

1 AGREEMENT FOR PROVISION OF  
2 CHILDREN AND TRANSITIONAL AGE YOUTH MENTORING SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH  
7 DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY  
8 JULY 1, 2017 THROUGH JUNE 30, 2018  
9

10 THIS AGREEMENT entered into this 1st day of July 2017 (effective date), is by and between the  
11 COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and ORANGE  
12 COUNTY ASSOCIATION FOR MENTAL HEALTH, DBA MENTAL HEALTH ASSOCIATION OF  
13 ORANGE COUNTY, a California nonprofit corporation (CONTRACTOR). COUNTY and  
14 CONTRACTOR may sometimes be referred to herein individually as "Party" or collectively as  
15 "Parties." This Agreement shall be administered by the County of Orange Health Care Agency  
16 (ADMINISTRATOR).

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18 **W I T N E S S E T H:**  
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20 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Children and  
21 Transitional Age Youth Mentoring Services as described herein to the residents of Orange County; and

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

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

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2017 through June 30, 2018

**Maximum Obligation:** \$500,000

**Basis for Reimbursement:** Actual Cost

**Payment Method:** Monthly in Arrears

**Contractor's DUNS Number:** 08-968-7099

**Contractor Tax ID Number:** 95-2036972

**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:** Orange County Association for Mental Health  
dba Mental Health Association of Orange County  
822 Town and Country Road  
Orange, CA 92868  
Jeffrey Thrash, Chief Executive Officer  
[thrash@mhaoc.org](mailto:thrash@mhaoc.org)

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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:

A.	ARRA	American Recovery and Reinvestment Act
B.	CCC	California Civil Code
C.	CCR	California Code of Regulations
D.	CEO	County Executive Office
E.	CFR	Code of Federal Regulations
F.	CHPP	COUNTY HIPAA Policies and Procedures
G.	COI	Certificate of Insurance
H.	DHCS	Department of Health Care Services
I.	DOJ	Department of Justice
J.	DRS	Designated Record Set
K.	EPSDT	Early Periodic Screening, Diagnosis, and Treatment
L.	FSP	Full Service Partnership
M.	FSW	Full Service Wraparound
N.	FTE	Full Time Equivalent
O.	GAAP	Generally Accepted Accounting Principles
P.	HCA	Health Care Agency
Q.	HHS	Health and Human Services
R.	HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
S.	HITECH Act	Health Information Technology for Economic Clinical Health Act, Public Law 111-005
T.	HSC	California Health and Safety Code
U.	ISO	Insurance Services Office
V.	LCSW	Licensed Clinical Social Worker
W.	MFT	Marriage and Family Therapist
X.	MHP	Mental Health Plan
Y.	MHSA	Mental Health Services Act
Z.	NPI	National Provider Identifier
AA.	NPP	Notice of Privacy Practices
AB.	OIG	Office of Inspector General
AC.	OMB	Office of Management and Budget
AD.	OPM	Federal Office of Personnel Management
AE.	PC	State of California Penal Code
AF.	PCC	Professional Clinical Counselors

1	AG. P&P	Policy and Procedure
2	AH. PHI	Protected Health Information
3	AI. PII	Personally Identifiable Information
4	AJ. PRA	Public Record Act
5	AK. QIC	Quality Improvement Committee
6	AL. SED	Seriously Emotionally Disturbed
7	AM. SIR	Self-Insured Retention
8	AN. SMI	Seriously Mentally Ill
9	AO. TAY	Transitional Age Youth
10	AP. TBS	Therapeutic Behavioral Services
11	AQ. USC	United States Code
12	AR. WIC	State of California Welfare and Institutions Code

## 13 14 **II. ALTERATION OF TERMS**

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

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

## 22 23 **III. ASSIGNMENT OF DEBTS**

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

## 31 32 **IV. COMPLIANCE**

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

35 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the relevant HCA P&Ps  
36 relating to HCA's Compliance Program, HCA's Code of Conduct and General Compliance Trainings.

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2. CONTRACTOR has the option to adhere to HCA's Compliance Program and Code of Conduct or establish its own, provided CONTRACTOR's Compliance Program and Code of Conduct have been verified to include all required elements by ADMINISTRATOR's Compliance Officer as described in subparagraphs below.

3. If CONTRACTOR elects to adhere to HCA's Compliance Program and Code of Conduct; the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of award of this Agreement a signed acknowledgement that CONTRACTOR shall comply with HCA's Compliance Program and Code of Conduct.

4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then it shall submit a copy of its Compliance Program, Code of Conduct and relevant P&Ps to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR Compliance Program and Code of Conduct contains all required elements. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the HCA's Compliance Program and Code of Conduct if the CONTRACTOR's Compliance Program and Code of Conduct do not contain all required elements.

5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the CONTRACTOR's Compliance Program and Code of Conduct contains all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's Compliance Program, Code of Conduct and related P&Ps.

6. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct and relevant P&Ps shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.

**B. SANCTION SCREENING** – CONTRACTOR shall adhere to all screening P&Ps and screen all Covered Individuals employed or retained to provide services related to this Agreement to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider List and/or any other as identified by the ADMINISTRATOR.

1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than one hundred sixty (160) hours per year; except that any such individuals shall become Covered Individuals at the point when they work more than one hundred sixty (160) hours during the



1 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are  
2 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related P&Ps.

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

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

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

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

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

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

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

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

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1 C. COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance Training  
2 and Provider Compliance Training, where appropriate, available to Covered Individuals.

3 1. CONTRACTOR shall use its best efforts to encourage completion by Covered Individuals;  
4 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated  
5 representative to complete all Compliance Trainings when offered.

