an individual who ensures that a program maintains a focus on  
24 program outcomes and quality assurance of the data being reported. This individual will be responsible  
25 for reviewing outcome data and other collected information for accuracy and correcting any errors prior  
26 to entering into the data capture system. The Outcomes Analyst will, analyze data, and developing  
27 strategies for gathering new data from the Client's perspective to improve the Program's understanding  
28 of Client's needs and desires towards furthering their recovery. In addition, this position will be  
29 responsible for attending all data and outcome related meetings and ensuring that the program is being  
30 proactive in all data collection requirements and changes at the local and state levels.

31 26. Outreach means linking potential Clients to appropriate Mental Health Services within the  
32 community. Outreach activities will include educating the community about the services offered and  
33 requirements for participation in the various mental health programs within the community. Such  
34 activities may result in the CONTRACTOR developing Referral sources for Clients from programs  
35 being offered within the community.

36 27. Pathways to Wellbeing is the program that the State Departments of Social Services and  
37 Health Care Services have put into place to serve youth, many of whom had been in the

1 Katie A. Subclass which was established in settlement of the lawsuit, Katie A. et al. v. Bonta et al., a  
 2 class action lawsuit filed in Federal District Court concerning the availability of intensive mental health  
 3 services to children in California who are either in foster care or at imminent risk of coming into care.

4 28. Program Director means an individual who is responsible for all aspects of administration  
 5 and clinical operations of the mental health program, including development and adherence to the  
 6 annual budget. This individual will also be responsible for the following: hiring, development and  
 7 performance management of professional and support staff, and ensuring mental health treatment  
 8 services are provided in concert with COUNTY and state rules and regulations.

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

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

18 31. Quality Improvement Committee (QIC) means a committee that meets quarterly to review  
 19 one percent (1%) of all “high-risk” Medi-Cal Clients in order to monitor and evaluate the quality and  
 20 appropriateness of services provided. At a minimum, the committee is comprised of one (1)  
 21 ADMINISTRATOR, one (1) clinician, and one (1) physician who are not involved in the clinical care of  
 22 the cases reviewed.

23 32. Referral means effectively linking Clients to other services within the community and  
 24 documenting follow-up provided within five (5) business days to assure that Clients have made contact  
 25 with the referred service(s).

26 33. Registered Nurse (RN) means a licensed individual, pursuant to the provisions of Chapter 6  
 27 of the California Business and Professions Code, who can provide clinical services to Clients. The  
 28 license must be current and in force, and has not been suspended or revoked. Also, it is preferred that  
 29 the individual has at least one (1) year of experience treating children and TAY.

30 34. Seriously Emotionally Disturbed (SED) means children or adolescents minors under the  
 31 age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and  
 32 Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental  
 33 disorder, which results in behavior inappropriate to the child’s age according to expected developmental  
 34 norms. W&I 5600.3.

35 35. Serious Mental Impairment (SMI) means an adult with a mental disorder that is severe in  
 36 degree and persistent in duration, which may cause behavioral functioning which interferes substantially  
 37 with the primary activities of daily living, and which may result in an inability to maintain stable

1 adjustment and independent functioning without treatment, support, and rehabilitation for a long or  
2 indefinite period of time. W&I 5600.3.

3 36. Student Intern means student(s) currently enrolled in an accredited graduate or  
4 undergraduate program and is/are accumulating supervised work experience hours as part of field work,  
5 internship, or practicum requirements. Acceptable programs include all programs that assist students in  
6 meeting the educational requirements to be a Licensed MFT, a LCSW, a Licensed Clinical Psychologist,  
7 a Licensed PCC, or to obtain a Bachelor's degree. Individuals with graduate degrees and have two (2)  
8 years of full-time experience in a mental health setting, either post-degree or as part of the program  
9 leading to the graduate degree, are not considered as students.

10 37. UMDAP means the method used for determining the annual Client liability for mental  
11 health services received from the COUNTY mental health system and is set by the State of California.

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

## 14 **II. ISSUE RESOLUTION**

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

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

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

29 3. If the parties are unable to obtain resolution of the issue, they shall submit a joint written  
30 Statement describing the facts of the issue to the HCA Director of Behavioral Health and a designated  
31 representative of CHOC. Within thirty (30) days after the joint written Statement has been provided to  
32 each Party's representative, the Parties agree to meet so that both Parties may come to mutual agreement  
33 as to resolution on the issue or as a last option to an agreed upon third party for final resolution.

