

~~FIRST AMENDMENT~~ AMENDMENT NO. 2

TO

MASTER AGREEMENT NO. MA-042-20011214

FOR ~~PROVISION OF~~

MEDI-CAL MENTAL HEALTH MANAGED CARE
PSYCHIATRIC INPATIENT HOSPITAL SERVICES

~~BETWEEN~~

~~COUNTY OF ORANGE~~

~~AND~~

~~THE REGENTS OF THE UNIVERISTY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,
SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF
CALIFORNIA, IRVINE MEDICAL CENTER
JULY 1, 2017 THROUGH JUNE 30, 2020~~

This Amendment (“Amendment No. 2”) to Contract No. MA-042-20011214 for Medi-Cal Mental Health Managed Care Psychiatric Inpatient Hospital Services is made and entered into on July 1, 2021 (“Effective Date”) between The Department of Psychiatry dba UCI Department of Psychiatry (“Contractor”), with a place of business at 333 City Boulevard West, Suite 200, 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”.

~~THIS AGREEMENT entered into this 1st day of July 2017 (effective date), is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and THE REGENTS OF THE UNIVERISTY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX, SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF CALIFORNIA, IRVINE MEDICAL CENTER THE REGENTS OF THE UNIVERISTY OF CALIFORNIA, ON BEHALF OF UNIVERSITY OF CALIFORNIA, IRVINE MEDICAL CENTER, a California for profit corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).~~

W I T N E S S E T H:

~~WHEREAS, the Parties executed Contract No. MA 042 20011214 for Medi-Cal Mental Health Managed Care Psychiatric Inpatient Hospital Services, effective July 1, 2017 through June 30, 2020, for the negotiated rates of \$865 per day for Adolescent/Child and \$825 per day for Adult Psychiatric Inpatient Hospital Services (“Contract”); and~~

~~WHEREAS, the Parties now desire to enter into this Amendment No. 1 to renew the Contract for~~

~~one year for County to continue receiving and Contractor to continue providing the services set forth in the Contract and to amend the Standard language paragraphs of the Contract due to required regulatory language and changes needed for the term of the Contract; and~~

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

~~WHEREAS, the Parties executed Contract No. MA-042-20011214 for Medi-Cal Mental Health Managed Care Psychiatric Inpatient Hospital Services, effective July 1, 2017 through June 30, 2020, for negotiated rate of \$865 per day for Adolescents/Child and \$825 per day for Adult Psychiatric Inpatient Hospital Services (“Contract”); and~~

~~WHEREAS, the Parties executed Amendment No. 1 on June 2, 2020 to renew the Contract with Contractor for one year, effective July 1, 2020 through June 30, 2021, renewable for one additional one-year period, and to amend the Standard language paragraphs of the Contract due to required regulatory language and changes needed for the renewed term of the Contract; and~~

~~WHEREAS, the Parties now desire to enter into this Amendment No. 2 to renew the Contract for the final one year term 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:~~

- ~~1. The Contract is renewed for final term of one (1) year, effective July 1, 2021 through June 30, 2022, on the amended term and conditions and for the negotiated rate of \$1035 per day for Adolescents/Child and \$962 per day for Adult Psychiatric Inpatient Hospital Services, for this renewal period.~~

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REFERENCED CONTRACT PROVISIONS

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MASTER AGREEMENT Term: July 1, 2017 through June 30, 2020

Period One means the period from July 1, 2017 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

Basis for Reimbursement: Negotiated Rate Amount

Payment Method: Direct Reimbursement from Department of Health Care Services

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: University of California, Irvine Medical Center
333 City Boulevard West, Suite 200
Orange, CA 92868
Teresa Conk, Associate Vice Chancellor for Clinical Integration
tconk@uci.edu

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I. ACRONYMS

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

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4	A. ABC	Allied Behavioral Care
5	B. AES	Advanced Encryption Standards
6	C. ARRA	American Recovery and Reinvestment Act
7	D. BBS	Board of Behavioral Sciences
8	E. BCP	Business Continuity Plan
9	F. CCC	California Civil Code
10	G. CCR	California Code of Regulations
11	H. CD/DVD	Compact Disc/Digital Video or Versatile Disc
12	I. CYBH	Children and Youth Behavioral Health
13	J. CEO	County Executive Office
14	K. CFR	Code of Federal Regulations
15	L. CHHS	California Health and Human Services Agency
16	M. CHPP	COUNTY HIPAA Policies and Procedures
17	N. CIPA	California Information Practices Act
18	O. CMPPA	Computer Matching and Privacy Protection
19	P. COI	Certificate of Insurance
20	Q. DHCS	Department of Health Care Services
21	R. DoD	Department of Defense
22	S. DRP	Disaster Recovery Plan
23	T. DRS	Designated Record Set
24	U. DSM	Diagnostic and Statistical Manual of Mental Disorders
25	V. E-Mail	Electronic Mail
26	W. EHR	Electronic Health Record
27	X. ePHI	Electronic Protected Health Information
28	Y. FIPS	Federal Information Processing Standards
29	Z. GAAP	Generally Accepted Accounting Principles
30	AA. HCA	Health Care Agency
31	AB. HHS	Health and Human Services
32	AC. HIPAA	Health Insurance Portability and Accountability Act of 1996,
33		Public Law 104-191
34	AD. HSC	California Health and Safety Code
35	AE. IEA	Information Exchange Agreement
36	AF. ISO	Insurance Services Office
37	AG. MHIS	Mental Health Inpatient Services

1	AH.	NPI	National Provider Identifier
2	AI.	NPP	Notice of Privacy Practices
3	AJ.	OIG	Office of Inspector General
4	AK.	OMB	Office of Management and Budget
5	AL.	OPM	Federal Office of Personnel Management
6	AM.	P&P	Policies and Procedures
7	AN.	PC	State of California Penal Code
8	AO.	PHI	Protected Health Information
9	AP.	PII	Personally Identifiable Information
10	AQ.	PRA	Public Record Act
11	AR.	SIR	Self-Insured Retention
12	AS.	SSA	Social Services Agency
13	AT.	TAR	Treatment Authorization Request
14	AU.	HITECH Act	Health Information Technology for Economic and Clinical Health Act,
15			Public Law 111-005
16	AV.	UMDAP	Universal Method of Determining Ability to Pay
17	AW.	UOS	Unit of Service
18	AX.	USC	United States Code
19	AY.	WIC	State of California Welfare and Institutions Code

II. ALTERATION OF TERMS

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

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

III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

1
2 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for
3 the purpose of ensuring adherence to all rules and regulations related to federal and state health care
4 programs.

