

1 AGREEMENT FOR PROVISION OF
2 ADMINISTRATIVE SERVICES ORGANIZATION
3 FOR
4 SPECIALTY MENTAL HEALTH OUTPATIENT SERVICES
5 BETWEEN
6 COUNTY OF ORANGE
7 AND
8 BEACON HEALTH STRATEGIES, LLC
9 JULY 1, 2017 THROUGH JUNE 30, 2020

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

17
18 **W I T N E S S E T H:**

19 WHEREAS, the State of California Managed Care Plan for Medi-Cal Mental Health Services, dated
20 June 1, 1994, defines and describes the principles and elements of the managed mental health care design
21 for the public mental health system; and

22 WHEREAS, COUNTY under the authority of Sections 5775, et seq. of the Welfare and Institutions
23 Code and the regulations adopted pursuant thereto, is the Local Mental Health Managed Care
24 Administrator for Specialty Medi-Cal Mental Health Services; and

25 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Administrative
26 Services Organization for Specialty Mental Health Outpatient Services described herein to the residents
27 of Orange County; and

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

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

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REFERENCED CONTRACT PROVISIONS

Term: July 1, 2017 through June 30, 2020

Maximum Obligation:

Period One Maximum Obligation:	\$ 5,357,959
Period Two Maximum Obligation:	5,357,959
Period Three Maximum Obligation:	<u>5,357,959</u>
TOTAL MAXIMUM OBLIGATION:	\$16,073,877

Basis for Reimbursement:	Indirect Costs:	Negotiated Amount
	Administrative Costs:	Actual Cost
	Program Services:	Actual Cost
	Mental Health Claims:	Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 96-311-6116

CONTRACTOR TAX ID Number: 04-3324848

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: Beacon Health Strategies, LLC
200 State Street
Boston, MA 02109
Timothy Murphy, CEO
EMAIL: Timothy.murphy@beaconhs.com

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I. ACRONYMS

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

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3		
4	A. AA	Alcoholics Anonymous
5	B. ADL	Activities of Daily Living
6	C. AES	Advanced Encryption Standard
7	D. AOABS	Adult and Older Adult Behavioral Health
8	E. ABC	Allied Behavioral Care
9	F. ARRA	American Recovery and Reinvestment Act
10	G. ASIST	Applied Suicide Intervention Skills Training
11	H. ASO	Administrative Services Organization
12	I. ASRS	Alcohol and Drug Programs Reporting System
13	J. AQIS	Authority and Quality Improvement Services
14	K. BBS	Board of Behavioral Sciences
15	L. BCP	Business Continuity Plan
16	M. BHS	Behavioral Health Services
17	N. CalWORKs	California Work Opportunity and Responsibility for Kids
18	O. CAT	Centralized Assessment Team
19	P. CCC	California Civil Code
20	Q. CCR	California Code of Regulations
21	R. CD/DVD	Compact Disc/Digital Video or Versatile Disc
22	S. CFR	Code of Federal Regulations
23	T. CHHS	California Health and Human Services Agency
24	U. CHPP	COUNTY HIPAA Policies and Procedures
25	V. CHS	Correctional Health Services
26	W. CIPA	California Information Practices Act
27	X. CMPPA	Computer Matching and Privacy Protection Act
28	Y. COI	Certificate of Insurance
29	Z. CSI	Client and Services Information
30	AA. CSW	Clinical Social Worker
31	AB. CYBH	Children and Youth Behavioral Health Services
32	AC. D/MC	Drug/Medi-Cal
33	AD. DCR	Data Collection and Reporting
34	AE. DD	Dual Disorders
35	AF. DHCS	Department of Health Care Services
36	AG. DoD	Department of Defense
37	AH. DPFS	Drug Program Fiscal Systems

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

1	BT. NOA	Notice of Action
2	BU. NP	Nurse Practitioner
3	BV. NPDB	National Provider Data Bank
4	BW. NPI	National Provider Identifier
5	BX. NPP	Notice of Privacy Practices
6	BY. OCJS	Orange County Jail System
7	BZ. OCPD	Orange County Probation Department
8	CA. OCR	Office for Civil Rights
9	CB. OCSD	Orange County Sheriff's Department
10	CC. OIG	Office of Inspector General
11	CD. OMB	Office of Management and Budget
12	CE. OPM	Federal Office of Personnel Management
13	CF. P&P	Policy and Procedure
14	CG. PADSS	Payment Application Data Security Standard
15	CH. PAF	Partnership Assessment Form
16	CI. PAR	Prior Authorization Request
17	CJ. PBM	Pharmaceutical Benefits Management
18	CK. PC	Penal Code
19	CL. PCP	Primary Care Provider
20	CM. PHI	Protected Health Information
21	CN. PI	Personal Information
22	CO. PII	Personally Identifiable Information
23	CP. PRA	Public Records Act
24	CQ. PSC	Personal Services Coordinator
25	CR. QI	Quality Improvement
26	CS. QIC	Quality Improvement Committee
27	CT. RN	Registered Nurse
28	CU. RSA	Remote Site Access
29	CV. SNF	Skilled Nursing Facility
30	CW. SSI	Supplemental Security Income
31	CX. SSA	Social Services Agency
32	CY. HITECH Act	The Health Information Technology for Economic and Clinical Health Act, Public Law 111-005
33		
34	CZ. TAR	Treatment Authorization Request
35	DA. TAY	Transitional Age Youth
36	DB. TTY	Teletypewriter
37	DC. UMDAP	Universal Method of Determining Ability to Pay

- 1 DD. USC United States Code
- 2 DE. WIC State of California Welfare and Institutions Code

3
4 **II. ALTERATION OF TERMS**

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

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

12
13 **III. ASSIGNMENT OF DEBTS**

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

21
22 **IV. COMPLIANCE**

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

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

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

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

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

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

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

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

B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement semi-annually 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 list or system as identified by the ADMINISTRATOR.

1. For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR.

1 Notwithstanding the above, this term does not include part-time or per-diem employees, contractors,
2 subcontractors, agents, and other persons who are not reasonably expected to work more than one
3 hundred sixty (160) hours per year; except that any such individuals shall become Covered Individuals at
4 the point when they work more than one hundred sixty (160) hours during the calendar year.
5 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of
6 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or
7 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if
8 CONTRACTOR has elected to use its own).

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

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

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

15 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
16 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
17 Agreement.