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

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

9 4. Each Covered Individual attending training shall certify, in writing, attendance at  
10 compliance training. CONTRACTOR shall retain the certifications. Upon written request by  
11 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

## 12 V. CONFIDENTIALITY

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

16 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this  
17 Agreement are clients of the Orange County Mental Health services system, and therefore it may be  
18 necessary for authorized staff of ADMINISTRATOR to audit client files, or to exchange information  
19 regarding specific clients with COUNTY or other providers of related services contracting with  
20 COUNTY.  
21

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

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

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

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## **VI. COST REPORT**

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

1. If CONTRACTOR fails to submit an accurate and complete an individual and/or consolidated Cost Report within the time period specified above, ADMINISTRATOR shall have sole discretion to impose one or both of the following:

a. CONTRACTOR may be assessed a late penalty of five hundred dollars (\$500) for each business day after the above specified due date that the accurate and complete an individual and/or consolidated Cost Report is not submitted. Imposition of the late penalty shall be at the sole discretion of the ADMINISTRATOR. The late penalty shall be assessed separately on each outstanding An individual and/or consolidated Cost Report due COUNTY by CONTRACTOR.

b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR pursuant to any or all agreements between COUNTY and CONTRACTOR until such time that the accurate and complete an individual and/or consolidated Cost Report is delivered to ADMINISTRATOR.

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

3. In the event that CONTRACTOR does not submit an accurate and complete an individual and/or consolidated Cost Report within one hundred and eighty (180) calendar days following the termination of this Agreement, and CONTRACTOR has not entered into a subsequent or new agreement for any other services with COUNTY, then all amounts paid to CONTRACTOR by COUNTY during the term of the Agreement shall be immediately reimbursed to COUNTY.

B. The individual and/or consolidated Cost Report shall be the final financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to

1 CONTRACTOR. CONTRACTOR shall document that costs are reasonable and allowable and directly  
 2 or indirectly related to the services to be provided hereunder. The individual and/or consolidated Cost  
 3 Report shall be the final financial record for subsequent audits, if any.

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

14 D. If the individual and/or consolidated Cost Report indicates the actual and reimbursable costs of  
 15 services provided pursuant to this Agreement, less applicable revenues and late penalty, are lower than  
 16 the aggregate of interim monthly payments to CONTRACTOR, CONTRACTOR shall remit the  
 17 difference to COUNTY. Such reimbursement shall be made, in cash, or other authorized form of  
 18 payment, with the submission of the individual and/or consolidated Cost Report. If such reimbursement  
 19 is not made by CONTRACTOR within thirty (30) calendar days after submission of the individual  
 20 and/or consolidated Cost Report, COUNTY may, in addition to any other remedies, reduce any amount  
 21 owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

22 E. If the individual and/or consolidated Cost Report indicates the actual and reimbursable costs of  
 23 services provided pursuant to this Agreement, less applicable revenues and late penalty, are higher than  
 24 the aggregate of interim monthly payments to CONTRACTOR, COUNTY shall pay CONTRACTOR  
 25 the difference, provided such payment does not exceed the Maximum Obligation of COUNTY.

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

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

Signed \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_"

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

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

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

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

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

3. If CONTRACTOR is a governmental organization, any change to another structure, including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board of Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an

1 assignment for purposes of this Paragraph. Any attempted assignment or delegation in derogation of  
2 this Subparagraph shall be void.

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

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

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

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

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

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

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

## 26 **VIII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

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## **IX. EQUIPMENT**

A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all property of a Relatively Permanent nature with significant value, purchased in whole or in part by ADMINISTRATOR to assist in performing the services described in this Agreement. "Relatively Permanent" is defined as having a useful life of one year or longer. Equipment which costs \$5,000 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and other taxes, and installation costs are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to audio/visual equipment, computer equipment, and lab equipment. The cost of Equipment purchased, in whole or in part, with funds paid pursuant to this Agreement shall be depreciated according to GAAP.

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

C. Upon ADMINISTRATOR's prior written approval, CONTRACTOR may expense to COUNTY the cost of the approved Equipment purchased by CONTRACTOR. To "expense," in relation to Equipment means to charge the proportionate cost of Equipment in the fiscal year in which it is purchased. Title of expensed Equipment shall be vested with COUNTY.

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

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

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

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

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

3  
4 **X. FACILITIES, PAYMENTS AND SERVICES**

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

10 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or  
11 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation.  
12 The reduction to the Maximum Obligation shall be in an amount proportionate to the number of days in  
13 which CONTRACTOR was determined to be unable to provide services, staffing, facilities or supplies.

14  
15 **XI. INDEMNIFICATION AND INSURANCE**

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

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

33 C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of  
34 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an  
35 Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for  
36 CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less  
37 than the level of coverage required by COUNTY from CONTRACTOR under this Agreement. It is the



obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by CONTRACTOR through the entirety of this Agreement for inspection by COUNTY representative(s) at any reasonable time.

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

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

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

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

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

#### F. QUALIFIED INSURER

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

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

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

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<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

#### H. REQUIRED COVERAGE FORMS

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

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

#### I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### R. SUBMISSION OF INSURANCE DOCUMENTS

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

a. Prior to the start date of this Agreement.

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

## **XII. INSPECTIONS AND AUDITS**

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

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

1 C. AUDIT RESPONSE

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

7 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement  
8 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said  
9 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of  
10 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement  
11 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies  
12 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the  
13 reimbursement due COUNTY.