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

8 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
9 Compliance Program, Code of Conduct and any Compliance related policies and procedures.
10 CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall
11 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required
12 elements by ADMINISTRATOR's Compliance Officer as described in this Paragraph IV
13 (COMPLIANCE). These elements include:

- 14 a. Designation of a Compliance Officer and/or compliance staff.
- 15 b. Written standards, policies and/or procedures.
- 16 c. Compliance related training and/or education program and proof of completion.
- 17 d. Communication methods for reporting concerns to the Compliance Officer.
- 18 c. Methodology for conducting internal monitoring and auditing.
- 19 d. Methodology for detecting and correcting offenses.
- 20 e. Methodology/Procedure for enforcing disciplinary standards.

21 3. If CONTRACTOR does not provide proof of its own Compliance program to
22 ADMINISTRATOR, CONTRACTOR shall acknowledge to comply with ADMINISTRATOR's
23 Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the
24 ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed
25 acknowledgement that CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program
26 and Code of Conduct.

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

1 Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

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

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

16 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,
17 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items
18 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.
19 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of
20 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or
21 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if
22 CONTRACTOR has elected to use its own). 2. An Ineligible Person shall be any individual
23 or entity who:

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

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

29 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
30 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
31 Agreement.

32 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors semi-
33 annually to ensure that they have not become Ineligible Persons. CONTRACTOR shall also request
34 that its subcontractors use their best efforts to verify that they are eligible to participate in all federal and
35 State of California health programs and have not been excluded or debarred from participation in any
36 federal or
37 state health care programs, and to further represent to CONTRACTOR that they do not have any

1 Ineligible Person in their employ or under contract.

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

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

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

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

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

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

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

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

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

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

37 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered

1 Individuals relative to this Agreement. This includes compliance with federal and state healthcare
 2 program regulations and procedures or instructions otherwise communicated by regulatory agencies;
 3 including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

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

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

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

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

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

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

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

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

36 V. CONFIDENTIALITY

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

4 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this
5 Agreement are clients of the Orange County Mental Health services system, and therefore it may be
6 necessary for authorized staff of ADMINISTRATOR to audit client files, or to exchange information
7 regarding specific clients with COUNTY or other providers of related services contracting with
8 COUNTY.

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

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

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

23 C. As CONTRACTOR of a public institution, COUNTY understands and agrees that
24 CONTRACTOR is subject to the provisions of the California Public Records Act. In the event
25 CONTRACTOR receives a request to produce this Agreement, or identify any term, condition, or aspect
26 of this Agreement, CONTRACTOR shall notify COUNTY no less than three (3) business days prior to
27 releasing such information.

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

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

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

36 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to
37

1 any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%)
 2 of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an
 3 assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community
 4 //

5 clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal
 6 Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

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

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

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

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

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

30 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a
 31 subcontract upon five (5) calendar day written notice to CONTRACTOR if the subcontract
 32 subsequently fails to meet the requirements of this Agreement or any provisions that
 33 ADMINISTRATOR has required.

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

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

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

4 //

5 **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

15
16 **VIII. FACILITIES, PAYMENTS AND SERVICES**

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

22
23 **IX. INDEMNIFICATION AND INSURANCE**

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

37 B. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees,

1 agents, directors, members, shareholders and/or affiliates harmless from any claims, demands, including
 2 defense costs, or liability of any kind or nature, including but not limited to personal injury or property
 3 damage, arising from or related to the services, products or other performance provided by COUNTY
 4 pursuant to this Agreement. If judgment is entered against COUNTY and CONTRACTOR by a court of
 5 competent jurisdiction because of the concurrent active negligence of CONTRACTOR, COUNTY and
 6 CONTRACTOR agree that liability will be apportioned as determined by the court. Neither party shall
 7 request a jury apportionment.

8 C. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
 9 required insurance, or maintain a program of self-insurance, at CONTRACTOR's expense, including all
 10 endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this
 11 Agreement have been complied with and to maintain such insurance coverage, or a program of self-
 12 insurance, during the entire term of this Agreement. CONTRACTOR agrees to keep such insurance
 13 coverage, Certificates of Insurance, and endorsements on deposit with COUNTY during the entire term
 14 of this Agreement. In addition, all subcontractors performing work on behalf of CONTRACTOR
 15 pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth
 16 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
 23 and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of
 24 insurance must be maintained by CONTRACTOR through the entirety of this Agreement for inspection
 25 by 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
 31 other 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, which shall not be
 36 unreasonably withheld; and

37 2. CONTRACTOR's duty to defend, as stated above, shall be absolute and irrespective of any

1 duty to indemnify or hold harmless; and

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

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

9 G. QUALIFIED INSURER

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

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

18 H. The policy or policies of insurance or programs of self-insurance maintained by
19 CONTRACTOR shall provide the minimum limits and coverage as set forth below:

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

1
2 I. REQUIRED COVERAGE FORMS

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

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

7 J. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

36 N. If CONTRACTOR's Professional Liability and Network Security & Privacy Liability are
37 "Claims Made" policy(ies), CONTRACTOR shall agree to maintain coverage for two (2) years

1 following the completion of the Agreement.

2 O. The Commercial General Liability policy shall contain a “severability of interests” clause also
3 known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

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

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

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

16 S. SUBMISSION OF INSURANCE DOCUMENTS

17 1. The COI and endorsements shall be provided to COUNTY as follows:

18 a. Prior to the start date of this Agreement.

19 b. No later than the expiration date for each policy.

20 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
21 changes to any of the insurance types as set forth in Subparagraph G, above.

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

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

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

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

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

37 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any

1 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
 2 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.

4 **X. INSPECTIONS AND AUDITS**

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

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

- 17 a. Level and quality of care, including the necessity and appropriateness of the services
 18 provided.
- 19 b. Internal procedures for assuring efficiency, economy, and quality of care.
- 20 c. Compliance with COUNTY Client Grievances Procedures.
- 21 d. Financial records when determined necessary to protect public funds.

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

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

30 C. AUDIT RESPONSE

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

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

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

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

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

13 **XI. LICENSES AND LAWS**

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

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

- 26 1. ARRA of 2009.
- 27 2. Trafficking Victims Protection Act of 2000.
- 28 3. WIC, Division 5, Community Mental Health Services.
- 29 4. WIC, Division 6, Admissions and Judicial Commitments.
- 30 5. WIC, Division 7, Mental Institutions.
- 31 6. HSC, §§1250 et seq., Health Facilities.
- 32 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 33 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 34 9. CCR, Title 17, Public Health.
- 35 10. CCR, Title 22, Social Security.
- 36 11. CFR, Title 42, Public Health.
- 37 12. CFR, Title 45, Public Welfare.