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

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

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

35 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or
36 entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened.
37 Such individual or entity shall be immediately removed from participating in any activity associated with

1 this Agreement. ADMINISTRATOR will determine appropriate repayment from, or sanction(s) to
2 CONTRACTOR for services provided by ineligible person or individual. CONTRACTOR shall
3 promptly return any overpayments within forty-five (45) business days after the overpayment is verified
4 by ADMINISTRATOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care
35 claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner
36 and are consistent with federal, state and county laws and regulations. This includes compliance with
37 federal and state health care program regulations and procedures or instructions otherwise communicated

1 by regulatory agencies including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

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

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

18
19 **V. CONFIDENTIALITY**

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

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

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

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

35 B. Prior to providing any services pursuant to this Agreement, all members of the Board of
36 Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and
37 interns of the CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the

1 confidentiality of any and all information and records which may be obtained in the course of providing
 2 such services. This Agreement shall specify that it is effective irrespective of all subsequent resignations
 3 or terminations of CONTRACTOR members of the Board of Directors or its designee or authorized
 4 agent, employees, consultants, subcontractors, volunteers and interns.

6 **VI. COST REPORT**

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

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

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

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

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

36 3. In the event that CONTRACTOR does not submit an accurate and complete individual
 37 and/or consolidated Cost Report within one hundred and eighty (180) calendar days following the

1 termination of this Agreement, and CONTRACTOR has not entered into a subsequent or new agreement
2 for any other services with COUNTY, then all amounts paid to CONTRACTOR by COUNTY during the
3 term of the Agreement shall be immediately reimbursed to COUNTY.

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

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

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

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

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

28
29 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and
30 supporting documentation prepared by _____ for the cost report period
31 beginning _____ and ending _____ and that, to the best of my
32 knowledge and belief, costs reimbursed through this Agreement are reasonable and
33 allowable and directly or indirectly related to the services provided and that this Cost
34 Report is a true, correct, and complete statement from the books and records of
35 (provider name) in accordance with applicable instructions, except as noted. I also
36 hereby certify that I have the authority to execute the accompanying Cost Report.

37 //

1 Signed _____
 2 Name _____
 3 Title _____
 4 Date _____"

6 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

7 A. CONTRACTOR certifies that it and its principals:

8 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or
9 voluntarily excluded by any federal department or agency.

10 2. Have not within a three-year period preceding this Agreement been convicted of or had a
11 civil judgment rendered against them for commission of fraud or a criminal offense in connection with
12 obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract
13 under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement,
14 theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen
15 property.

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

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

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

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

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

31
32 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

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

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

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

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

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

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

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

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

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

6
7 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

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

17
18 **X. EQUIPMENT**

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

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

36 C. Upon ADMINISTRATOR’s prior written approval, CONTRACTOR may expense to COUNTY
37 the cost of the approved Equipment purchased by CONTRACTOR. To “expense,” in relation to

1 Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it is
2 purchased. Title of expensed Equipment shall be vested with COUNTY.

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

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

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

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

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

21
22 **XI. FACILITIES, PAYMENTS AND SERVICES**

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

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

34
35 **XII. INDEMNIFICATION AND INSURANCE**

36 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
37 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special

1 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board
2 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,
3 including but not limited to personal injury or property damage, arising from or related to the services,
4 products or other performance provided by CONTRACTOR pursuant to this Agreement. If judgment is
5 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the
6 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and
7 COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall request
8 a jury apportionment.

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

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

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

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

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

37 //

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 XII (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:

<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

1 H. REQUIRED COVERAGE FORMS

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

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

6 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

15 R. SUBMISSION OF INSURANCE DOCUMENTS

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

- 17 a. Prior to the start date of this Agreement.
- 18 b. No later than the expiration date for each policy.
- 19 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
20 changes to any of the insurance types as set forth in Subparagraph G, above.

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

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

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

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

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

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37 //

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

5 **XIII. INSPECTIONS AND AUDITS**

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

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

20 C. AUDIT RESPONSE

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

26 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement
27 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said
28 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of
29 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement
30 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies
31 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the
32 reimbursement due COUNTY.

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

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

5
6 **XIV. LICENSES AND LAWS**

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

15 **B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS**

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

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

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

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

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

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

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

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

- 4 1. ARRA of 2009.
- 5 2. WIC, Division 5, Community Mental Health Services.
- 6 3. WIC, Division 6, Admissions and Judicial Commitments.
- 7 4. WIC, Division 7, Mental Institutions.
- 8 5. HSC, §§1250 et seq., Health Facilities.
- 9 6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 10 7. CCR, Title 9, Rehabilitative and Developmental Services.
- 11 8. CCR, Title 17, Public Health.
- 12 9. CCR, Title 22, Social Security.
- 13 10. CFR, Title 42, Public Health.
- 14 11. CFR, Title 45, Public Welfare.
- 15 12. USC Title 42. Public Health and Welfare.
- 16 13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 17 14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 18 15. 42 USC §1857, et seq., Clean Air Act.
- 19 16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 20 17. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 21 18. Policies and procedures set forth in Mental Health Services Act.
- 22 19. Policies and procedures set forth in DHCS Letters.
- 23 20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
24 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
25 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for
26 Federal Awards.

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

30
31 **XV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

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

15
16 **XVI. MAXIMUM OBLIGATION**

17 A. The Total Maximum Obligation of COUNTY for services provided in accordance with this
18 Agreement and the separate Maximum Obligations, are as specified in the Referenced Contract
19 Provisions of this Agreement, except as allowed for in Subparagraph B. below.

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

22
23 **XVII. MINIMUM WAGE LAWS**

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

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

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

XVIII. NONDISCRIMINATION

A. EMPLOYMENT

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

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

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

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

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

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

B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender

1 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
 2 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
 3 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4,
 4 Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the Genetic
 5 Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent
 6 rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and
 7 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this
 8 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one
 9 or more of the factors identified above:

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

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

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

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

29 b. Throughout the problem resolution and grievance process, client rights shall be
 30 maintained, including access to the Patients’ Rights Office at any point in the process. Clients shall be
 31 informed of their right to access the Patients’ Rights Office at any time.

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

34 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply
 35 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
 36 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42
 37 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of

1 discrimination against qualified persons with disabilities in all programs or activities; and if applicable,
2 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together
3 with succeeding legislation.