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

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

21  
22 **XIII. LICENSES AND LAWS**

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

31 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

32 1. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) calendar days  
33 of the award of this Agreement:

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

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

c. A certification that CONTRACTOR has fully complied with all applicable federal and state reporting requirements regarding its employees;

d. A certification that CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.

2. Failure of CONTRACTOR to timely submit the data and/or certifications required by Subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of this Agreement.

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

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

1. ARRA of 2009.
2. WIC, Division 5, Community Mental Health Services.
3. WIC, Division 6, Admissions and Judicial Commitments.
4. WIC, Division 7, Mental Institutions.
5. HSC, §§1250 et seq., Health Facilities.
6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
7. CCR, Title 9, Rehabilitative and Developmental Services.
8. CCR, Title 17, Public Health.
9. CCR, Title 22, Social Security.
10. CFR, Title 42, Public Health.
11. CFR, Title 45, Public Welfare.
12. USC Title 42, Public Health and Welfare.
13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
15. 42 USC §1857, et seq., Clean Air Act.
16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
17. 31 USC 7501.70, Federal Single Audit Act of 1984.
18. Policies and procedures set forth in Mental Health Services Act.

19. Policies and procedures set forth in DHCS Letters.

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

21. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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

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

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

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

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

#### **XV. MAXIMUM OBLIGATION**

A. The Maximum Obligation of COUNTY for services provided in accordance with this Agreement is as specified in the Referenced Contract Provisions of this Agreement.

B. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten percent (10%) of funding for this Agreement.

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

A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the



1 federal or California Minimum Wage to all its employees that directly or indirectly provide services  
 2 pursuant to this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that  
 3 all its contractors or other persons providing services pursuant to this Agreement on behalf of  
 4 CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum  
 5 Wage.

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

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

## 13 **XVII. NONDISCRIMINATION**

### 14 **A. EMPLOYMENT**

15 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not  
 16 unlawfully discriminate against any employee or applicant for employment because of his/her race,  
 17 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
 18 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
 19 orientation, or military and veteran status. Additionally, during the term of this Agreement,  
 20 CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall  
 21 not unlawfully discriminate against any employee or applicant for employment because of his/her race,  
 22 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
 23 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
 24 orientation, or military and veteran status.

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

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

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

35 5. All solicitations or advertisements for employees placed by or on behalf of  
 36 CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration  
 37

1 for employment without regard to race, religious creed, color, national origin, ancestry, physical  
 2 disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender  
 3 identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements  
 4 shall be deemed fulfilled by use of the term EOE.

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

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

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

- 31 5. Assignment of times or places for the provision of services.

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

- 36 1. Whenever possible, problems shall be resolved informally and at the point of service.  
 37 CONTRACTOR shall establish an internal informal problem resolution process for clients not able to

1 resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with  
2 CONTRACTOR either orally or in writing.

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

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

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

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

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

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

## 26 27 **XVIII. NOTICES**

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

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

33 2. When faxed, transmission confirmed;

34 3. When sent by Email; or

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

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

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

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

### **XIX. NOTIFICATION OF DEATH**

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

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

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

#### **2. WRITTEN NOTIFICATION**

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

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

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

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**XX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

**XXI. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**XXII. RESEARCH AND PUBLICATION**

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

**XXIII. 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.

**XXIV. 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 CONTRACTOR's staff, volunteers, or members of the Board of Directors.
5. Reimbursement of CONTRACTOR's members of the Board of Directors for expenses or services.
6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR's staff.
7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at [www.opm.gov](http://www.opm.gov).
8. Severance pay for separating employees.
9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.
10. Supplanting current funding for existing services.

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

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1. Funding travel or training (excluding mileage or parking).
2. Making phone calls outside of the local area unless documented to be directly for the purpose of client care.
3. Payment for grant writing, consultants, certified public accounting, or legal services.
4. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Agreement.
5. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.
6. Providing inpatient hospital services or purchasing major medical equipment.
7. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).
8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's clients.

#### **XXV. STATUS OF CONTRACTOR**

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

#### **XXVI. TERM**

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

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

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**XXVII. TERMINATION**

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

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

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

1. The loss by CONTRACTOR of legal capacity.
2. Cessation of services.
3. The delegation or assignment of CONTRACTOR's services, operation or administration to another entity without the prior written consent of COUNTY.
4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty required pursuant to this Agreement.
5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this Agreement.
6. The continued incapacity of any physician or licensed person to perform duties required pursuant to this Agreement.
7. Unethical conduct or malpractice by any physician or licensed person providing services pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR removes such physician or licensed person from serving persons treated or assisted pursuant to this Agreement.

**D. CONTINGENT FUNDING**

1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - a. The continued availability of federal, state and county funds for reimbursement of COUNTY's expenditures, and
  - b. Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.
2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend, terminate or renegotiate this Agreement upon thirty (30) calendar days written notice given CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

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

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

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

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

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

9 4. If clients are to be transferred to another facility for services, furnish ADMINISTRATOR,  
10 upon request, all client information and records deemed necessary by ADMINISTRATOR to affect an  
11 orderly transfer.

12 5. Assist ADMINISTRATOR in effecting the transfer of clients in a manner consistent with  
13 client's best interests.

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

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

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

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

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

### 30 **XXVIII. THIRD PARTY BENEFICIARY**

31 Neither party hereto intends that this Agreement shall create rights hereunder in third parties  
32 including, but not limited to, any subcontractors or any clients provided services pursuant to this  
33 Agreement.  
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**XXIX. 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.

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

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4 ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH  
5 DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY  
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7 DocuSigned by:  
8 BY: Jeff Thrash DATED: 1/26/2017  
9 94C5D4F5B2E54BC...