1 13. USC Title 42. Public Health and Welfare.

2 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.

3 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.

4 16. 42 USC §1857, et seq., Clean Air Act.

5 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.

6 18. 31 USC 7501.70, Federal Single Audit Act of 1984.

7 19. Policies and procedures set forth in Mental Health Services Act.

8 20. Policies and procedures set forth in DHCS Letters.

9 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.

10 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
 11 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

12 23. 42 CFR, Section 438, Managed Care Regulations

13 C. CONTRACTOR attests that all CONTRACTOR physicians providing services under this
 14 Agreement are and will continue to be as long as this Agreement remains in effect, the holders of
 15 currently valid licenses to practice medicine in the State of California and are members in good standing
 16 of the medical staff of CONTRACTOR's facility.

17 **XII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

36 D. Any information as described in Subparagraphs A. and B. above shall not imply endorsement
 37

1 by COUNTY, unless ADMINISTRATOR consents thereto in writing.

3 **XIII. MINIMUM WAGE LAWS**

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

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

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

19 **XIV. NONDISCRIMINATION**

20 A. EMPLOYMENT

21 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not
 22 unlawfully discriminate against any employee or applicant for employment because of his/her ethnic
 23 group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40
 24 and over), sexual orientation, medical condition, or physical or mental disability. Additionally, during
 25 the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its
 26 subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for
 27 employment because of his/her ethnic group identification, race, religion, ancestry, color, creed, sex,
 28 marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or
 29 mental disability.

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

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

37 4. CONTRACTOR shall post in conspicuous places, available to employees and applicants

1 for employment, notices from ADMINISTRATOR and/or the United States Equal Employment
2 Opportunity Commission setting forth the provisions of the Equal Opportunity clause.

3 5. All solicitations or advertisements for employees placed by or on behalf of
4 CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration
5 for employment without regard to ethnic group identification, race, religion, ancestry, color, creed, sex,
6 marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or
7 mental disability. Such requirements shall be deemed fulfilled by use of the term EOE.

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

13 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
14 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
15 on the basis of ethnic group identification, race, religion, ancestry, color, creed, sex, marital status,
16 national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability
17 in accordance with Title IX of the Education Amendments of 1972 as they relate to 20 USC §1681 -
18 §1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975
19 (42 USC §6101); and Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR,) as
20 applicable, and all other pertinent rules and regulations promulgated pursuant thereto, and as otherwise
21 provided by state law and regulations, as all may now exist or be hereafter amended or changed. For the
22 purpose of this Nondiscrimination paragraph, Discrimination includes, but is not limited to the
23 following based on one or more of the factors identified above:

- 24 1. Denying a client or potential client any service, benefit, or accommodation.
- 25 2. Providing any service or benefit to a client which is different or is provided in a different
26 manner or at a different time from that provided to other clients.
- 27 3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by
28 others receiving any service or benefit.
- 29 4. Treating a client differently from others in satisfying any admission requirement or
30 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
31 any service or benefit.
- 32 5. Assignment of times or places for the provision of services.

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

- 37 1. Whenever possible, problems shall be resolved informally and at the point of service.

1 CONTRACTOR shall establish an internal informal problem resolution process for clients not able to
 2 resolve such problems at the point of service. Clients may initiate a grievance or complaint directly
 3 with CONTRACTOR either orally or in writing.

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

6 b. Throughout the problem resolution and grievance process, client rights shall be
 7 maintained, including access to the Patients' Rights Office at any point in the process. Clients shall be
 8 informed of their right to access the Patients' Rights Office at any time.

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

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

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

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

27 28 **XV. NOTICES**

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

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

34 2. When faxed, transmission confirmed;

35 3. When sent by Email; or

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

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

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

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

11 **XVI. NOTIFICATION OF DEATH**

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

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

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

22 2. WRITTEN NOTIFICATION

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

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

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

34 **XVII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

35 A. CONTRACTOR shall notify ADMINISTRATOR of any public event or meeting funded in
 36 whole or part by the COUNTY, except for those events or meetings that are intended solely to serve
 37

1 clients or occur in the normal course of business.

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

7 **XVIII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 K. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or
 32 security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall
 33 pay any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.

34 **XIX. RESEARCH AND PUBLICATION**

35 CONTRACTOR shall not utilize information and data received from COUNTY or developed as a
 36 result of this Agreement for the purpose of personal publication.
 37

XX. REVENUE

A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other third party health plans, are provided pursuant to this Agreement, their estates and responsible relatives, according to their ability to pay as determined by the State DHCS’ UMDAP procedure or by other payment procedure as approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the CCR. Such fee shall not exceed the actual cost of services provided. No client shall be denied services because of an inability to pay.

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

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

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

XXI. SEVERABILITY

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

XXII. SPECIAL PROVISIONS

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for

1 CONTRACTOR's staff, volunteers, or members of the Board of Directors.

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

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

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

10 8. Severance pay for separating employees.

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

13 10. Supplanting current funding for existing services.

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

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

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

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

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

22 **XXIII. STATUS OF CONTRACTOR**

23
24 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be
25 wholly responsible for the manner in which it performs the services required of it by the terms of this
26 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and
27 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the
28 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR
29 or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR
30 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or
31 subcontractors as they relate to the services to be provided during the course and scope of their
32 employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be
33 entitled to any rights or privileges of COUNTY's employees and shall not be considered in any manner
34 to be COUNTY's employees.

35 **XXIV. TERM**

36
37 A. This specific Agreement with CONTRACTOR is only one of several agreements to which the

1 term of this Agreement applies. This specific Agreement shall commence as specified in the Reference
 2 Contract Provisions of this Agreement or the execution date, whichever is later. This specific
 3 Agreement shall terminate as specified in the Referenced Contract Provisions of this Agreement, unless
 4 otherwise sooner terminated as provided in this Agreement; provided, however, CONTRACTOR shall
 5 be obligated to perform such duties as would normally extend beyond this term, including but not
 6 limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

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

9 **XXV. TERMINATION**

10 A. Either party may terminate this Agreement, without cause, upon thirty (30) calendar day written
 11 notice given the other party.