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

36 //

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

### 3 4 **III. PATIENT'S RIGHTS**

5 A. CONTRACTOR shall post the current DHCS Patients' Rights poster as well as the  
6 ADMINISTRATOR's MHP Complaint and Grievance poster in all County threshold languages in  
7 locations readily available to Clients and staff and have complaint forms and complaint envelopes  
8 readily accessible to Clients and families on the unit without having to make a request for one. This  
9 information should be at a readability level to match at least half of the Clients on the unit.  
10 CONTRACTOR shall develop a policy or include in a current applicable policy how they will include  
11 those with limited reading ability in exercising their Patient's Rights.

12 B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have  
13 complaint resolution and grievance processes approved by ADMINISTRATOR, to which the  
14 beneficiary shall have access.

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

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

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

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

25 2. Formal Grievance. When the Client's complaint is not resolved at CONTRACTOR's  
26 facility and the Client or Client representative requests it, the complaint becomes a formal grievance.  
27 The request is made to COUNTY's MHIS and represents the first step in the formal grievance process.  
28 *(All formal grievances go directly to Patients' Rights to address).*

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

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

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

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

**IV. PAYMENTS**

A. CONTRACTOR agrees to provide six (6) beds per day at an agreed upon all-inclusive rate of \$1,574 per day for Orange County youth between the ages of three (3) and seventeen (17) referred by ADMINISTRATOR. CONTRACTOR agrees to accept additional Orange County youth between the ages of three (3) and seventeen (17) referred by ADMINISTRATOR for additional beds per day at the same rate if additional beds are available.

1. CONTRACTOR and ADMINISTRATOR will work collaboratively to manage bed usage. This will be accomplished at two (2) levels:

a. CONTRACTOR and ADMINISTRATOR will meet daily in a census control meeting in which perspective admissions and discharges will be discussed as well as milieu dynamics that might influence who is referred to the inpatient psychiatric unit.

b. CONTRACTOR and ADMINISTRATOR will meet monthly to discuss all areas of collaboration related to services provided under this Agreement with a specific emphasis on bed day usage.

**B. DHCS PAYMENTS**

~~// 1. CONTRACTOR shall be reimbursed by DHCS for services provided at the following all-inclusive rates per Client day for acute Psychiatric Inpatient Hospital Services for Medi-Cal eligible Clients referred by ADMINISTRATOR based on the accommodation codes set forth therein.~~

<u>Accommodation Code</u>	<u>Description</u>	<u>Periods One, Two and Three</u>	<u>Period Four</u>
<del>0114</del>	<del>Single _____ Room Adolescent/Child, Psychiatric</del>	<del>\$1,490</del>	<del>\$1,574</del>
<del>169</del>	<del>Administrative Day</del>	<del>Administrative Day</del>	<del>Current — DHCS Rate</del>

CONTRACTOR shall be reimbursed by DHCS for services provided at the following all-inclusive rates per Client day for acute Psychiatric Inpatient Hospital Services for Medi-Cal eligible Clients referred by ADMINISTRATOR based on the accommodation codes set forth therein.

<u>Accommodation Code</u>	<u>Description</u>	<u>Periods One, Two and Three</u>	<u>Period Four and Period Five</u>
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<u>0114</u>	<u>Single Room</u> <u>Adolescent/Child, Psychiatric</u>	<u>\$1,490</u>	<u>\$1,574</u>
<u>169</u>	<u>Administrative Day</u>	<u>Administrative Day</u>	<u>Current DHCS Rate</u>

- a. The rate for Accommodation Code 169 is established and adjusted by the DHCS.
- b. Rates are inclusive of all Psychiatric Inpatient Hospital Services as defined in this Exhibit A to the Agreement, and shall constitute payment in full for these services.
- c. 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.
- d. 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.
- e. 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:
- 1) 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.
  - 2) When Medi-Cal eligible medical services are provided by a physician, such services shall be billed to the designated CalOptima Plan or CalOptima Direct, depending on the Client's health coverage benefit. Prior authorization and notification may be required prior to providing these services.
  - 3) When Medi-Cal eligible transportation services are provided, such services shall be billed to the designated CalOptima Plan or CalOptima Direct, depending on the Client's health coverage benefit. Prior authorization and notification may be required prior to providing these services.
- f. The Client daily rates stated above do not include ECT or CT/MRI Services. When medically appropriate CONTRACTOR shall provide services for ECT or CT/MRI and/or make referrals for services as needed. The rates for ECT and CT/MRI Services shall apply only for the day(s) in which the Client received an approved ECT or CT/MRI (rates listed below). These rates reflect CONTRACTOR's reimbursement only and associated professional services shall be billed to COUNTY's ASO, the designated CalOptima Plan or CalOptima Direct. CONTRACTOR must obtain prior approval from the ADMINISTRATOR to perform the ECT or CT/MRI in order to be reimbursed. CONTRACTOR shall submit to ADMINISTRATOR ECT and MRI invoices that indicate for whom services were provided, the date of service, and shall be supported with such documentation as may be required by ADMINISTRATOR.