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

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

12
13 **XIX. NOTICES**

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

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

19 2. When faxed, transmission confirmed;

20 3. When sent by Email; or

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

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

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

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

33
34 **XX. NOTIFICATION OF DEATH**

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

37 //

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

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

9 2. WRITTEN NOTIFICATION

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

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

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

21
22 **XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

30
31 **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

35 B. CONTRACTOR shall implement and maintain administrative, technical and physical safeguards
36 to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of PHI in
37 violation of the HIPAA, federal and state regulations and/or CHPP. CONTRACTOR shall mitigate to

1 the extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of
2 federal or state regulations and/or COUNTY policies.

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

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

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

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

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

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

- 23 1. Have documents readily available within forty-eight (48) hour notice of a scheduled audit or
24 site visit.
- 25 2. Provide auditor or other authorized individuals access to documents via a computer terminal.
- 26 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if
27 requested.

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

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

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

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

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

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

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

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

14
15 **XXIII. RESEARCH AND PUBLICATION**

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

18
19 **XXIV. SEVERABILITY**

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

25
26 **XXV. SPECIAL PROVISIONS**

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

- 29 1. Making cash payments to intended recipients of services through this Agreement.
- 30 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications
31 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use
32 of appropriated funds to influence certain federal contracting and financial transactions).
- 33 3. Fundraising.
- 34 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
35 CONTRACTOR's staff, volunteers, or members of the Board of Directors.
- 36 5. Reimbursement of CONTRACTOR's members of the Board of Directors for expenses or
37 services.

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

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

7 8. Severance pay for separating employees.

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

10 10. Supplanting current funding for existing services.

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

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

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

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

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

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

21 6. Providing inpatient hospital services or purchasing major medical equipment.

22 7. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal
23 funds (matching).

24
25 **XXVI. STATUS OF CONTRACTOR**

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

37 //

XXVII. TERM

A. The term of this Agreement shall commence as specified in the Referenced Contract Provisions of this Agreement or the execution date, whichever is later. 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.

XXVIII. 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

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

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

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

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

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

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

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

19 4. If clients are to be transferred to another facility for services, furnish ADMINISTRATOR,
20 upon request, all client information and records deemed necessary by ADMINISTRATOR to effect an
21 orderly transfer.

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

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

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

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

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

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

3
4 **XXIX. THIRD PARTY BENEFICIARY**

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

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

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

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

3
4 BEACON HEALTH STRATEGIES, LLC

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6 DocuSigned by:
7 BY: Timothy R. Murphy _____ DATED: 2/23/2017
8 CD8CDF585DC148E...

9
10 TITLE: Chief Executive Officer

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16 COUNTY OF ORANGE

17
18
19 BY: _____ DATED: _____
20 HEALTH CARE AGENCY

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

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29 DocuSigned by:
30 BY: Eric Divine _____ DATED: 2/17/2017
31 C4E3886C1E6D4FD...
DEFU I

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35 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or
36 any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer.
37 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..

1 EXHIBIT A
2 TO AGREEMENT FOR PROVISION OF
3 ADMINISTRATIVE SERVICES ORGANIZATION
4 FOR
5 SPECIALTY MENTAL HEALTH OUTPATIENT SERVICES
6 BETWEEN
7 COUNTY OF ORANGE
8 AND
9 BEACON HEALTH STRATEGIES, LLC
10 JULY 1, 2017 THROUGH JUNE 30, 2020

11
12 **I. COMMON TERMS AND DEFINITIONS**

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

15 1. Beneficiary means the primary Orange County Medi-Cal eligible user of Mental Health
16 Services.

17 2. Beneficiary-directed means services delivered in a therapeutic alliance between providers
18 and beneficiaries where both are partners in goal-setting and treatment planning. The final decision for
19 treatment options rests with the Beneficiary and designated family members.

20 3. Beneficiary Satisfaction Surveys means surveys to measure beneficiaries' overall
21 satisfaction with Mental Health Services, and with specific aspects of those services in order to identify
22 problems and opportunities for improvement.

23 4. Beneficiary Support System/Family means immediate family members, extended family
24 members, significant others or other supports designated by the Beneficiary.

25 5. CalWORKs means the program implemented by COUNTY's SSA after passage of AB
26 1542 regarding welfare reform.

27 6. Care Coordination means the activities of managing services and coordinating care to
28 beneficiaries, including assessments, referrals, service planning, linkage, consultation, discharge
29 planning and coordination. These functions shall be performed by COUNTY and COUNTY contracted
30 staff.

31 7. CYBH means the division of Behavioral Health Services responsible for the administration
32 and oversight of Mental Health Services to children and adolescents.

33 8. CSI means DHCS required data elements pertaining to mental health beneficiaries and the
34 services they receive formulated in a database and reported to the State.

35 9. Contract Monitor means a person designated by COUNTY to consult with and assist
36 CONTRACTOR in the provision of services to COUNTY beneficiaries as specified herein. The
37 Contract Monitor shall at no time be construed as being ADMINISTRATOR.

1 10. Credentialing means a review process, including a peer review process, based upon specific
2 criteria, standards and prerequisites, to approve a provider or professional who applies to be contracted
3 to provide care in a hospital, clinic, medical group or in a health plan.

4 11. Diagnosis means the definition of the nature of the Beneficiary’s disorder. When
5 formulating the diagnosis of the Beneficiary, CONTRACTOR shall use the diagnostic codes and axes as
6 specified in the most current edition of the DSM published by the American Psychiatric Association.
7 CONTRACTOR shall follow DSM procedures for all beneficiaries.

8 12. EPSDT means the Early and Periodic Screening, Diagnosis and Treatment program
9 permitting a state to cover, under Medicaid law, services necessary to correct or ameliorate a mental
10 illness even if the service is not otherwise included in the state’s Medicaid Plan. EPSDT covers persons
11 under twenty-one (21) years of age who have full-scope Medi-Cal.

12 13. Family Member means any traditional or non-traditional support system, significant other
13 or natural support designated by the Beneficiary.

14 14. FFS Provider means a Medi-Cal outpatient FFS provider serving beneficiaries in his or her
15 own independent practice or in a group practice.

16 15. IRIS means a collection of applications and databases that serve the needs of programs and
17 include functionality such as registration and scheduling, laboratory information system, billing and
18 reporting capabilities, compliance with regulatory requirements, electronic medical records and other
19 relevant applications.