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

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

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

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

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

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

32 **D. CONTINGENT FUNDING**

- 33 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
 34 a. The continued availability of federal, state and county funds for reimbursement of
 35 COUNTY's expenditures, and
 36 b. Inclusion of sufficient funding for the services hereunder in the applicable budget
 37

1 approved by the Board of Supervisors.

2 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,
3 terminate or renegotiate this Agreement upon thirty (30) calendar days written notice given
4 CONTRACTOR.

5 E. In the event this Agreement is terminated by either party, after receiving a Notice of
6 Termination, CONTRACTOR shall do the following:

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

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

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

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

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

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

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

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

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

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

34 **XXVI. THIRD PARTY BENEFICIARY**

35 Neither party hereto intends that this Agreement shall create rights hereunder in third parties
36 including, but not limited to, any subcontractors or any Clients provided services hereunder.
37

XXVII. WAIVER OF DEFAULT OR BREACH

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

XXVIII. THE REGENTS

COUNTY acknowledges that the Regents of the University of California (“The Regents”) has entered into this Agreement solely on behalf of and with respect to the University of California, Irvine Medical Center, and not on behalf of or with respect to any other division, business or operating unit, enterprise, facility, group, plan, or program that is or may be owned, controlled, governed, or operated by, or affiliated with, The Regents, including, without limitation, any other university, campus, health system, medical center, hospital, clinic, medical group, physician, or health or medical plan or program (collectively, the “Excluded UC Affiliates”). In light of the foregoing, COUNTY further acknowledges and agrees that, notwithstanding any other provision contained in this Agreement:

1 All obligations of The Regents under this Agreement shall be limited to The Regents as and when acting solely on behalf of or with respect to the University of California, Irvine Medical Center, and shall in no way obligate, be binding on or restrict the business or operating activities of any of the Excluded UC Affiliates;

2. None of the Excluded UC Affiliates shall constitute or be deemed to constitute an affiliate of the Regents or of the University of California, Irvine Medical Center for any purpose under this Agreement; and

3. The University of California, Irvine Medical Center, through The Regents or otherwise, shall have the right to participate in, provide services under, contract as part of, and otherwise be involved in the management or operation of, any health or medical insurance or benefit plan, program, service or product that is sponsored or offered in whole or in part by The Regents on a system-wide basis.

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

3
4 ~~THE REGENTS OF THE UNIVERISTY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,~~
5 ~~SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF~~
6 ~~CALIFORNIA, IRVINE MEDICAL CENTER~~ The Department of Psychiatry dba UCI Department of
7 Psychiatry

8
9 BY: _____ DATED: _____

10
11 TITLE: _____

12
13
14 BY: _____ DATED: _____

15
16 TITLE: _____

17
18
19 COUNTY OF ORANGE

20
21
22 BY: _____ DATED: _____

23 HEALTH CARE AGENCY

24
25
26
27 APPROVED AS TO FORM
28 OFFICE OF THE COUNTY COUNSEL
29 ORANGE COUNTY, CALIFORNIA

30
31 BY: _____ DATED: _____

32 DEPUTY

33
34
35 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
36 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or
37 any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution or
by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her signature
alone is required by ADMINISTRATOR.

EXHIBIT A
TO AGREEMENT FOR PROVISION OF
MEDI-CAL MENTAL HEALTH MANAGED CARE
PSYCHIATRIC INPATIENT HOSPITAL SERVICES
BETWEEN
COUNTY OF ORANGE

AND

~~THE REGENTS OF THE UNIVERISTY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,
SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF
CALIFORNIA, IRVINE MEDICAL CENTER~~ The Department of Psychiatry dba UCI Department of
Psychiatry

JULY 1, 2017 THROUGH JUNE 30, 2022~~0~~

I. COMMON TERMS AND DEFINITIONS

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

A. Acute Administrative Day means those days authorized by ADMINISTRATOR’s designated Utilization Case Management Unit when, due to lack of an appropriate placement facility, the client’s stay at an acute inpatient facility must be continued beyond the client’s need for acute care.

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

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

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

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

F. Client or Consumer means an individual, referred by COUNTY or enrolled in CONTRACTOR’s program for services under the Agreement, who is dealing with a chronic mental illness.

G. Customary Charges means the amount CONTRACTOR normally or usually charges the majority of its clients for a specified type of service, including the types of Psychiatric Inpatient Hospital Services defined herein. CONTRACTOR’s customary charges shall be subject to review by

1 the Department of Health Care Services.

2 H. Diagnosis means the definition of the nature of the client's disorder. When formulating the
3 diagnosis of client, CONTRACTOR shall use the diagnostic codes and axis as specified in the most
4 current edition of the DSM published by the American Psychiatric Association.

5 I. DSM means Diagnostic and Statistical Manual of Mental Disorders and refers to the
6 publication by the American Psychiatric Association that is used as a guide in the diagnosis of mental
7 disorders.

8 J. ECT means Electro Convulsive Therapy and refers to a psychiatric treatment in which seizures
9 are electrically induced in anesthetized patients for therapeutic effect.

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

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

21 M. ITP means Individualized Treatment Plan for each client. All psychiatric, psychological, and
22 social services must be compatible with the ITP.

23 N. LPS means Lanterman Petris-Short and refers to the Act that went into effect July 1, 1972 in
24 California. The Act in effect ended all hospital commitments by the judiciary system, except in the case
25 of criminal sentencing (e.g. convicted sexual offenders) and those who were "gravely disabled" defined
26 as unable to obtain food, clothing, or shelter. It expanded the evaluative power of psychiatrists and
27 created provisions and criteria for involuntary detentions.

28 O. Long Term Care (LTC) refers to the County department that reviews referrals for placement in
29 county-contracted long term care facilities.

30 P. MRI means Magnetic Resonance Imaging and refers to a medical imaging technique used in
31 radiology to visualize detailed internal structures.

32 Q. Medical Necessity means the requirements as defined in the MHP Medical Necessity for
33 Medi-Cal reimbursed Specialty Mental Health Services that includes diagnosis, impairment criteria and
34 intervention related criteria.

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

1 //

2 //

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

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

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

17 4. Therapy means a service activity which is a therapeutic intervention that focuses primarily
18 on symptom reduction as a means to improve functional impairments. Therapy may be delivered to an
19 individual or group of beneficiaries which may include family therapy in which the beneficiary is
20 present.

21 S. MHSA means Mental Health Services Act and refers to the law that provides funding for
22 expanded community mental health services. It is also known as "Proposition 63."