10 TITLE: CEO  
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15 COUNTY OF ORANGE  
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18 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
19 HEALTH CARE AGENCY  
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24 APPROVED AS TO FORM  
25 OFFICE OF THE COUNTY COUNSEL  
26 ORANGE COUNTY, CALIFORNIA  
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28 DocuSigned by:  
29 BY: Massoud Shamel DATED: 1/26/2017  
30 79055CA571A94F8...  
31 DEPUTY

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36 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or  
37 any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or 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  
 AGREEMENT FOR PROVISION OF  
 CHILDREN AND TRANSITIONAL AGE YOUTH MENTORING SERVICES  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH  
 DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY  
 JULY 1, 2017 THROUGH JUNE 30, 2018

**I. COMMON TERMS AND DEFINITIONS**

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

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

2. Crisis Intervention means a service, lasting less than twenty-four (24) hours that is provided to or on the behalf of a Client for a condition that requires more timely response than a regularly scheduled visit. Service activities may include, but are not limited to: assessment, individual therapy, collateral therapy, family therapy, case management, and psychiatric evaluation.

3. EPSDT means the State of California's implementation of the Federal child health component of Medicaid program which provides physical, mental and developmental health services for children and young adults.

4. Face-to-Face Contact means, as it pertains to a FSP, a direct encounter between CONTRACTOR and Client(s)/parent(s)/guardian(s). This does not include contact by phone, email, etc. For the purpose of completing an Encounter Document, Face-to-Face Contact means a direct encounter between CONTRACTOR and Client(s), regardless if another individual(s) is/are present or not.

5. FSP means a program model described in COUNTY's MHSA plan that has been approved by the state. The MHSA plan describes how COUNTY will utilize MHSA funds to develop and implement treatment plans for mental health Clients through FSPs. A FSP is an evidence-based and strength-based model with the focus on the individual rather than the disease.

6. FSW means the specific program model described in COUNTY's MHSA plan. The FSW program provides culturally competent in-home, intensive, mental health care coordination services that will address family needs across all life domains of the Client.

7. Live Scan means an inkless, electronic fingerprint which is transmitted directly to the DOJ for the completion of a criminal background check, typically required of employees who have direct contact with Clients.

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

9. MHSA means the State of California law that provides funding for expanded community mental health services. It is also known as "Proposition 63."

10. Mentoring Services means a service that provides support to Clients by building a structured and trusting relationship over a prolonged period of time between a Client and a mentor. The mentor is a peer or older individual who provides one-to-one contact and support in the following areas to assist Client(s)/parent(s)/guardian(s): consistent support, guidance, and coaching in life skills; concrete help and/or other relationship-building activities to the Client(s)/parent(s)/guardian(s); and linking the Client(s)/parent(s)/guardian(s) to other services within the COUNTY and contract operated programs.

11. NPI means the standard unique health identifier that was adopted by the Secretary of HHS under HIPAA of 1996 for health care providers. All HIPAA covered healthcare providers, individuals, and organizations must obtain an NPI for use to identify themselves in HIPAA standard transactions. The NPI is assigned for life.

12. NPP means a document that notifies Clients of uses and disclosures of PHI. The NPP may be made by, or on behalf of, the health plan or health care provider as set forth in HIPAA.

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

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

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

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

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

15           18. Supervisory Review means ongoing clinical reviews in accordance with procedures  
16 developed by COUNTY to determine the appropriateness of the diagnosis and treatment plan for  
17 Clients, as well as to monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting  
18 standards. Supervisory review is conducted by the Program Director or designee.

19           B. CONTACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
20 Common Terms and Definitions Paragraph of this Exhibit A to the Agreement.

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**II. BUDGET**

A. COUNTY shall pay CONTRACTOR in accordance with the Payments Paragraph of this Exhibit A to the Agreement and the following budget, which is set forth for informational purposes only and may be adjusted by mutual agreement, in writing, by ADMINISTRATOR and CONTRACTOR.

	<u>TOTAL</u>
ADMINISTRATIVE COST	
Indirect	\$ 59,224
TOTAL ADMINISRATIVE COST	\$ 59,224
PROGRAM COST	
Salaries	\$299,156
Benefits	59,831
Services and Supplies	<u>81,789</u>
SUBTOTAL PROGRAM COST	\$440,776
TOTAL GROSS COST	\$500,000
REVENUE	
MHSA Discretionary	<u>\$500,000</u>
TOTAL REVENUE	\$500,000
TOTAL MAXIMUM OBLIGATION	\$500,000

B. BUDGET/STAFFING MODIFICATIONS – CONTRACTOR shall make written application to ADMINISTRATOR, in advance, to shift funds between line items, for the purpose of meeting specific program needs or for providing continuity of care to its members, by utilizing a Budget/Staffing Modification Request form provided by ADMINISTRATOR. CONTRACTOR shall submit a properly completed Budget/Staffing Modification Request to ADMINISTRATOR for consideration, in advance, which shall include a justification narrative specifying the purpose of the request, the amount of said funds to be shifted, and the sustaining impact of the shift as may be applicable to the current contract period and/or future contract periods. CONTRACTOR shall obtain written approval of any Budget/Staffing Modification Request(s) from ADMINISTRATOR prior to implementation by CONTRACTOR. Failure of CONTRACTOR to obtain written approval from ADMINISTRATOR for any proposed Budget/Staffing Modification Request(s) may result in disallowance of those costs.