1 g. For all services outlined above wherein CONTRACTOR has exhausted available funding  
 2 sources and remains in whole or in part unfunded, CONTRACTOR may not invoice  
 3 ADMINISTRATOR for said services.

#### 4 2. DHCS BILLING PROCEDURES

5 a. CONTRACTOR must obtain an NPI.

6 b. CONTRACTOR shall invoice DHCS for each Client day, approved by the  
 7 ADMINISTRATOR, for each Client who meets notification, admission and/or continued stay criteria,  
 8 documentation requirements, treatment and discharge planning requirements and occupies a psychiatric  
 9 inpatient hospital bed at 12:00 a.m. in CONTRACTOR's facility. CONTRACTOR may invoice DHCS

10 //

11 if the Client is admitted and discharged during the same day; provided, however, that such admission  
 12 and discharge is not within twenty-four (24) hours of a prior discharge.

13 c. CONTRACTOR shall determine that Psychiatric Inpatient Hospital services provided  
 14 pursuant to the Agreement are not covered, in whole or in part, under any other state or federal medical  
 15 care program or under any other contractual or legal entitlement including, but not limited to, a private  
 16 group indemnification or insurance program or Workers' Compensation Program. CONTRACTOR  
 17 shall seek to be reimbursed by other coverage prior to seeking reimbursement by DHCS. DHCS's  
 18 maximum obligation shall be reduced if other coverage is available.

19 d. CONTRACTOR shall submit claims to DHCS's fiscal intermediary for all services  
 20 rendered pursuant to the Agreement, in accordance with the applicable invoice and billing requirements  
 21 contained in WIC, Section 14718.

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

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

#### 30 C. COUNTY PAYMENTS

31 1. If ADMINISTRATOR identifies unfunded Clients for whom Medi-Cal eligibility cannot be  
 32 obtained, COUNTY agrees to reimburse CONTRACTOR for services to these Clients at the same all-  
 33 inclusive rate of \$1574 per Client day for acute Psychiatric Inpatient Hospital Services as set forth in  
 34 Paragraph IV.A., above.

35 2. In exchange for agreeing to set aside a minimum of six (6) beds per day for COUNTY  
 36 placements, COUNTY agrees to pay CONTRACTOR for any COUNTY designated bed which remains  
 37 unused following the collaboration related to bed day usage set forth above in Paragraph A.1, at the rate

1 of \$1574 per bed day.

2 3. CONTRACTOR's invoices to COUNTY shall be on a form mutually agreed upon by both  
3 Parties. Invoices are due the tenth (10th) calendar day of each month. Invoices received after the due  
4 date may not be paid within the same month. Payments to CONTRACTOR should be released by  
5 COUNTY no later than thirty (30) calendar days after receipt of the correctly completed invoice.

6 4. All invoices to COUNTY shall be supported, at CONTRACTOR's facility, by source  
7 documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statements,  
8 canceled checks, receipts, receiving records, and records of services provided.

9 5. CONTRACTOR shall promptly return any overpayments within sixty (60) business days  
10 after the overpayment is verified by the ADMINISTRATOR and both parties have agree to any  
11 overpayment amounts to be returned.

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

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

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

19 F. ADMINISTRATOR shall provide CONTRACTOR with a Notification Form that is mutually  
20 agreed upon by both parties which serves to confirm hospitalization of the Client. CONTRACTOR  
21 must submit the Notification Form, along with the Client's TAR to ADMINISTRATOR for review of  
22 medical necessity and payment authorization.

23 G. CONTRACTOR must document, in the Client's medical record, each contact with the  
24 appropriate placement facility or the person or agency responsible for placement. CONTRACTOR must  
25 continue to document contacts with appropriate placement facilities until the Client is discharged.  
26 Contacts shall be documented by a brief description of the placement facilities reported bed availability  
27 status, reason for denial if applicable, and the signature of the person making the contact.