23 T. NPI means National Provider Identification and refers to the standard unique health identifier
24 that was adopted by the Secretary of Health and Human Services (HHS) under HIPAA for health care
25 providers. All HIPAA covered healthcare providers, individuals and organizations must obtain an NPI
26 for use to identify themselves in HIPAA standard transactions. The NPI is assigned for life.

27 U. NPP means Notice of Privacy Practices and refers to a document that notifies individuals of
28 uses and disclosures of PHI that may be made by or on behalf of the health plan or health care provider
29 as set forth in the HIPAA.

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

36 W. Psychiatric Inpatient Hospital Services means services, including ancillary services, provided
37 either in an acute care hospital or a free-standing psychiatric hospital for the care and treatment of an

1 acute episode of mental illness. Services provided in a free-standing hospital may only be reimbursed
 2 for persons age twenty-one (21) or younger and sixty-five (65) or older. If the person was receiving
 3 such services prior to the person's twenty-first birthday and continues to require and receives services
 4 without interruption, the eligibility for services continues to the date the person no longer requires such
 5 services, or the person's twenty-second birthday, whichever is earlier.

6 X. Psychiatrist means an individual who meets the minimum professional and licensure
 7 requirements set forth in CCR, Title 9, Section 623.

8 Y. Psychologist means an individual who meets the minimum professional and licensure
 9 requirements set forth in CCR, Title 9, Section 624.

10 Z. Recovery means a "deeply personal, unique process of changing one's attitudes, values,
 11 feelings, goals, skills and/or roles. It is a way of living a satisfying, hopeful and contributing life even
 12 with limitations caused by the illness. Recovery involves the development of new meaning and purpose
 13 in one's life as one grows beyond the catastrophic effects of mental illness. Ultimately, because
 14 recovery is a personal and unique process, everyone with a psychiatric illness develops his or her own
 15 definition of recovery. However, certain concepts or factors are common to recovery." (William
 16 Anthony, 1993).

17 AA. Referral means providing the effective linkage of a client to another service, when indicated;
 18 with follow-up to be provided within five (5) working days to assure that the client has made contact
 19 with the referred service.

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

22 AC. SSI/SSP means Supplemental Security Income/State Supplemental Income and refers to
 23 revenue resources paid to an eligible client, or the client's payee by the federal Social Security
 24 Administration.

25 AD. Unit of Service means one (1) calendar day during which CONTRACTOR provides all of the
 26 services described hereunder, which day shall begin at twelve o'clock midnight.

27 28 **II. ISSUE RESOLUTION**

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

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

37 B. If the parties are unable to resolve the issue, CONTRACTOR shall give written notice to

1 ADMINISTRATOR setting forth in specific terms the existence and nature of any unresolved matter or
2 concern related to the purposes and obligations of this Agreement.

3 ADMINISTRATOR shall have fifteen (15) calendar days following such notice to obtain resolution of
4 any issue(s) identified in this manner, provided, however, by mutual consent this period of time may be
5 extended to thirty (30) calendar days.

6 C. If the parties are unable to obtain resolution of the issue, they shall submit a joint written
7 Statement describing the facts of the issue, within thirty (30) calendar days after the written notice
8 described above to ADMINISTRATOR's Director of Behavioral Health Care for resolution. If the
9 resolution of the ADMINISTRATOR is not satisfactory to CONTRACTOR, the Parties may proceed
10 under Section D, below.

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

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

15 **III. PATIENT'S RIGHTS**

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

20 B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have
21 complaint resolution and grievance processes approved by ADMINISTRATOR, to which the
22 beneficiary shall have access.

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

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

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

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

33 2. Formal Grievance. When the Client's complaint is not resolved at CONTRACTOR's
34 facility and the Client or Client representative requests it, the complaint becomes a formal grievance.
35 The request is made to County Mental Health Inpatient Services and represents the first step in the
36 formal grievance process.
37

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

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

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

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

14 **IV. PAYMENTS**

15 A. CONTRACTOR shall be reimbursed by DHCS for services provided at the following all-
 16 inclusive rates per client day for acute Psychiatric Inpatient Hospital Services and based on the
 17 following accommodation codes.
 18

<u>Accommo dation Code</u>	<u>Description</u>	<u>Rate</u>		<u>Period Three</u>	<u>Period Four</u>	<u>Period Five</u>
		<u>Period One</u>	<u>Period Two</u>			
<u>097</u>	<u>Adolescent/Child, Psychiatric</u>	<u>\$865.00</u>	<u>\$865.00</u>	<u>\$865.00</u>	<u>\$995.00</u>	<u>\$1,035.00</u>
<u>114 - 204</u>	<u>Adult, Psychiatric</u>	<u>\$825.00</u>	<u>\$825.00</u>	<u>\$825.00</u>	<u>\$925.00</u>	<u>\$950.00</u>
<u>169</u>	<u>Administrative Day</u>	<u>Current DHCS Rate</u>	<u>Current DHCS Rate</u>	<u>Current DHCS Rate</u>		<u>Current DHCS Rate</u>

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- 29 1. The rate for Accommodation Code 169 is established and adjusted by the DHCS.
- 30 2. Rates are inclusive of all Psychiatric Inpatient Hospital Services as defined in this
 31 Exhibit A to the Agreement, and shall constitute payment in full for these services.
- 32 3. The number of billable Units of Service shall include the day of admission and exclude the
 33 day of discharge unless admission and discharge occur on the same day.
- 34 4. DHCS may reimburse Administrative Days for dates in which documentation does not
 35 meet requirements for Acute Day reimbursement, contingent upon CONTRACTOR documentation of
 36 services that qualify for the Administrative Day reimbursement.
- 37 5. Rates do not include physician or psychologist services rendered to clients, or

1 transportation services required in providing Psychiatric Inpatient Hospital services. These services
 2 shall be billed separately from the above per diem rate for Psychiatric Inpatient Hospital services as
 3 follows:

4 //

5 //

6 a. When Medi-Cal eligible mental health services are provided by a psychiatrist or
 7 psychologist, such services shall be billed to COUNTY's ASO. Prior authorization and notification are
 8 not required prior to providing these services.

9 b. When Medi-Cal eligible medical services are provided by a physician, such services
 10 shall be billed to the designated CalOptima Plan or CalOptima Direct, depending on the client's health
 11 coverage benefit. Prior authorization and notification may be required prior to providing these services.

12 c. When Medi-Cal eligible transportation services are provided, such services shall be
 13 billed to the designated CalOptima Plan or CalOptima Direct, depending on the client's health coverage
 14 benefit. Prior authorization and notification may be required prior to providing these services.