C. FINANCIAL RECORDS - CONTRACTOR shall prepare and maintain accurate and complete financial records of its cost and operating expenses. Such records will reflect the actual cost of the type of service for which payment is claimed. Any apportionment of or distribution of costs, including

indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will be made in accordance with GAAP, and Medicare regulations. The Client eligibility determination and fee charged to and collected from Clients, together with a record of all invoices rendered and revenues received from any source, on behalf of Clients treated pursuant to this Agreement, must be reflected in CONTRACTOR's financial records.

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

### **III. PAYMENTS**

A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amount of \$41,667 per month. All payments are interim payments only, and subject to final settlement in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services; provided, however, the total of such payments does not exceed COUNTY's Maximum Obligation as stated in the Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and/or federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the provisional amount specified above has not been fully paid.

1. In support of the monthly invoice, CONTRACTOR shall submit an Expenditure and Revenue Report as specified in the Reports Paragraph of this Exhibit A to the Agreement. ADMINISTRATOR shall use the Expenditure and Revenue Report to determine payment to CONTRACTOR as specified in the Payments Paragraph, Subparagraphs A.2. and A.3. of this Exhibit A to the Agreement.

2. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the provisional amount payment exceeds the actual cost of providing services, ADMINISTRATOR may reduce COUNTY payments to CONTRACTOR by an amount not to exceed the difference between the year-to-date provisional amount payments to CONTRACTOR and the year-to-date actual cost incurred by CONTRACTOR.

3. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the provisional amount payments are less than the actual cost of providing services, ADMINISTRATOR may authorize an increase in the provisional amount payment to CONTRACTOR by an amount not to exceed the difference between the year-to-date provisional amount payments to CONTRACTOR and the year-to-date actual cost incurred by CONTRACTOR.

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

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

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

E. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration and/or termination of the Agreement, except as may otherwise be provided under the Agreement, or specifically agreed upon in a subsequent Agreement.

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

#### IV. REPORTS

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

##### B. FISCAL

1. Expenditure and Revenue Report. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to ADMINISTRATOR. These reports will be on a form provided by ADMINISTRATOR and will report year-to-date actual costs and revenues (if applicable) for CONTRACTOR's program described in the Services Paragraph of this Exhibit A to the Agreement. Such reports will also include actual productivity as defined by ADMINISITRATOR.

2. Year-End Projections. In conjunction with the Expenditure and Revenue Report, CONTRACTOR shall provide monthly year-end projections that shall include year-to-date actual costs and revenues (if applicable) and anticipated year-end actual costs and revenues (if applicable) for CONTRACTOR's program described in the Services Paragraph of this Exhibit A to the Agreement.

3. The Expenditure and Revenue and Year-End Projection report shall be received by ADMINISTRATOR no later than twenty (20) calendar days following the end of the month being reported.

C. STAFFING – CONTRACTOR shall submit monthly Staffing Reports to ADMINISTRATOR. These reports shall be on a form provided by ADMINISTRATOR and shall, at a minimum, report overall FTEs of the positions stipulated in the Staffing Paragraph of this Exhibit A to the Agreement, and staff hours worked by positions. The reports will be received by ADMINISTRATOR no later than twenty (20) calendar days following the end of the month being reported.

D. PROGRAMMATIC – Throughout the term of the Agreement, CONTRACTOR shall submit monthly programmatic reports to ADMINISTRATOR, which shall be received by ADMINISTRATOR no later than twenty (20) calendar days following the end of the month being reported. Programmatic reports shall be in a format(s) approved by ADMINISTRATOR and shall include a description of CONTRACTOR's progress in implementing the provisions of the Agreement, number of active cases,

number of Client's admitted/discharged, details of outreach activities and their results, any pertinent facts or interim findings, staff changes, status of licenses and/or certifications, changes in population served and reasons for any such changes. CONTRACTOR shall be prepared to present and discuss their programmatic reports at their monthly scheduled meetings with ADMINISTRATOR and shall state whether or not it is progressing satisfactorily in achieving all the terms of the Agreement, and if not, shall specify what steps are being taken to achieve satisfactory progress.

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

F. CONTRACTOR must request in writing any extensions to the due date of the any monthly required report. If an extension is approved by ADMINISTRATOR, the total extension will not exceed more than five (5) calendar days.

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

## **V. SERVICES**

### **A. FACILITIES**

1. CONTRACTOR shall maintain a minimum of one (1) facility which meets the COUNTY's requirements for the provision of Mental Health Mentoring Services for Children, TAY, and their parent(s)/guardian(s) at the following location or any other location approved by ADMINISTRATOR:

790 Town and Country Road  
Orange, CA 92868

2. The facility shall:

- a. Have accessible parking for Clients, including spaces for persons with disabilities.
- b. Be located in a location that is readily accessible by public transportation and accessible to persons with disabilities.

3. CONTRACTOR shall maintain a holiday schedule consistent with COUNTY's holiday schedule, unless otherwise approved, in writing, by ADMINISTRATOR.

4. CONTRACTOR shall maintain regularly scheduled service hours, five days a week throughout the year, as approved by ADMINISTRATOR, and maintain the capability to provide services during after-school hours on weekdays and on weekends, if necessary, in order to accommodate Clients.

B. INDIVIDUALS TO BE SERVED – CONTRACTOR shall provide the services hereunder to Clients, between the ages of eight (8) and twenty-five (25), until 26th birthday, and their families, who



1 have been referred or approved by ADMINISTRATOR. Services to Clients shall be individualized and  
2 delivered in the language preferred by the Client.

3 C. MENTORING SERVICES

4 1. CONTRACTOR shall deliver Mental Health Mentoring Services to SED and SMI Clients  
5 and their parent(s)/guardian(s) who are receiving Mental Health Services in COUNTY mental health  
6 programs.