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

30 I. CONTRACTOR shall notify ADMINISTRATOR, prior to 12:00 p.m. of the daily census of all  
31 Clients in which reimbursement for Psychiatric Inpatient Hospital Services will be requested.

32 J. CONTRACTOR shall notify ADMINISTRATOR of any Client discharge within twenty-four  
33 (24) hours of the Client's discharge.

34 K. CONTRACTOR shall include the Client's name, discharge date, discharge placement and  
35 placement phone number. CONTRACTOR shall inform COUNTY of where the Client has been  
36 referred for continuing treatment, along with the facility's phone number, contact person and the  
37 Client's first appointment time and date.

1 L. CONTRACTOR shall make reasonable efforts to notify the Regional Center Service  
 2 Coordinator and Nurse Consultant of a Regional Center Client's admission within twenty-four (24)  
 3 hours of admission or within twenty-four (24) hours of identifying that a Client is a Regional Center  
 4 Client.

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

10 N. CONTRACTOR shall notify the ADMINISTRATOR within twenty-four (24) hours of  
 11 admission of all Clients, served under this Agreement.

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

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

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

## 22 **V. REPORTS**

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

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

30 C. PROGRAMMATIC – CONTRACTOR shall submit a daily census of County Clients giving  
 31 name, age, date of admission, projected date of discharge, and for planning purposes disidentified  
 32 information on Clients occupying non-County beds giving age, date of admission and projected date of  
 33 discharge.

34 D. CONTRACTOR shall submit monthly Programmatic reports to ADMINISTRATOR. These  
 35 reports shall be in a format approved by ADMINISTRATOR and shall include but not limited to,  
 36 descriptions of any performance objectives, outcomes, daily census meetings, and or interim findings as  
 37 directed by ADMINISTRATOR.

1 E. CONTRACTOR shall be prepared to present and discuss the programmatic reports at the  
 2 monthly meetings with ADMINISTRATOR, to include whether or not CONTRACTOR is progressing  
 3 satisfactorily and if not, specify what steps are being taken to achieve satisfactory progress. Such  
 4 reports shall be received by ADMINISTRATOR no later than twentieth (20th) calendar day following  
 5 the end of the month being reported.

6 F. ADDITIONAL REPORTS – Upon ADMINISTRATOR’s request, CONTRACTOR shall make  
 7 such additional reports as reasonably required by ADMINISTRATOR concerning CONTRACTOR’s  
 8 activities as they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of  
 9 information requested and allow thirty (30) calendar days for CONTRACTOR to respond.

10 G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
 11 Reports Paragraph of this Exhibit A to the Agreement.

## 12 **VI. SERVICES**

13  
 14 A. FACILITY – CONTRACTOR shall provide Psychiatric Inpatient Hospital Services at the  
 15 following location in accordance with the standards established by the COUNTY and the State and  
 16 within the specifications stated below, unless otherwise authorized by the ADMINISTRATOR.  
 17 CONTRACTOR shall provide Psychiatric Inpatient Hospital Services within a licensed and certified  
 18 facility. Unless otherwise authorized in writing by ADMINISTRATOR, CONTRACTOR shall  
 19 maintain regularly scheduled service hours, seven (7) days a week, twenty-four (24) hours per day  
 20 throughout the year.

21  
 22 1201 West La Veta Ave  
 23 Orange, CA 92868  
 24

25 B. CLIENTS SERVED – CONTRACTOR shall admit and serve all Clients ages three (3) to  
 26 seventeen (17.95) referred by ADMINISTRATOR who meet ADMINISTRATOR’s criteria for acute  
 27 psychiatric hospitalization. CONTRACTOR shall provide Clients with private rooms and provide parent  
 28 room-in accommodations upon request so parents can stay with the child. CONTRACTOR may admit  
 29 and serve Clients not referred by ADMINISTRATOR or the CSU; however CONTRACTOR must first  
 30 notify ADMINISTRATOR of any Client served under the Agreement who has not been referred by  
 31 ADMINISTRATOR or the CSU prior to admission.

### 32 C. SERVICES PROVIDED

33 1. CONTRACTOR shall provide Psychiatric Inpatient Hospital Services, which include but  
 34 are not limited to physician services, psychologist services, and transportation services, in accordance  
 35 with WIC, Section 14680, et seq.