20 16. MEDS means the information systems maintained by DHCS for all Medi-Cal recipient
21 eligibility information.

22 17. Medical Necessity means criteria set forth by Title 9, California Code of Regulations,
23 Chapter 11, Medi-Cal Specialty Mental Health Services for MHP reimbursement of Specialty Mental
24 Health Services.

25 18. Medication Services means face-to-face or telephone services provided by a licensed
26 physician, licensed psychiatric nurse practitioner, or other qualified medical staff. This service shall
27 include documentation of the clinical justification for use of the medication, dosage, side effects,
28 compliance, and response to medication.

29 19. MHP means COUNTY as the MHP Manager with COUNTY clinics as well as COUNTY
30 contracted clinics, including CONTRACTOR, being providers in the Plan.

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

34 a. Assessment/Mental Health Evaluation means services designed to provide formal,
35 documented evaluation or analysis of the cause or nature of a Beneficiary’s mental, emotional, or
36 behavioral disorders. The parties understand that such services shall be primarily limited to initial
37 telephone intake examinations to triage and refer the Beneficiary to a Network Provider who will

1 develop the treatment/service plan. Cultural issues should be addressed where appropriate.
2 Additionally, this evaluation should include an appraisal of the individual’s community functioning in
3 several areas including living situation, daily activities, social support systems and health status.

4 b. Collateral Therapy means face-to-face or telephone contact(s) with significant others in
5 the life of the Beneficiary necessary to meet the mental health needs of the Beneficiary. Family therapy
6 provided on behalf of the individual Beneficiary is also considered collateral.

7 c. Individual Therapy means a goal directed face-to-face therapeutic intervention with the
8 Beneficiary which focuses on the mental health needs of the Beneficiary.

9 d. Group Therapy means a goal directed face-to-face therapeutic intervention with a group
10 of no less than two (2) and no more than eight (8) beneficiaries receiving services at the same time.
11 Such intervention shall be consistent with the beneficiaries’ goals and focus primarily on symptom
12 reduction as a means to improve functional impairments.

13 21. MMEF means Monthly MEDS Extract file. This file contains data of current month and
14 previous 15 months which provides eligibility data for all Orange County residents.

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

19 23. Network Provider means mental health service providers credentialed and under contract
20 with CONTRACTOR. Such providers may be individual practitioners, provider groups, or clinics.

21 24. NPP means a document that notifies individuals of uses and disclosures of PHI that may be
22 made by or on behalf of the health plan or health care provided as set forth in HIPAA.

23 25. Patients’ Rights Office means COUNTY office responsible for providing outreach and
24 educational materials to inform beneficiaries about their rights and remedies in receiving mental health
25 treatment; representing beneficiaries’ interests in fair hearings, grievances and other legal proceedings
26 related to the provision of services; and monitoring mental health programs for compliance with
27 patients’ rights legal standards as the designee of the Local Mental Health Director.

28 26. Out-of-County means any California county other than COUNTY or Border Community.

29 27. Primary Source Verification means procedures for the review and direct verification of
30 credentialing information submitted by care providers, including, but not limited to, confirmation of
31 references, appointments, and licensure.

32 28. QI means the use of interdisciplinary teams to review performance measures to identify
33 opportunities for improvement. The teams use participatory processes to analyze and confirm causes for
34 poor performance, design interventions to address causes, implement interventions, and measure
35 improvement. Successful improvements are then implemented wherever appropriate. Where
36 interventions are unsuccessful, the team again addresses the causes and designs new interventions until
37 improvements are achieved.

1 29. Referral means providing effective linkage of a Beneficiary to another service, when
2 indicated; with follow-up to be provided to assure that the Beneficiary has made contact with the
3 referred service.

4 30. Retrospective Review means determination of the appropriateness or necessity of services
5 after they have been delivered, generally through the review of the medical or treatment record.

6 31. RSA Token means the security device which allows an individual user to access IRIS.

7 32. Service Authorization means the determination of appropriateness of services prior to the
8 services being rendered, based upon medical or service necessity criteria. This includes the
9 authorization of outpatient services authorized by CONTRACTOR.

10 33. Share of Cost means a monthly amount that the Beneficiary is to pay to receive Medi-Cal
11 services.

12 34. SSA means COUNTY department responsible for child welfare services and Medi-Cal
13 eligibility determination.

14 35. Warm Transfer means the referring party stays on the telephone call until the transfer and
15 exchange of relevant information to the receiving party is complete.

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

18
19 **II. BENEFICIARY RIGHTS**

20 A. **ADVISEMENT NOTICES**

21 1. CONTRACTOR shall ensure that all Beneficiaries, upon request or access into the
22 program, shall be given a member handbook, developed by COUNTY.

23 2. CONTRACTOR shall also assure that Beneficiaries are aware of their rights at all times by:
24 a. Publishing the Beneficiary Rights in provider manuals, which shall be available to all
25 providers.

26 b. Including a copy of the Beneficiary Rights as an attachment to all written
27 correspondence related to complaints, grievances, and reductions or denials of treatment.

28 3. CONTRACTOR shall use NOA forms to notify Beneficiaries and Network Providers when
29 services are denied, reduced, or terminated pursuant to Services Paragraph of this Exhibit A to the
30 Agreement.

31 4. CONTRACTOR shall ensure that each Network Provider has posted in a conspicuous area
32 a notice advising Beneficiaries of their rights as well as CONTRACTOR's toll-free telephone number
33 and Patients' Rights Office availability to initiate a complaint or grievance.

34 5. All Network Providers' mental health facilities and programs shall have in place a
35 mechanism for Beneficiaries to file grievances regarding quality of treatment services issues.

36 6. COUNTY shall provide its MHP, NPP to CONTRACTOR. CONTRACTOR shall provide
37 the NPP for COUNTY, as the MHP, at the time of the first service provided under the Agreement to

1 individuals who are covered by Medi-Cal and have not previously received services at a COUNTY
2 operated clinic. CONTRACTOR shall also provide, upon request, the NPP for COUNTY, as the MHP,
3 to any individual who received services under the Agreement.

4 B. INTERNAL BENEFICIARY PROBLEM RESOLUTION

5 1. Whenever possible, problems shall be resolved informally and at the point of service.
6 CONTRACTOR shall establish a formal grievance process, in the event informal processes do not yield
7 a resolution.