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

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

23
 24
 25
 26
 27
 28
 29 **B. Billing Procedures**

30 1. CONTRACTOR must obtain an NPI.

31 2. CONTRACTOR shall invoice DHCS for each client day, approved by the
 32 ADMINISTRATOR, for each client who meets notification, admission and/or continued stay criteria,
 33 documentation requirements, treatment and discharge planning requirements and occupies a psychiatric
 34 inpatient hospital bed at 12:00 AM in CONTRACTOR's facility. CONTRACTOR may invoice DHCS
 35 if the client is admitted and discharged during the same day; provided, however, that such admission
 36 and discharge is not within twenty-four (24) hours of a prior discharge.

37 3. CONTRACTOR shall determine that Psychiatric Inpatient Hospital services provided

1 pursuant to the Agreement are not covered, in whole or in part, under any other state or federal medical
 2 care program or under any other contractual or legal entitlement including, but not limited to, a private
 3 group indemnification or insurance program or Workers' Compensation Program. CONTRACTOR
 4 shall seek to be reimbursed by other coverage prior to seeking reimbursement by DHCS. DHCS's
 5 maximum obligation shall be reduced if other coverage is available.

6 4. CONTRACTOR shall submit claims to DHCS's fiscal intermediary for all services
 7 rendered pursuant to the Agreement, in accordance with the applicable invoice and billing requirements
 8 contained in WIC, Section 5778.

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

13 C. Overpayments

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

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

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

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

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

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

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

- 35 1. Ninety-nine (99) calendar days of continuous service to a client, and/or
- 36 2. Discharge.

37 F. CONTRACTOR shall resubmit the 18-3 TAR and any additional information requested, no

1 later than sixty (60) calendar days from the date of the deferral letter, in the event ADMINISTRATOR
2 defers the 18-3 TAR back to CONTRACTOR to obtain further information.

3 G. ADMINISTRATOR shall provide CONTRACTOR with a Notification Form confirming
4 hospitalization of the client. CONTRACTOR must submit the Notification Form, along with the
5 client's TAR to ADMINISTRATOR for review of medical necessity and payment authorization.

6 H. CONTRACTOR must document, in the client's medical record, each contact with the
7 appropriate placement facility or the person or agency responsible for placement. CONTRACTOR
8 must continue to document contacts with appropriate placement facilities until the client is discharged.
9 Contacts shall be documented by a brief description of the placement facilities reported bed availability
10 status, reason for denial if applicable, and the signature of the person making the contact.

11 I. ADMINISTRATOR shall monitor the client's status, the appropriateness of the facilities being
12 contacted for referral, and/or the client's chart to determine if the client's status has changed.

13 J. CONTRACTOR shall notify ADMINISTRATOR, prior to 12:00 PM Monday through Friday,
14 excluding holidays, of the daily census of all clients in which reimbursement for Psychiatric Inpatient
15 Hospital Services will be requested. The census report following a weekend and/or holiday shall
16 include any admissions made during that time.

17 K. CONTRACTOR shall notify ADMINISTRATOR of any client discharge within twenty-four
18 (24) hours of the client's discharge, excluding weekends and holidays. CONTRACTOR shall include
19 the client's name, discharge date, discharge placement and placement phone number. CONTRACTOR
20 shall inform COUNTY of where the client has been referred for continuing treatment, along with the
21 facility's phone number, contact person and the client's first appointment time and date.

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

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

30 N. CONTRACTOR shall notify the ADMINISTRATOR within twenty-four (24) hours of
31 admission of all clients, served under this agreement, who are admitted on involuntary hold.

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

36 P. CONTRACTOR shall provide Psychiatric Inpatient Hospital Services in the same manner to
37 Medi-Cal clients as it provides to all other clients and not discriminate against Medi-Cal clients in any

1 manner, including admission practices, placement in special wings or rooms, or provision of special or
2 separate meals.

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

5 6 **V. REPORTS**

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

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

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

15 16 **VI. SERVICES**

17 A. FACILITY – CONTRACTOR shall provide Psychiatric Inpatient Hospital Services at the
18 following location:

19
20 101 The City Drive South, Building 3
21 Orange, CA 92868
22

23 B. CLIENTS SERVED – CONTRACTOR shall admit and serve all clients referred by
24 ADMINISTRATOR who meet the ADMINISTRATOR's criteria for acute psychiatric hospitalization
25 and who also meet the criteria approved by DHCS and the guidelines under Title 9, Chapter 11, Section
26 1820.205. This may include clients with co-morbid medical conditions and substance use disorder.
27 CONTRACTOR shall not refuse admissions of clients if they meet all the admission criteria identified
28 above. CONTRACTOR may admit and serve clients not referred by the ADMINISTRATOR or the
29 CSU; however CONTRACTOR must first notify the ADMINISTRATOR of any client served under the
30 Agreement who has not been referred by ADMINISTRATOR or the CSU prior to admission.

31 **C. SERVICES PROVIDED**

32 1. CONTRACTOR shall provide Psychiatric Inpatient Hospital Services, which include but
33 are not limited to physician services, psychologist services, and transportation services, in accordance
34 with WIC, Sections 5774, et seq. and 14680, et seq.

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

1 CONTRACTOR's services shall be designed to engage seriously mentally ill adults, including those
 2 who are dually diagnosed, in a partnership to achieve the individual's wellness and recovery goals.
 3 CONTRACTOR shall provide services in collaboration with the COUNTY's Director of Behavioral
 4 Health, or designee.

5 //

6 a. PSYCHIATRIC SERVICES – CONTRACTOR shall provide psychiatric services that
 7 include psychiatric assessment, psychiatric treatment and psychiatric support services in accordance
 8 with all applicable laws and regulations. Psychiatric services shall include but 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 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 an ITP of each new client within twenty-four (24) hours of admission;

15 4) An ITP for each client must be completed with signatures of the treatment team
 16 and the client (or explanation of inability to obtain) within seventy-two (72) hours of admission. All
 17 psychiatric, psychological, and social services must be compatible with the ITP;

18 5) Appropriate collateral therapy and interventions for each client;

19 6) Appropriate one-on-one, client-to-staff counseling as appropriate to the diagnosis
 20 and ITP;

21 7) Documentation of client's attendance and their participation in collateral therapy
 22 including schedule of therapies, attendance log, and medical record progress notes;

23 8) Daily rounds and progress notes **by psychiatrists** on all clients by;

24 a) Psychiatrist or

25 b) Nurse Practitioner working under the supervision as evidenced by psychiatrist
 26 countersigning the progress notes(s) within 48 hours;