36 2. CONTRACTOR shall provide services that include but are not limited to psychiatric,  
 37 ancillary, testimony, medical, specialized services, and additional services required of general acute care

1 hospitals. CONTRACTOR's services shall be designed to engage seriously mentally ill children and  
 2 adolescents, including those who have multiple diagnoses in collaboration with parents or care takers to  
 3 achieve the individual's wellness and resiliency goals. CONTRACTOR shall provide services in  
 4 collaboration with the COUNTY's Director of Behavioral Health, or designee.

5 a. PSYCHIATRIC SERVICES – CONTRACTOR shall provide psychiatric services  
 6 seven days per week that include psychiatric assessment, psychiatric treatment and psychiatric support  
 7 services in accordance with all applicable laws and regulations. Psychiatric services shall include but  
 8 not be limited to:

9 1) A psychiatric evaluation, within twenty-four (24) hours of admission, by a licensed  
 10 psychiatrist. The psychiatric evaluation shall include a psychiatric history, diagnosis, and be completed  
 11 in accordance with the current ICD-CM/DSM;

12 2) A review of each Client's medical history and a physical examination within  
 13 twenty-four (24) hours of admission;

14 3) Initiation of a Care Plan which meets Medi-Cal standards for acute inpatient  
 15 services for each new Client within twenty-four (24) hours of admission;

16 4) Initial psychometric for all children entering the unit to provide more information  
 17 for diagnosis and treatment planning.

18 5) A Care Plan for each Client must be completed with signatures of the treatment  
 19 team and the Client unless Contractor is able to demonstrate documentation of the  
 20 Client/guardian/caretaker's agreement to the treatment plan (or explanation of inability to obtain) within  
 21 seventy-two (72) hours of admission. All psychiatric, psychological, and social services must be  
 22 consistent with the Care Plan;

23 6) CONTRACTOR shall cause licensed psychiatrists to provide psychiatric services  
 24 which shall include the following:

25 a) Direct Treatment Services including psychiatric history, diagnosis and  
 26 evaluation which shall include an interview, mental status, diagnosis, clinical recommendation,  
 27 and prescription of medication as required for treatment of the Client.

28 b) Approval of an individual treatment plan and supervision or provision of  
 29 individual therapy as required by Client; provided, however, the psychiatrist shall provide a minimum of  
 30 three (3) individual therapy sessions to each Client per week. Each individual therapy session shall be at  
 31 least thirty (30) minutes in length, and additional sessions shall be provided by a psychiatrist if indicated  
 32 by Client acuity. All other individual therapy sessions may be provided by a person licensed or  
 33 waived to provide psychotherapy.

34 c) Supervision or provision of family therapy sessions if indicated, which shall be  
 35 at least thirty (30) minutes in duration. Family therapy shall be provided two times per week if minor  
 36 remains hospitalized more than three (3) days. At least one (1) family session shall be provided before  
 37 discharge unless clinically contraindicated.

1 d) CONTRACTOR's hospital psychiatrist and social worker/case manager shall  
2 consult with parent/legal guardian for minors who are living with parents/legal guardian, SSA for  
3 dependents, and Probation for Wards of the Court during the hospital stay.

4 e) CONTRACTOR's hospital psychiatrist shall make at least one contact with  
5 Client's treating psychiatrist in the community during each hospital stay.

6 f) CONTRACTOR's hospital psychiatrist shall provide Clients with seven (7)  
7 days of medications at discharge. This includes psychiatric medications and other medications needed  
8 to treat concurrent medical conditions.

9 g) Other services to include supervision of affiliate and nursing staff as it relates  
10 to Client treatment, clinical consultation to other mental health clinical staff, and participation in  
11 CONTRACTOR's quality assurance procedures.

12 7) Appropriate collateral therapy and interventions for each Client;

13 8) One-on-one, Client-to-staff counseling as appropriate to the diagnosis and  
14 Treatment Plan;

15 9) Documentation of Client's attendance and their participation in collateral therapy  
16 including schedule of therapies, attendance log, and medical record progress notes;

17 10) Daily rounds and progress notes by psychiatrists on all Clients;

18 11) Discharge planning that includes but is not limited to continuing care planning, and  
19 referral services;

20 a) Discharge planning must begin upon admission and occur seven (7) days a  
21 week;

22 b) ADMINISTRATOR may provide assistance to CONTRACTOR to initiate,  
23 develop and finalize discharge planning and necessary follow-up services on a case-by case basis;

24 c) CONTRACTOR shall arrange a specific date and time for an aftercare services  
25 with an appropriate level of care. For any Client referred to such a program the CONTRACTOR shall  
26 provide at the time of discharge, the Hospital Discharge Referral Form or the hospital's aftercare plan,  
27 the initial psychiatric evaluation, the history and physical examination report, recent lab studies, the  
28 medication list, and any medical consults. This procedure should be followed with all post-hospital  
29 service locations.