8 2. CONTRACTOR’s Internal Beneficiary Problem Resolution process shall include the
9 designation of an Ombudsman from county team who shall be the person responsible to assist
10 Beneficiaries with CONTRACTOR’s grievance process.

11 3. Throughout the grievance process, Beneficiary rights shall be maintained, including access
12 to the Patients’ Rights Office at any point in the process. Beneficiaries shall be informed of their right
13 to access the Patients’ Rights Office at any time.

14 4. CONTRACTOR shall not penalize or discriminate against Beneficiaries for filing a
15 grievance.

16 5. Complaints regarding the quality of treatment services issues shall initially go to the direct
17 care provider, therapist, facility staff, or other persons involved in the issue at hand. Problems not
18 resolved to Beneficiary satisfaction shall, upon the request of the Beneficiary or Network Provider, be
19 reviewed for resolution by CONTRACTOR’s Ombudsman. All Network Providers shall be required to
20 have grievance forms available to Beneficiaries; provided, however, CONTRACTOR shall also allow
21 Beneficiaries to initiate a grievance directly with CONTRACTOR either orally or in writing.

22 a. The CONTRACTOR’s Ombudsman shall respond within sixty (60) calendar days from
23 receipt of the grievance.

24 b. Within confidentiality parameters, CONTRACTOR’s Ombudsman shall consider all
25 relevant information and resources, and shall involve other persons to resolve the grievance.

26 c. Beneficiaries shall also be informed of their right to speak to Patients’ Rights Office at
27 any time.

28 6. If CONTRACTOR’s Ombudsman is not able to achieve resolution to the satisfaction of the
29 Beneficiary, either the Beneficiary or the CONTRACTOR’s Ombudsman may request an appeal. An
30 appeal shall be resolved by referring the grievance to Director level clinical staff not involved in the
31 decision making process of the grievance.

32 7. CONTRACTOR shall maintain a Grievance Log for documentation of dispositions and
33 outcomes of Beneficiary grievances.

34 a. Such log shall be available upon request, and be submitted to ADMINISTRATOR
35 quarterly.

36 b. CONTRACTOR shall submit quarterly a list of grievances and appeals, by issue, to
37 ADMINISTRATOR.

1 c. Should CONTRACTOR not complete the grievance process for a Beneficiary within
2 the timelines required by State Medi-Cal, CONTRACTOR shall send a NOA form D to the Beneficiary.

3 8. CONTRACTOR shall ensure the Beneficiary’s care is continued during any formal appeals,
4 in accordance with the guidelines specified in WIC.

5 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
6 Beneficiary Right’s Paragraph of this Exhibit A to the Agreement.

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III. BUDGET

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

	PERIOD	PERIOD	PERIOD	
	<u>ONE</u>	<u>TWO</u>	<u>THREE</u>	<u>TOTAL</u>
ADMINISTRATIVE COST				
Salaries	\$ 48,629	\$ 48,629	\$ 48,629	\$ 145,887
Benefits	10,212	10,212	10,212	30,636
Services and Supplies	15,529	15,529	15,529	46,587
Indirect Costs	<u>176,989</u>	<u>176,989</u>	<u>176,989</u>	<u>530,967</u>
SUBTOTAL	\$ 251,359	\$ 251,359	\$ 251,359	\$ 754,077
ADMINISTRATIVE COST				
PROGRAM COST				
Salaries	\$1,153,685	\$1,153,685	\$1,153,685	\$ 3,461,055
Benefits	242,274	242,274	242,274	726,822
Services and Supplies	<u>287,563</u>	<u>287,563</u>	<u>287,563</u>	<u>862,689</u>
SUBTOTAL	\$1,683,522	\$1,683,522	\$1,683,522	\$ 5,050,566
PROGRAM COST				
Mental Health Claims	<u>\$3,423,078</u>	<u>\$3,423,078</u>	<u>\$3,423,078</u>	<u>\$10,269,234</u>
TOTAL GROSS COST	\$5,357,959	\$5,357,959	\$5,357,959	\$16,073,877
REVENUE				
FFP	\$2,411,082	\$2,411,082	\$2,411,082	\$ 7,233,246
EPSDT	267,898	267,898	267,898	803,694
Discretionary	<u>2,678,980</u>	<u>2,678,980</u>	<u>2,678,980</u>	<u>8,036,940</u>
TOTAL REVENUE	\$5,357,959	\$5,357,959	\$5,357,959	\$16,073,877
TOTAL MAXIMUM OBLIGATION	\$5,357,959	\$5,357,959	\$5,357,959	\$16,073,877
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1 B. BUDGET/STAFFING MODIFICATIONS - CONTRACTOR may request to shift funds
 2 between budgeted line items for the purpose of meeting specific program needs or for providing
 3 continuity of care to its members, by utilizing a Budget/Staffing Modification Request form provided by
 4 ADMINISTRATOR. CONTRACTOR shall submit a properly completed Budget/Staffing Modification
 5 Request to ADMINISTRATOR for consideration, in advance, which shall include a justification
 6 narrative specifying the purpose of the request, the amount of said funds to be shifted, and the sustaining
 7 impact of the shift as may be applicable to the current contract period and/or future contract periods.
 8 CONTRACTOR shall obtain written approval of any Budget/Staffing Modification Request(s) from
 9 ADMINISTRATOR prior to implementation by CONTRACTOR. Failure of CONTRACTOR to obtain
 10 written approval from ADMINISTRATOR for any proposed Budget/Staffing Modification Request(s)
 11 may result in disallowance of those costs.

12 1. Administrative Costs – General administrative costs to include MIS/IT functions.

13 2. Program Costs – Program Costs specified above are subject to reimbursement as specified
 14 in the Cost Report Paragraph of the Agreement.

15 a. Mental Health Program Direct Costs.

16 1) Staff who will provide initial brief screening, case management, and other services
 17 identified in the Services Paragraph of this Exhibit A to the Agreement.

18 2) General Program Operating Costs.

19 3. Mental Health Claims – Claims paid to both Network Providers and Out-of-County
 20 Providers, and professional fees paid to Inpatient Providers. Mental Health claims will be paid at rates
 21 set by CONTRACTOR with mutual agreement by ADMINISTRATOR, for all services, as referenced in
 22 the Services Paragraph of this Exhibit A to the Agreement.