7 2. CONTRACTOR shall accept requests for Mentoring Services from therapists providing  
8 Mental Health Services in the COUNTY or contract operated programs including, but not limited to,  
9 Clients meeting the following criteria:

- 10 a. COUNTY residents;  
11 b. Displaying behaviors or a history indicative of SED as defined by the California WIC  
12 5000.3;  
13 c. Experiencing significant familial conflict;  
14 d. At risk of hospitalization and/or out-of-home placement or homelessness;  
15 e. Unserved or underserved because of linguistic or cultural isolation; and

16 3. CONTRACTOR shall use "best practices" to ensure mentors and Clients are matched in a  
17 manner that leads to the safest and most effective relationship possible.

18 a. The screening process for the match shall include, but not be limited to: formal and  
19 informal interviews, personal profiles, comparative interest inventories, and get-acquainted sessions.

20 b. CONTRACTOR shall also consider ethnicity, culture, language capability and age  
21 during the matching process as it relates to the Client's needs.

22 c. Once the match has been established, mentors and Clients are to meet regularly based  
23 upon frequency and duration mutually agreed upon by all interested parties. Parent(s)/guardian(s) shall  
24 be involved in the mentor arrangements made for Client(s). Mentoring frequency for Clients may vary  
25 between two (2) and five (5) hours per week, depending upon the needs of the Client.

26 d. The mentoring duration shall be a minimum of six (6) months, however, a mentoring  
27 duration of one (1) year can be recommended due to the enhanced bonding that may occur in longer-  
28 lasting relationships.

29 e. For mentors working with a Client's "parent/guardian," the frequency may vary  
30 between four (4) and eight (8) hours per month. The duration of the parent/guardian mentoring  
31 relationship shall be determined on an individual basis and needs of Client and the parent/guardian.

32 f. CONTRACTOR shall ensure mentors maintain ongoing contact with the Client's  
33 primary care coordinator, so pertinent changes in Client's circumstances can be communicated between  
34 the mentor and the care coordinator. This will also allow input from the care coordinator regarding the  
35 mentoring relationship.

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4. CONTRACTOR shall work closely with COUNTY programs when a referral is made. CONTRACTOR shall not refuse therapists' referrals if CONTRACTOR has available space and appropriate staffing to provide mentors, unless otherwise approved by ADMINISTRATOR.

5. CONTRACTOR shall promote the benefits of mentoring to the community at large. In addition, CONTRACTOR shall ensure that any resource offered by community agencies and/or individuals from the community as a result of mentoring promotion is used for the direct benefit of the Clients (e.g., donated tickets to community events).

6. CONTRACTOR shall develop procedures that monitor quality assurance, provide outcome measures of Client satisfaction, and measure overall program performance in order to meet national standards of mentoring performance outcomes.

7. CONTRACTOR shall maintain an accurate and regularly updated mentor program webpage(s) to serve as an information source.

D. CLIENT RECORDS – CONTRACTOR shall maintain adequate records on each individual Client which shall include diagnostic studies, records of Client interviews, progress notes, and records of service provided by various personnel in sufficient detail to permit an evaluation of services. CONTRACTOR shall use COUNTY charting procedures regarding the use of forms and organization of documentation in the Clients' records.

1. ADMINISTRATOR may provide CONTRACTOR with copies of relevant database information which may include psychiatric and psychosocial histories, community functioning evaluations, coordination plans, service plans, medication records, and progress notes.

2. CONTRACTOR shall retain a complete and true copy of any Client record and respond to any requests for records pursuant to the Records Management and Maintenance Paragraph of the Agreement.

#### E. CONTRACTOR REPONSIBILITIES

1. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of CONTRACTOR's administrative and program P&Ps. CONTRACTOR shall provide signature confirmation of its P&P training for each staff member and place in their personnel files.

2. CONTRACTOR shall ensure that all staff complete the COUNTY's Annual Provider Training, and if applicable, staff responsible for input into IRIS complete IRIS New User Training.

3. CONTRACTOR shall ensure that Annual Compliance Training is completed as set forth in Subparagraph C. of the Compliance Paragraph of the Agreement.

4. CONTRACTOR shall agree to adopt and comply with the written Quality Improvement Implementation Plan and procedures provided by ADMINISTRATOR which describe the requirements for quality improvement and supervisory review.

5. CONTRACTOR shall agree to adopt and comply with the documentation standards as per ADMINISTRATOR's Standards of Care practices; P&P's, Annual Provider Training; DHCS State Contract; Title IX; the State EPSDT Documentation Manual; the State EPSDT TBS Documentation

Manual; and the EPSDT TBS Coordination of Care Best Practices Manual as provided by ADMINISTRATOR, which describe, but are not limited to, the requirements for Medi-Cal and ADMINISTRATOR charting standards; and any state regulatory requirements.

6. CONTRACTOR shall maintain on file at the facility minutes and records of all quality improvement meetings and processes. Such records and minutes shall also be subject to regular review by ADMINISTRATOR in the manner specified in the Quality Improvement Implementation Plan and ADMINISTRATOR's P&Ps.

7. CONTRACTOR shall allow ADMINISTRATOR to attend, and if necessary conduct, QIC and monitoring meetings.

8. CONTRACTOR shall participate in any clinical review and implement any recommendations made by ADMINISTRATOR to improve Client care.

F. PRODUCTIVITY – CONTRACTOR shall target a total of two hundred twenty-five (225) Clients. CONTRACTOR shall also provide at least three thousand (3,000) Client Service Hours.