30 12) On-call psychiatric and medical specialist coverage twenty-four (24) hours per day,  
31 seven (7) days per week;

32 13) A psycho-social assessment completed within forty-eight (48) hours of admission;

33 14) In-patient services are all-inclusive; the contractor may not bill for services under  
34 another County Contract while the Client is on the inpatient unit.

35 b. ANCILLARY SERVICES - CONTRACTOR shall provide ancillary services,  
36 necessary for the evaluation and treatment of psychiatric conditions. Services shall be recovery-based,  
37 non-coercive and must focus on assisting Clients to become more independent and self-sufficient.

1 Services shall include but not be limited to as clinically indicated:

- 2 1) Group therapy;
- 3 2) Activities therapy and other adjunctive therapies to provide stress reduction
- 4 through self-expression in art and music;
- 5 3) Integration of health focused interventions into the inpatient treatment program
- 6 such as movement therapy, yoga, physical fitness, sleep studies and healthy nutrition, initial laboratory
- 7 services that are consistent with CONTRACTOR's usual and customary hospital admitting protocol;
- 8 4) Additional laboratory and diagnostic services, when necessary for the initiation and
- 9 monitoring of psychiatric medication treatments; and
- 10 5) Access as necessary to consultations by physical medicine staff.
- 11 6) Pharmaceutical services.

12 c. TESTIMONY SERVICES - CONTRACTOR shall provide expert witness testimony  
 13 by appropriate mental health professionals in all legal proceedings required for the institutionalization,  
 14 admission, or treatment of COUNTY Clients. These services shall include, but not be limited to, writs  
 15 of habeas corpus, capacity hearings, Independent Professional Reviews of minors over 12,  
 16 conservatorship, probable cause hearings, court-ordered evaluation, and appeal and post-certification  
 17 proceedings. CONTRACTOR shall also include:

- 18 1) Preparation of the documentation required by the Juvenile Court to authorize the
- 19 administration of psychotropic medication for those youth who are under the jurisdiction of the juvenile
- 20 court.
- 21 2) ADMINISTRATOR shall provide representation to CONTRACTOR, at
- 22 ADMINISTRATOR's cost and expense, in all legal proceedings required for conservatorship.
- 23 3) CONTRACTOR shall cooperate with ADMINISTRATOR in all such proceedings.
- 24 4) ADMINISTRATOR will provide hearing officers for probable cause hearings for
- 25 Clients approved by ADMINISTRATOR only.

26 d. MEDICAL SERVICES – CONTRACTOR shall provide all medical care services  
 27 deemed appropriate according to usual and customary hospital practices without regard for payer status.  
 28 Medical services include physician and/or other professional services required by the Client.

- 29 1) CONTRACTOR shall provide transportation to the medical treatment and an escort
- 30 to and from the service.

31 //

32 e. ADDITIONAL SERVICES – CONTRACTOR shall provide additional services  
 33 required of general acute care hospitals.

34 D. CONTRACTOR shall make available a copy of the “COUNTY Guide to Medi-Cal Mental  
 35 Health Services” and “OC Mental Health Plan Provider Directory” to each Client/guardian/conservator  
 36 at the time of admission. CONTRACTOR shall ensure that the Client signs a form indicating receipt of  
 37 both handbooks, and this form shall become part of the Client's medical record. If the Client refuses to



1 sign or receive the handbooks, a hospital staff member shall document that the handbooks were  
2 provided.

3 E. CONTRACTOR shall provide the Client/guardian/conservator the DHCS notification materials  
4 entitled, "EPSDT", and "TBS" to each full-scope Medi-Cal Client under twenty-one (21) years of age  
5 admitted for acute psychiatric inpatient services. CONTRACTOR shall document in the Client's  
6 medical record that these materials were provided.

7 F. CONTRACTOR shall provide, the NPP for the COUNTY, as the MHP, to any individual who  
8 received services under the Agreement.