23 C. CONTRACTOR shall make its best efforts to manage the services under the Agreement within
 24 the Maximum Obligation. Through appropriate program oversight and monitoring, monthly cost
 25 projections, and regular and routine communications with ADMINISTRATOR, if it is indicated that the
 26 Maximum Obligation may be exceeded prior to the end of the term of the Agreement, then COUNTY
 27 agrees to adjust the Maximum Obligation via Amendment to the Agreement, prior to exhausting funds
 28 allocated to the Agreement, and in order to avoid any disruption of services.

29 D. Unless otherwise authorized by ADMINISTRATOR, CONTRACTOR agrees that the amount
 30 of State Medi-Cal is dependent upon, and shall at no time be greater than, the amount of Federal Medi-
 31 Cal actually generated by CONTRACTOR.

32 E. CONTRACTOR agrees that fees received from private resources on behalf of Medi-Cal
 33 beneficiaries shall not be eligible for retention by CONTRACTOR. It is understood by the parties that
 34 such fees shall not include Share of Cost.

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

1 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will
2 be made in accordance with GAAP.

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

5
6 **IV. ISSUE RESOLUTION**

7 For resolution of issues between CONTRACTOR and COUNTY with respect to the implementation
8 and operation of the Agreement or COUNTY’s P&Ps regarding services described herein, the following
9 sequential steps shall apply:

10 A. CONTRACTOR shall routinely utilize all informal communication processes and methods with
11 ADMINISTRATOR including, but not limited to, telephone contact, facsimile machine, written
12 correspondence and meetings, to resolve any issues or problems regarding the implementation and
13 operation of the Agreement or COUNTY’s P&Ps regarding services described herein.

14 B. If the parties are unable to resolve the issue, CONTRACTOR shall give written notice to
15 ADMINISTRATOR setting forth in specific terms the existence and nature of any unresolved matter or
16 concern related to the purposes and obligations of the Agreement.

17 C. If the parties are unable to obtain resolution of the issue, they shall submit a joint written
18 Statement describing the facts of the issue, within thirty (30) calendar days after the written notice
19 described above to COUNTY’s Director of Mental Health for final resolution.

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

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

24
25 **V. PAYMENTS**

26 A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the negotiated amount of \$14,749
27 per month for Indirect Costs and the provisional amount of \$431,747 per month for Administrative,
28 Program Direct Costs, and Mental health Claims Costs. All payments are interim payments only, and
29 subject to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which
30 CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided,
31 however, the total of such payments does not exceed COUNTY’s Maximum Obligation as specified in
32 the Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR’s costs are
33 reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its
34 discretion, pay supplemental invoices for any month for which the provisional amount specified above
35 has not been fully paid.

36 1. Payments of claims to providers shall be at rates set by CONTRACTOR, with mutual
37 agreement by ADMINISTRATOR, for all services.

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

5 3. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the
6 provisional amount payments exceed the actual cost of providing services, ADMINISTRATOR may
7 reduce payments to CONTRACTOR by an amount not to exceed the difference between the
8 year-to-date provisional amount payments to CONTRACTOR's and the year-to-date actual cost
9 incurred by CONTRACTOR.

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

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

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

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

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

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

30
31 **VI. QUALITY IMPROVEMENT**

32 A. QI Program

33 1. CONTRACTOR shall participate with ADMINISTRATOR in the planning, design, and
34 execution of the QI Program along with Beneficiaries and Family Members. CONTRACTOR shall
35 participate in quarterly QI meetings with ADMINISTRATOR to develop and implement the QI
36 Program.

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1 2. CONTRACTOR shall operate a comprehensive QI Program designed to monitor all aspects
2 of the services provided by CONTRACTOR and the care provided by Network Providers. This includes
3 but is not limited to high utilization, satisfaction surveys, grievances and appeals, quality of care, and
4 timeliness of accessing services. This program shall be reviewed annually by CONTRACTOR's QI
5 Committee and results of review provided to ADMINISTRATOR in writing within sixty (60) days of
6 CONTRACTOR'S QI Committee annual review.

7 3. CONTRACTOR shall implement the QI Program for its Network Providers and require
8 their participation and cooperation in the QI Program.

9 4. CONTRACTOR shall report results of QI activities to ADMINISTRATOR on a quarterly
10 basis pursuant to the Reports Paragraph of this Exhibit A to the Agreement. These reports, including an
11 analysis by CONTRACTOR of the findings, together with recommendations for QI and corrective
12 actions plans, shall be provided to CONTRACTOR's Behavioral Health AQIS for their action and
13 presented in quarterly meetings to ADMINISTRATOR.

14 B. Satisfaction Surveys – CONTRACTOR shall monitor Beneficiary and Network Provider
15 satisfaction.

16 1. CONTRACTOR shall survey a sample of the Beneficiaries to assess satisfaction with the
17 process through which the Beneficiary received a referral, within ninety (90) days of service and report
18 to ADMINISTRATOR quarterly.

19 2. CONTRACTOR shall survey a sample of the Beneficiaries to assess satisfaction with the
20 services received from the Network Provider, and report to ADMINISTRATOR annually.

21 3. CONTRACTOR shall survey a sample of the Network Providers to assess satisfaction with
22 the services received from the CONTRACTOR, and report to ADMINISTRATOR annually.

23 C. Performance Outcome Measures

24 1. CONTRACTOR shall maintain an ongoing performance outcomes monitoring program
25 using information in its provider database, Beneficiary and Network Providers satisfaction surveys, and
26 documentation completed by providers, including but not limited to PAR clinical forms.
27 CONTRACTOR shall include in the outcomes monitoring program items required or recommended by
28 the DHCS, as communicated by the ADMINISTRATOR and specified in the Reports Paragraph of this
29 Exhibit A to the Agreement.

30 a. Objective 1: CONTRACTOR shall achieve, track and evaluate timeliness of access for
31 Beneficiaries and Network Providers calling the Access Line. Timeliness measurements should include,
32 but are not limited to, percentage and number of abandoned member calls to be no more than one
33 percent (1%) of total monthly member calls, percentage and number of member calls answered within
34 thirty (30) seconds to be no less than ninety-five percent (95%), and track call volume, service
35 verification, and timeframe for routine calls from point of authorization to provider appointment.

36 b. Objective 2: CONTRACTOR shall achieve, track and evaluate one hundred percent
37 (100%) Network Provider Prior Authorization Requests (PARs) within fourteen (14) days of the request.