27 9) Discharge planning that includes but is not limited to continuing care planning, and
 28 referral services;

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

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

33 c) CONTRACTOR shall document in the client's medical record, for those
 34 clients being referred to a SNF at discharge, at least four (4) SNF contacts daily, Monday through
 35 Friday, until the client is either discharged or no longer requires a SNF level of care;

36 d) CONTRACTOR shall document, in the client's medical record, for those
 37 clients waiting for LTC placement, contact with the ADMINISTRATOR's LTC Unit at least once every

1 seven (7) days until the client is either discharged or no longer requires LTC services. Contact may be
 2 by fax, e-mail, or direct telephone discussion with ADMINISTRATOR. If CONTRACTOR fails to
 3 document contact with the ADMINISTRATOR within a seven (7) day period, CONTRACTOR will be
 4 ineligible for Administrative Day reimbursement until the next contact with the ADMINISTRATOR;

5 e) CONTRACTOR shall contact COUNTY clinics daily, Monday through Friday,
 6 excluding holidays, if the client requires Board and Care placement, or until the client is either
 7 discharged or no longer requires Board and Care placement. CONTRACTOR shall comply with P&P's,
 8 established by ADMINISTRATOR, for placing Board and Care clients; and

9 f) CONTRACTOR shall arrange a specific date and time for an aftercare
 10 appointment with a COUNTY outpatient clinic, for any client referred to an outpatient clinic at
 11 discharge. CONTRACTOR shall fax to the COUNTY outpatient clinic, at the time of discharge, the
 12 Hospital Discharge Referral Form or the hospital's aftercare plan, the initial psychiatric evaluation, the
 13 history and physical examination report, recent lab studies, the medication list, and any medical
 14 consults.

15 10) On-call psychiatric and medical specialist coverage twenty-four (24) hours per day,
 16 seven (7) days per week;

17 11) Daily evaluation and documentation by the treating psychiatrist— or nurse
 18 practitioner under the supervision of psychiatrist as evidenced by psychiatrist co-signature within 48
 19 hours. for each day of psychiatric service;

20 12) A psycho-social assessment completed within forty-eight (48) hours of admission;
 21 and

22 13) Linkages with COUNTY-operated clinics or COUNTY contracted mental health or
 23 substance abuse clinics. Linkages must be made five (5) days a week, Monday through Friday.
 24 Linkages must be documented in the client's medical record.

25 14) Discharges must be completed by psychiatrist. Discharges shall include discharge
 26 orders and discharge summary.

27 b. ANCILLARY SERVICES

28 CONTRACTOR shall provide ancillary services, necessary for the evaluation and treatment of
 29 psychiatric conditions. Services shall be recovery-based, non-coercive and must focus on assisting
 30 clients to become more independent and self-sufficient. Services shall include but not be limited to:

- 31 1) Group therapy;
- 32 2) Activities therapy and other adjunctive therapy;
- 33 3) Initial laboratory services that are consistent with CONTRACTOR's usual and
 34 customary hospital admitting protocol;
- 35 4) Additional laboratory and diagnostic services, when necessary for the initiation and
 36 monitoring of psychiatric medication treatments; and
- 37 5) Pharmaceutical services.

1 c. TESTIMONY SERVICES – CONTRACTOR shall provide expert witness testimony
 2 by appropriate mental health professionals in all legal proceedings required for the institutionalization,
 3 admission, or treatment of COUNTY clients. These services shall include, but not be limited to, writs
 4 of habeas corpus, capacity hearings, conservatorship, probable cause hearings, court-ordered evaluation,
 5 and appeal and post-certification proceedings. ADMINISTRATOR shall provide representation to
 6 CONTRACTOR, at ADMINISTRATOR's cost and expense, in all legal proceedings required for
 7 conservatorship. CONTRACTOR shall cooperate with ADMINISTRATOR in all such proceedings.
 8 ADMINISTRATOR will provide hearing officers for probable cause hearings for clients approved by
 9 ADMINISTRATOR only.

10 d. MEDICAL SERVICES – CONTRACTOR shall provide all medical care services
 11 deemed appropriate according to usual and customary hospital practices without regard for payer status.
 12 Medical services include physician and/ or other professional services required by the client.
 13 CONTRACTOR shall provide transportation to the medical treatment and an escort to and from the
 14 service.

15 1) INPATIENT/OUTPATIENT ECT and MRI – CONTRACTOR shall provide ECT
 16 and MRI services for clients. ECT and MRI services must be performed pursuant to all legal and
 17 regulatory requirements and be approved by ADMINISTRATOR in advance to treatment.
 18 ADMINISTRATOR approval shall be documented in the client's medical record.

19 2) COMPUTERIZED TOMOGRAPHY (CT) – CONTRACTOR shall provide CT
 20 scans as part of the diagnosis and evaluation of a client's psychiatric condition when indicated. CT
 21 scans must be approved by ADMINISTRATOR in advance of treatment. ADMINISTRATOR approval
 22 shall be documented in the client's medical record.

23 e. ADDITIONAL SERVICES – CONTRACTOR shall provide additional services
 24 required of general acute care hospitals. Additional services shall include, but not be limited to, the
 25 following:

26 1) Direct Services – including a therapeutic milieu, room and dietetic services,
 27 nursing services, including drug administration and client care, and a client activity program including
 28 adjunctive therapy and rehabilitation services.

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

31 3) In-Service Training – Provide formalized in-service training to staff that focuses on
 32 subjects that increase their expertise in mental health services and ability to manage and serve clients;
 33 and

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

1 D. CONTRACTOR shall provide a copy of the “COUNTY Guide to Medi-Cal Mental Health
2 Services” and “County Behavioral Health Services Plan Provider List” to each
3 client/guardian/conservator at the time of admission. CONTRACTOR shall ensure that the client signs
4 a form indicating receipt of both handbooks, and this form shall become part of the client’s medical
5 record. If the client refuses to sign or receive the handbooks, a hospital staff member shall document
6 that the handbooks were provided.

7 E. CONTRACTOR shall provide the client/guardian/conservator the DHCS notification materials
8 entitled, “EPSDT”, and “TBS” to each full-scope Medi-Cal client under twenty-one (21) years of age
9 admitted for acute psychiatric inpatient services. CONTRACTOR shall document in the client’s
10 medical record that these materials were provided.

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

13 G. CONTRACTOR shall allow ADMINISTRATOR to conduct a face-to-face evaluation of the
14 client for assessment and recommendation to CONTRACTOR regarding the appropriate level of care
15 and need for the clients’ hospitalization.