9 G. CONTRACTOR shall allow ADMINISTRATOR to conduct a face-to-face evaluation of the  
10 Client for assessment and recommendation to CONTRACTOR regarding the appropriate level of care  
11 and need for the Clients' hospitalization.

12 H. CONTRACTOR shall ensure that contact is made with the minor's Social Worker or  
13 Probation Officer daily, excluding weekend and holidays when the minor is a dependent or ward of the  
14 Court and is in need of an appropriate placement facility.

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

21 J. PERFORMANCE OUTCOMES – CONTRACTOR shall perform outcome studies, on-site  
22 reviews and written reports to be made available to ADMINISTRATOR upon request as mutually  
23 agreed upon by both parties.

24 K. CONTRACTOR shall provide services pursuant to the Agreement in a manner that is culturally  
25 and linguistically appropriate for the population(s) served. CONTRACTOR shall maintain  
26 documentation of such efforts which may include, but not be limited to: records of participation in  
27 COUNTY sponsored or other applicable training; recruitment and hiring P&Ps; copies of literature in  
28 multiple languages and formats, as appropriate; and descriptions of measures taken to enhance  
29 accessibility for, and sensitivity to, persons who are physically challenged.

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

36 1. Clinical care and therapeutic interventions which are linguistically and culturally  
37 appropriate; including, at a minimum, admission, discharge, and medication consent forms available in

1 all County threshold languages;

- 2 2. Medically appropriate interventions which acknowledge specific cultural influences;
- 3 3. Provision and utilization of qualified interpreters within twenty-four (24) hours of identified
- 4 need;
- 5 4. Screening and certification of interpreters;
- 6 5. Client related information translated into the various languages of the diverse populations
- 7 served.

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

## 10 **VII. STAFFING**

11  
12 A. CONTRACTOR shall provide clinical staffing as required by CCR, Title 9. CONTRACTOR  
13 shall provide professional, allied, and supportive paramedical personnel to provide all necessary and  
14 appropriate Psychiatric Inpatient Hospital services. There is no specific administrative and/or clerical  
15 staffing pattern however, CONTRACTOR must provide sufficient staff to support the services provided  
16 pursuant to the Agreement.

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

28 C. CONTRACTOR shall ensure that all staff is trained and is knowledgeable in treatment issues  
29 reflecting the diversity of the Medi-Cal population. CONTRACTOR shall develop and maintain in-  
30 service staff training programs which will train staff to respect and respond with sensitivity to the  
31 language and cultural experiences of the Clients. CONTRACTOR staff shall participate in cultural  
32 competency and/or awareness training on an annual basis. Training shall be designed to help staff  
33 understand cultural diversity and may include but not be limited to such topics such as: mental health  
34 care that is unique to the Client including awareness; sensitivity to the Client's cultural and spiritual  
35 beliefs, and the role of the family in diverse cultures and ethnic groups. Additionally, training  
36 components shall include:

- 37 1. Background information for identifying and treating mental illnesses and related health

1 conditions not commonly found in the dominant Client population;

2 2. Use of non-psychiatrically trained interpreters in taking Client histories and assisting with  
3 communication relating to mental health treatment; and

4 3. Strategies for using the belief patterns and family support systems of Clients to promote  
5 adherence to the course of treatment and assuming responsibility for preventive mental health behaviors.

6 D. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
7 Staffing Paragraph of this Exhibit A to the Agreement

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32 EXHIBIT B  
33 TO AGREEMENT FOR PROVISION OF  
34 INPATIENT MENTAL HEALTH SERVICES FOR YOUTH  
35 BETWEEN  
36 COUNTY OF ORANGE  
37 AND

CHILDREN'S HOSPITAL OF ORANGE COUNTY DBA CHOC CHILDREN'S  
APRIL 1, 2018 THROUGH JUNE 30, 2020

**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, B, and C to the Agreement 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 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 the CONTRACTOR and COUNTY arises if and only 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 Agreement that meet the statutory definition of "Business Associate" in 45 CFR § 160.103. It is further understood and agreed that in the absence of a Business Associate relationship as defined by HIPAA, between CONTRACTOR and COUNTY, any and all terms contained within this Exhibit B shall have no legal force or binding effect. Irrespective of the applicability of Exhibit B, CONTRACTOR and COUNTY shall maintain appropriate safeguards to protect Protected Health Information in full compliance with all applicable State and Federal privacy laws, including, but not limited to HIPAA and the HITECH Act, as is required of both parties in their roles as Covered Entities.