#### G. PERFORMANCE OUTCOMES

1. CONTRACTOR shall complete Performance Outcome Measures as required by state and/or COUNTY.

2. Until updated, CONTRACTOR shall continue to use the Orange County Child and Youth Resilience Scale (CYRS) and the Readiness for Change measure for the purpose of evaluating the impact and/or contribution of CONTRACTOR's services on the well-being of COUNTY residents being served under the terms of the Agreement. Ratings will be made at pre-match and at discharge. If the Client is enrolled in the program longer than 6-months, then measure at 6-months will also be completed. The expected outcomes for the Monitoring Plan are that Clients demonstrate an improvement in resilience over time and are ready to, or are moving towards, adopting positive life changes at the time of discharge from the program.

H. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of Tokens for appropriate individual staff to access a Shared Folder that contains client and staffing information at no cost to the CONTRACTOR.

1. CONTRACTOR recognizes Tokens are assigned to a specific individual staff member with a unique password. Tokens and passwords will not be shared with anyone.

2. CONTRACTOR shall maintain an inventory of the Tokens, by serial number and the staff member to whom each is assigned.

3. CONTRACTOR shall indicate in the Program Monthly Staffing Report, the serial number of the Token for each staff member assigned a Token.

4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following conditions:

- a. Token of each staff member who no longer supports the Agreement;
- b. Token of each staff member who no longer requires access to the Shared Folder;

- c. Token of each staff member who leaves employment of CONTRACTOR; or
- d. Token is malfunctioning;
- e. Termination of the Agreement.

5. ADMINISTRATOR shall issue Tokens for CONTRACTOR's staff members who require access to the Shared Folder upon initial training or as a replacement for malfunctioning Tokens.

6. CONTRACTOR shall reimburse the COUNTY for Tokens lost, stolen, or damaged through acts of negligence.

I. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources, with respect to any individual(s) who have been referred to CONTRACTOR by COUNTY under the terms of the Agreement. Further, CONTRACTOR agrees that the funds provided hereunder will not be used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian institution, or religious belief.

J. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to conduct research activity on COUNTY Clients without obtaining prior written authorization from ADMINISTRATOR.

K. CONTRACTOR shall provide effective administrative management of the budget, staffing, recording, and reporting portion of the Agreement with the COUNTY. If administrative responsibilities are delegated to subcontractors, CONTRACTOR must ensure that any subcontractor(s) possess the qualifications and capacity to perform all delegated responsibilities. These responsibilities include, but are not limited to, the following:

1. Designate the responsible position(s) in your organization for managing the funds allocated to this program;
2. Maximize the use of the allocated funds;
3. Ensure timely and accurate reporting of monthly expenditures;
4. Maintain appropriate staffing levels;
5. Request budget and/or staffing modifications to the Agreement;
6. Effectively communicate and monitor the program for its success;
7. Track and report expenditures electronically;
8. Maintain electronic and telephone communication between CONTRACTOR and ADMINISTRATOR; and
9. Act quickly to identify and solve problems.

L. CONTRACTOR shall document all adverse incidents affecting the physical and/or emotional welfare of Clients, including but not limited to serious physical harm to self or others, serious destruction of property, developments, etc., and which may raise liability issues with COUNTY. CONTRACTOR shall notify COUNTY within twenty-four (24) hours of any such serious adverse incident.

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M. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues that adversely affect the quality or accessibility of Client-related services provided by, or under contract with, the COUNTY as identified in the ADMINISTRATOR's P&Ps.

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

## **VI. STAFFING**

A. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in FTEs continuously throughout the term of the Agreement. One (1) FTE will be equal to an average of forty (40) hours work per week.

### DIRECT NON-DSH PROGRAM

Program Director	1.00
Mentor Coordinator	3.00
Staff Assistant	0.75
TAY-Youth Mentor	3.50
Parent Mentor	<u>0.50</u>
TOTAL FTEs	8.75

B. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold languages as determined by COUNTY. Whenever possible, bilingual/bicultural staff should be retained. Any vacancies occurring at a time when bilingual and bicultural composition of the staffing does not meet the above requirement must be filled with bilingual and bicultural staff unless ADMINISTRATOR consents, in advance and in writing, to the filling of those positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be used to cover costs other than salaries and employees benefits unless otherwise authorized in writing, in advance, by ADMINISTRATOR.

C. CONTRACTOR shall be responsible for the recruitment of all mentors and volunteers used in the program.

1. Recruitment efforts shall include, but not be limited to, recruiting from the corporate, professional, educational and faith-based community organizations in COUNTY, as well as other neighborhood and cultural groups that represent the local demographics. Recruitment efforts shall take into consideration the principles outlined in the MHSA and shall include those who are bilingual in threshold languages, former recipients of behavioral health services, and/or family members of those who have received behavioral health services.

2. CONTRACTOR shall develop, implement, and maintain a "strength-based" recruitment process. This pro-active recruitment process will ensure a sufficient and diverse pool of mentors to meet the needs of the ethnic and linguistic makeup of Clients being served in COUNTY.

1 D. CONTRACTOR shall be responsible for the provision of all screening requirements for  
 2 employees and volunteers, including but not be limited to Live Scan, the Department of Motor Vehicles  
 3 Pull Report, and all other requirements as set forth in the Agreement.

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

9 F. CONTRACTOR shall notify ADMINISTRATOR, in writing, no later than seventy-two (72)  
 10 hours of any staffing vacancies or filling of vacant positions that occur during the term of the  
 11 Agreement. CONTRACTOR's notification shall include at a minimum the following information:  
 12 employee name(s), position title(s), date(s) of resignation, date(s) of hire, and a description of  
 13 recruitment activity.