1 c. Objective 3: CONTRACTOR shall achieve, track and evaluate no less than ninety
2 percent (90%) satisfactory Beneficiary survey results with the customer service provided on the twenty-
3 four (24) hour-seven (7) days a week Access Line. Measurement of satisfaction shall be determined by,
4 but not be limited to; overall satisfaction with informing Beneficiaries of grievance and appeals, State
5 Fair Hearings, accessing services, brief screening for services, and providing referral processes.

6 2. ADMINISTRATOR may identify contracted Network Providers to be reviewed.
7 CONTRACTOR shall initiate review within thirty (30) calendar days of notification from
8 ADMINISTRATOR and will advise contracted Network Providers of reason(s) for the review.
9 CONTRACTOR shall adhere to its standard treatment and/or site review audits as deemed necessary or
10 will provide ADMINISTRATOR with claims and/or treatment-related data. Treatment-related data may
11 be obtained from clinical or legacy systems in the same manner that treatment-related data is gathered
12 during claims processing and provider assessment reports.

13 3. The results of provider profiling shall be submitted to CONTRACTOR’s Credentialing
14 Committee for consideration at the time of recredentialing. If a potential quality of care issue is
15 identified during the profiling process, the provider shall be reported to CONTRACTOR’s QI
16 Department. The QI Department shall investigate the issue and shall collect documents/data necessary
17 for review by CONTRACTOR’s Medical Director or designee. The provider may then be submitted to
18 CONTRACTOR’s Peer Review Committee for further review and action.

19 4. CONTRACTOR agrees to comply with the state requirements and standards for
20 performance outcome measures, which may be implemented by the State at any time during the term of
21 the Agreement.

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

24
25 **VII. REPORTS**

26 CONTRACTOR shall maintain records, create and analyze statistical reports as required by
27 ADMINISTRATOR and DHCS in a format approved by, ADMINISTRATOR. CONTRACTOR will
28 provide ADMINISTRATOR with the following:

29 **A. FISCAL**

30 1. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to
31 ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by,
32 ADMINISTRATOR and shall report actual costs and revenues for CONTRACTOR's program described
33 in the Services Paragraph of this Exhibit A to the Agreement. Any changes, modifications, or
34 deviations to any approved budget line item must be approved in advance and in writing by
35 ADMINISTRATOR and annotated on the monthly Expenditure and Revenue Report, or said cost
36 deviations may be subject to disallowance. Such reports shall be received by ADMINISTRATOR no
37 later than twenty (20) calendar days following the end of the month being reported.

1 2. CONTRACTOR shall provide a check register and remittance summary by provider, as
2 well as a turnaround summary, for services provided by Network Providers, to ADMINISTRATOR
3 upon request.

4 3. CONTRACTOR shall track and provide IBNR information on a monthly basis. Monthly
5 IBNR shall be calculated and compared with the record of uncashed checks and stop-payment checks, as
6 well as to the undeliverable check report and the donated checks report. CONTRACTOR shall prepare
7 and submit to ADMINISTRATOR a monthly report showing total IBNR liability and revenue received
8 based upon the provisional payments received from COUNTY.

9 4. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These
10 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report
11 anticipated year-end actual costs and revenues for CONTRACTOR’s program described in the Services
12 Paragraph of this Exhibit A to the Agreement. Such reports shall include actual monthly costs and
13 revenue to date and anticipated monthly costs and revenue to the end of the fiscal year, and shall include
14 a projection narrative justifying the year-end projections. Year-End Projection Reports shall be
15 submitted in conjunction with the Monthly Expenditure and Revenue Reports.

16 B. STAFFING REPORT – CONTRACTOR shall submit monthly Staffing Reports to
17 ADMINISTRATOR. CONTRACTOR’s reports shall contain required information, and be on a form
18 acceptable to, or provided by ADMINISTRATOR. CONTRACTOR shall submit these reports no later
19 than twenty (20) calendar days following the end of the month being reported.

20 C. PROGRAMMATIC REPORTS– CONTRACTOR shall submit monthly Programmatic reports
21 to ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall
22 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings
23 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the
24 programmatic reports at the monthly and quarterly meetings with ADMINISTRATOR, to include an
25 analysis of data and findings, and whether or not CONTRACTOR is progressing satisfactorily and if
26 not, specify what steps are being taken to achieve satisfactory progress.

27 D. CONTRACTOR shall provide records and program reports, as listed below, shall be received
28 by ADMINISTRATOR no later than twenty (20) calendar days following the end of the month being
29 reported or as requested by ADMINISTRATOR.

30
31 1. MONTHLY

- 32 a. Access Log
- 33 b. Telephone Access Summary: Performance Targets
- 34 c. Authorizations and Access to Services
- 35 d. Lower Level of Care Transitions
- 36 e. Re-authorization of Services

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2. QUARTERLY

- a. Demographics – Network Providers
- b. QI – Beneficiary Satisfaction Survey, ASO’s Access Line
- c. QI – Grievance Report
- d. QI – Provider Claims Appeals
- e. QI – NOA and Second Opinion Log
- f. High Utilizer by Provider
- g. Timeliness of Utilization Management Decision Making

Period of Quarterly Report

July 1 through September 30

October 1 through December 31

January 1 through March 31

April 1 through June 30

3. ANNUAL

- a. QI – Member Satisfaction Survey, ASO’s Network Providers
- b. QI – Provider Satisfaction Survey
- c. QI – Committee Review

4. ACCESS LOG – CONTRACTOR shall develop and maintain a written Access Log of all requests for services received via telephone, in writing, or in person. CONTRACTOR is responsible for this written log that meets the DHCS regulations and requirements, as interpreted by the County, and records all services requested twenty-four (24) hours-seven (7) days a week. The Access Log shall contain, at a minimum, whether or not the caller has Medi-Cal, the name of the individual, date of the request, nature of the request, call status (emergent, urgent, routine), if the request is an initial request for Specialty Mental Health Services, and the disposition of the request, which shall include interventions. CONTRACTOR must be able to produce a sortable log, for any time-period specified by County within twenty-four (24) hours of receiving the request from County. If the caller’s name is not provided, then the log shall reflect that the caller did not provide a name. CONTRACTOR shall make available to ADMINISTRATOR upon request, the most recent telephone log which shall include previous day’s calls.