3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the terms of the Agreement, 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 Agreement.

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 Agreement 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.

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

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

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

#### 5 B. DEFINITIONS

6 1. "Administrative Safeguards" are administrative actions, and policies and procedures, to  
 7 manage the selection, development, implementation, and maintenance of security measures to protect  
 8 electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection  
 9 of that information.

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

##### 12 a. Breach excludes:

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

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

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

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

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

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

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

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

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

35 4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in  
 36 45 CFR § 164.501.

37 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in

1 45 CFR § 160.103.

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

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

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

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

12 10. "PHI" shall have the meaning given to such term under the HIPAA regulations in  
13 45 CFR § 160.103.

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

16 12. "Secretary" shall mean the Secretary of the Department of Health and Human Services or  
17 his or her designee.

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

23 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of  
24 electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

25 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in  
26 45 CFR § 160.103.

27 16. "Technical safeguards" means the technology and the policy and procedures for its use that  
28 protect electronic PHI and control access to it.

29 17. "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable,  
30 unreadable, or indecipherable to unauthorized individuals through the use of a technology or  
31 //  
32 methodology specified by the Secretary of Health and Human Services in the guidance issued on the  
33 HHS Web site.

34 18. "Use" shall have the meaning given to such term under the HIPAA regulations in  
35 45 CFR § 160.103.

36 **C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:**

37 1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to

1 CONTRACTOR other than as permitted or required by this Business Associate Contract or as required  
2 by law.

3 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business  
4 Associate Contract and the Agreement, to prevent use or disclosure of PHI COUNTY discloses to  
5 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
6 other than as provided for by this Business Associate Contract.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

9 D. SECURITY RULE

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

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

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

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

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

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

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

37 5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it

1 becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with  
2 subparagraph E below and as required by 45 CFR § 164.410.

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

#### 6 E. DATA SECURITY REQUIREMENTS

##### 7 1. Personal Controls

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

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

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

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

##### 34 2. Technical Security Controls

35 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY  
36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
37 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which

1 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the  
2 COUNTY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 comprehensive intrusion detection and prevention solution.

2 3. Audit Controls

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

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

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

16 4. Business Continuity/Disaster Recovery Control

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

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

29 5. Paper Document Controls

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

36 b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to  
37 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is

1 contained shall be escorted and such PHI shall be kept out of sight while visitors are in the area.

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

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

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

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

#### 20 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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31 //

32 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY  
33 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written  
34 notification within 24 hours of the oral notification.

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

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

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

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

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

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

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

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

16           4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
 17 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
 18 COUNTY.

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

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

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

31 //

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

37           9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or

1 other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs  
 2 in addressing the Breach and consequences thereof, including costs of investigation, notification,  
 3 remediation, documentation or other costs associated with addressing the Breach. CONTRACTOR  
 4 shall not be at fault if the Breach is deemed to be the fault of a participating hospital or other provider.

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

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

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

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

15 1) The Disclosure is required by law; or

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

21 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to  
 22 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of  
 23 CONTRACTOR.

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

26 3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR  
 27 consistent with the minimum necessary policies and procedures of COUNTY.

28 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as  
 29 required by law.

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#### 32 H. PROHIBITED USES AND DISCLOSURES

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



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

5           I. OBLIGATIONS OF COUNTY

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

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

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

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

17           J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C  
 TO AGREEMENT FOR PROVISION OF  
 INPATIENT MENTAL HEALTH SERVICES FOR YOUTH  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 CHILDREN'S HOSPITAL OF ORANGE COUNTY DBA CHOC CHILDREN'S  
 APRIL 1, 2018 THROUGH JUNE 30, 2020

**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, Civil Code § 1798.29(d).

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

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

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

6. "Notice-triggering Personal Information" shall mean the personal information identified in California Civil Code § 1798.29(e) whose unauthorized access may trigger notification requirements under California Civil Code § 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 California Civil Code § 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 Agreement; or  
 6 interference with system operations in an information system that processes, maintains or stores PI.

#### 7 B. TERMS OF AGREEMENT

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  
 11 Agreement 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 data  
 27 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 E  
 30 of the Protected Health Information/Personal Information Contract, Exhibit B to the Agreement; 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 Office of Management and Budget in OMB Circular No. A-130,  
 33 Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for  
 34 automated information systems 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  
 37 CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and

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

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

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

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

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

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

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

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