14 G. CONTRACTOR shall notify ADMINISTRATOR, in writing, no later than seven (7) business  
 15 days in advance of any proposed staffing changes, including but not limited to promotions, temporary  
 16 FTE changes, and temporary staffing assignments that occur during the term of the Agreement.

17 H. CONTRACTOR shall recruit, hire, train, and maintain staff that are persons in recovery, and/or  
 18 family members of persons in recovery. These individuals shall not be currently receiving services  
 19 directly from CONTRACTOR. Documentation may include, but not be limited to, the following:  
 20 records attesting to efforts made in recruitment and hiring practices and identification of measures taken  
 21 to enhance accessibility for potential staff in these categories.

22 I. CONTRACTOR shall develop and implement a training curriculum for mentors, as well as  
 23 provide instruction and referral materials to COUNTY programs that may refer COUNTY clients for  
 24 Mentoring Services.

25 1. CONTRACTOR's training program shall utilize standards and principles that are  
 26 considered "best practices" by nationally known mentoring organizations, such as the  
 27 MENTOR/National Mentoring Partnership, an organization widely acknowledged as the nation's  
 28 premier advocate and resource for the expansion of mentoring initiatives.

29 2. CONTRACTOR's training program shall include, but not be limited to: addressing issues  
 30 of Client safety, maintaining appropriate ethical boundaries, conflict resolution, and maintaining  
 31 confidentiality of Client information.

32 J. CONTRACTOR shall provide initial and on-going training and staff development that includes  
 33 but is not limited to the following:

- 34 1. Orientation to the program's goals and P&Ps; and
- 35 2. Training on subjects as required by state regulations.

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1 K. STUDENT INTERNS

2 1. CONTRACTOR may augment the above paid staff with volunteers or interns upon written  
3 approval of ADMINISTRATOR.

4 a. CONTRACTOR shall meet minimum requirements for supervision of each student  
5 intern as required by the State Licensing Board and/or school program descriptions or work contracts.

6 b. Student intern services shall not comprise more than twenty percent (20%) of total  
7 services provided.

8 2. CONTRACTOR shall provide a minimum of two (2) hours per week supervision to each  
9 student intern providing mental health services and one (1) hour of supervision for each ten (10) hours  
10 of treatment for student interns providing substance abuse services. CONTRACTOR shall provide  
11 supervision to volunteers as specified in the respective job descriptions or work contracts.

12 L. CONTRACTOR shall maintain an accurate and regularly updated mentor program webpage(s)  
13 to serve as mentor recruitment tool. The page(s) shall include an online application process allowing  
14 interested volunteers to apply to become a mentor as this is a best practice model.

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

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EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
CHILDREN AND TRANSITIONAL AGE YOUTH MENTORING SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH  
DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY  
JULY 1, 2017 THROUGH JUNE 30, 2018

**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 may 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 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation specifications,

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

#### 4 B. DEFINITIONS

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

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

##### 10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

35 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in  
 36 45 CFR § 160.103.

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

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

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

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

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

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

12. "Secretary" shall mean the Secretary of the Department of HHS or his or her designee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 9 D. SECURITY RULE

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

17 2. CONTRACTOR shall implement reasonable and appropriate 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 electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,  
23 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents  
24 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,  
25 maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

26 a. Complying with all of the data system security precautions listed under Subparagraph E.,  
27 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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5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with Subparagraph E. below and as required by 45 CFR § 164.410.

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

#### E. DATA SECURITY REQUIREMENTS

##### 1. Personal Controls

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

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

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

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

##### 2. Technical Security Controls

a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of 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 software  
20 solution with automatic updates scheduled at least daily.

21 f. Patch Management. All workstations, laptops and other systems that process and/or  
22 store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or  
23 transmits on behalf of COUNTY must have critical security patches applied, with system reboot if  
24 necessary. There must be a documented patch management process which determines installation  
25 timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable  
26 patches must be installed within thirty (30) 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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1 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a  
2 comprehensive intrusion detection and prevention solution.

3 3. Audit Controls

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

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

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

17 4. Business Continuity/Disaster Recovery Control

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

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

30 5. Paper Document Controls

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

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

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

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

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

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

#### F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs



1 in addressing the Breach and consequences thereof, including costs of investigation, notification,  
2 remediation, documentation or other costs associated with addressing the Breach.

3 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

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

28 H. PROHIBITED USES AND DISCLOSURES

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

34 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI  
35 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
36 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by  
37 42 USC § 17935(d)(2).

1 I. OBLIGATIONS OF COUNTY

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

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

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

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

13 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C  
AGREEMENT FOR PROVISION OF  
CHILDREN AND TRANSITIONAL AGE YOUTH MENTORING SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH  
DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY  
JULY 1, 2017 THROUGH JUNE 30, 2018

**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 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 SSA and DHCS.

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

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

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

9. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or

1 regulations that require the production of information, including statutes or regulations that require such  
2 information if payment is sought under a government program providing public benefits.

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

## 6 B. TERMS OF AGREEMENT

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

11 2. Responsibilities of CONTRACTOR  
12 CONTRACTOR agrees:

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

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

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

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

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

34 3) If the data obtained by CONTRACTOR from COUNTY includes PII,  
35 CONTRACTOR shall also comply with the substantive privacy and security requirements in the  
36 CMPPA Agreement between SSA and CHHS and in the Agreement between SSA and DHCS, known as  
37 the IEA. The specific sections of the IEA with substantive privacy and security requirements to be

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

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

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

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

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

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

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

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