16 H. CONTRACTOR shall send a completed Hospital Discharge Referral Form or a copy of the
17 Hospital’s Aftercare Plan to the appropriate clinic at the time of client discharge, for Medi-Cal clients
18 being referred to COUNTY outpatient clinics or COUNTY contracted outpatient clinics. COUNTY
19 clients shall be discharged with medication prescriptions or a seven (7) days’ supply of medications.
20 This includes psychiatric medications and other medications needed to treat concurrent medical
21 conditions. CONTRACTOR will also fax copies of the Initial Psychiatric Evaluation, History and
22 Physical Exam, most recent lab studies, medical consults, and Medication Sheets.

23 I. QUALITY IMPROVEMENT – CONTRACTOR shall cooperate with ADMINISTRATOR in
24 meeting quality improvement and utilization review requirements. Quality improvement and utilization
25 reviews shall include, but not be limited to, performance outcome studies and client satisfaction
26 surveys. CONTRACTOR shall cooperate with managed care procedures related to treatment
27 authorization, including the provision of working space for ADMINISTRATOR to conduct visits with
28 the client, interview staff and perform chart reviews.

29 J. PERFORMANCE OUTCOMES – CONTRACTOR shall perform outcome studies, on-site
30 reviews and written reports to be made available to ADMINISTRATOR upon request.

31 K. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
32 Services Paragraph of this Exhibit A to the Agreement.

33 L. CONTRACTOR shall provide services pursuant to the Agreement in a manner that is culturally
34 and linguistically appropriate for the population(s) served. CONTRACTOR shall maintain
35 documentation of such efforts which may include, but not be limited to: records of participation in
36 COUNTY sponsored or other applicable training; recruitment and hiring P&Ps; copies of literature in
37 multiple languages and formats, as appropriate; and descriptions of measures taken to enhance

1 accessibility for, and sensitivity to, persons who are physically challenged.

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

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

17 **VII. STAFFING**

18 A. CONTRACTOR shall provide clinical staffing as required by CCR, Title 9, Section 663.
19 CONTRACTOR shall provide professional, allied, and supportive paramedical personnel to provide all
20 necessary and appropriate Psychiatric Inpatient Hospital services. There is no specific administrative
21 and/or clerical staffing pattern however, CONTRACTOR must provide sufficient staff to support the
22 services provided pursuant to the Agreement.
23

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

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

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

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

- 8 1. Background information for identifying and treating mental illnesses and related health
- 9 conditions not commonly found in the dominant client population;
- 10 2. Utilization of non-psychiatrically trained interpreters in taking client histories and assisting
- 11 with communication relating to mental health treatment; and
- 12 3. Strategies for utilizing the belief patterns and family support systems of clients to promote
- 13 adherence to the course of treatment and assuming responsibility for preventive mental health
- 14 behaviors.

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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
MEDI-CAL MENTAL HEALTH MANAGED CARE
PSYCHIATRIC INPATIENT HOSPITAL SERVICES
BETWEEN
COUNTY OF ORANGE

AND

~~THE REGENTS OF THE UNIVERISTY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,
SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF
CALIFORNIA, IRVINE MEDICAL CENTER~~ The Department of Psychiatry dba UCI Department of
Psychiatry

JULY 1, 2017 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 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 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

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

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

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

1 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
 2 terms of this Business Associate Contract and the applicable standards, implementation specifications,
 3 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,
 4 with respect to PHI and ePHI created, received, maintained, transmitted, used, or disclosed pursuant to
 5 the Agreement.

6 B. DEFINITIONS

7 1. "Administrative Safeguards" are administrative actions, and P&Ps, to manage the selection,
 8 development, implementation, and maintenance of security measures to protect ePHI and to manage the
 9 conduct of CONTRACTOR's workforce in relation to the protection 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 Subparagraph 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
 29 the 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 45
 36 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 HHS or his or her designee.

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

22 14. “The HIPAA Security Rule” shall mean the Security Standards for the Protection of ePHI at
23 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

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

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

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

32 18. “Use” shall have the meaning given to such term under the HIPAA regulations in
33 45 CFR § 160.103.

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

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

1 //

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

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

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

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

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

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

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

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

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

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

21 3. CONTRACTOR shall ensure the continuous security of all computerized data systems
22 containing ePHI 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, maintains,
25 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 Subparagraph
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.

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

27 d. Background Check. Before a member of the workforce may access PHI COUNTY
28 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
29 COUNTY, a background screening of that worker must be conducted. The screening should be
30 commensurate with the risk and magnitude of harm the employee could cause, with more thorough
31 screening being done for those employees who are authorized to bypass significant technical and
32 operational security controls. CONTRACTOR shall retain each workforce member's background check
33 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
8 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
9 COUNTY 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
20 software 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) days of vendor release. Applications and systems that
27 cannot be patched due to operational reasons must have compensatory controls implemented to
28 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)

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

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

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

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

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

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

n. Intrusion Detection. All systems involved in accessing, holding, transporting, and protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,

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2 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a
3 comprehensive intrusion detection and prevention solution.

4 3. Audit Controls

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

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

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

18 4. Business Continuity/Disaster Recovery Control

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

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

31 5. Paper Document Controls

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

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

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

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

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

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

23 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

37 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably

1 | believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

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

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

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

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

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

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

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

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

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

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

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.

4 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

14 1) The Disclosure is required by law; or

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

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

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

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

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

29 H. PROHIBITED USES AND DISCLOSURES

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

35 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
 36 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
 37 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by

1 42 USC § 17935(d)(2).

2 I. OBLIGATIONS OF COUNTY

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

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

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

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

14 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C
TO AGREEMENT FOR PROVISION OF
MEDI-CAL MENTAL HEALTH MANAGED CARE
PSYCHIATRIC INPATIENT HOSPITAL SERVICES
BETWEEN
COUNTY OF ORANGE
AND

~~THE REGENTS OF THE UNIVERISTY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,
SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF
CALIFORNIA, IRVINE MEDICAL CENTER~~ The Department of Psychiatry dba UCI Department of
Psychiatry

JULY 1, 2017 THROUGH JUNE 30, 2022~~0~~

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

9 B. TERMS OF AGREEMENT

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

14 2. Responsibilities of CONTRACTOR

15 CONTRACTOR agrees:

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

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

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

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

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

37 3) If the data obtained by CONTRACTOR from COUNTY includes PII,

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

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

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

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

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

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

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

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