5. DATA COLLECTION AND REPORTING – ADMINISTRATOR shall provide CONTRACTOR with the exact specifications required to enter data into ADMINISTRATOR approved CONTRACTOR reporting system to allow ADMINISTRATOR to create the claims file used for Medi-Cal claiming and for ADMINISTRATOR’s CSI data reporting. CONTRACTOR shall submit Medi-Cal 837 claims, voids, and replacements, and CSI files electronically to ADMINISTRATOR. The parties

1 understand that such requirements may be modified periodically by the State.

2 a. ADMINISTRATOR shall provide the CONTRACTOR with a monthly MEDS Extract
3 file (MMFE) when available from DHCS.

4 b. CONTRACTOR shall ensure the timely data entry of information into COUNTY
5 approved CONTRACTOR reporting system.

6 c. CONTRACTOR shall conduct up-front and retrospective auditing of data to ensure the
7 accuracy, completeness, and timeliness of the information input into CONTRACTOR's reporting
8 system. CONTRACTOR shall build in audit trails and reconciliation reports to ensure accuracy and
9 comprehensiveness of the input data. In addition, transaction audit trails shall be thoroughly monitored
10 for accuracy and conformance to operating procedures.

11 d. CONTRACTOR shall input all required data regarding services provided to
12 Beneficiaries who are deemed, by the appropriate state or federal authorities, to be COUNTY's
13 responsibility.

14 e. CONTRACTOR shall correct all input data resulting in CSI and 837 Medi-Cal claim
15 denials and rejections. These errors will be communicated to CONTRACTOR immediately upon
16 discovery and must be corrected in a timely manner.

17 f. CONTRACTOR shall ensure the confidentiality of all administrative and clinical data.
18 This shall include both the electronic system as well as printed public reports. No identifying
19 information or data on the system shall be exchanged with any external entity or other business, or
20 among providers without prior written approval of the Beneficiary or ADMINISTRATOR.
21 Confidentiality procedures shall meet all local, state, and federal requirements.

22 g. CONTRACTOR shall ensure that information will be safeguarded in the event of a
23 disaster and that appropriate service authorization and data collection continues.

24 E. CONTRACTOR shall respond to any requests that are needed with an immediate response time
25 due to any requests from entities that could include but not be limited to DHCS, internal and/or external
26 audits.

27 F. CONTRACTOR shall provide ADMINISTRATOR with a report key, established by
28 CONTRACTOR, as agreed upon by ADMINISTRATOR that describes each report, its purpose and
29 usefulness. CONTRACTOR shall update the report key when reports are added or deleted and provide
30 updated report key to ADMINISTRATOR within thirty (30) days.

31 G. CONTRACTOR shall upon ADMINISTRATORS request revise and make changes to all
32 reports as needed.

33 H. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to modify the
34 frequency of the reports. Each report shall include an unduplicated client count and a fiscal year-to-date
35 summary and, unless otherwise specified, shall be reported in aggregate.

36 I. ADDITIONAL REPORTS – Upon ADMINISTRATOR's request, CONTRACTOR shall make
37 such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as

1 they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information
2 requested and allow thirty (30) calendar days for CONTRACTOR to respond.

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

5
6 **VIII. SERVICES**

7 A. FACILITIES: CONTRACTOR shall maintain appropriate facility(ies) for the provision of
8 services described herein at the following location(s), or any other location approved, in advance, in
9 writing, by ADMINISTRATOR. The facility shall include space to support the services identified
10 within the Agreement.

11
12 5665 Plaza Drive, Suite 400
13 Cypress, California 90630
14

15 B. ADMINISTRATIVE STAFF SCHEDULE: CONTRACTOR shall provide administrative
16 coverage, Monday through Friday 8:00 a.m. – 5:00 p.m. PST.

17 C. PROVIDER NETWORK

18 1. DEVELOPMENT AND MANAGEMENT

19 a. CONTRACTOR shall maintain a Provider Network to provide Specialty Mental Health
20 Services at provider’s individual offices or facilities, based upon existing community needs, including,
21 but not limited to, addressing geographic accessibility and cultural competency, which shall include
22 service availability in threshold languages to include English, Spanish, Farsi, Korean, Arabic, and
23 Vietnamese. Additional languages required may be added should DHCS designate additional languages
24 as meeting the threshold for language requirements.

25 b. CONTRACTOR shall provide a range of Network Providers capable of delivering
26 services as set forth by this Agreement which may include but is not limited to: psychiatrists; licensed
27 psychologists; licensed psychiatric nurse practitioners, MFTs, and LCSW practitioners and other
28 providers as approved by ADMINISTRATOR.

29 c. CONTRACTOR shall identify and recruit those Network Providers who are serving a
30 specialty population (i.e., age, gender, or cultural specific), or who are in geographic location(s) that
31 would maximize Beneficiary access necessary for the success of the program. Such providers shall be
32 actively pursued to participate in the Provider Network, and their credentialing process shall be
33 expedited.

34 d. CONTRACTOR shall conduct provider credentialing specified in the Services
35 Paragraph of this Exhibit A to the Agreement. Individual, group and organizational providers must
36 meet the following criteria to be a CONTRACTOR Network Provider:

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1 1) Comply with all applicable Federal Medicaid (Medi-Cal) laws, regulations, and
2 guidelines, and all applicable state statutes and regulations;

3 2) Provide Specialty Mental Health Services, within scope of licensure, to all
4 Beneficiaries who are referred by CONTRACTOR. To assist in referrals, providers shall, as a part of
5 their application, indicate their specialties, which CONTRACTOR shall verify to the extent possible;

6 3) Appropriately refer Beneficiaries for other services when necessary;

7 4) Not refuse to provide services solely on the basis of age, sex, race, religion,
8 physical or mental disability, or national origin;

9 5) Maintain a safe facility;

10 6) If applicable, store and dispense medications according to state and federal
11 standards;

12 7) Maintain client records that meet state and federal standards; including but not
13 limited to individualized treatment plans separate case notes. These shall be developed with client and
14 signed by client.

15 8) Provide services at the rates established by CONTRACTOR, as agreed by
16 ADMINISTRATOR;

17 9) Demonstrate positive outcomes as defined by CONTRACTOR;

18 10) Address the needs of Beneficiaries based on factors including age, language,
19 culture, physical disability, psychiatric disability, and specified clinical interventions;

20 11) Meet QI, authorization, clinical, and administrative requirements of COUNTY and
21 CONTRACTOR;

22 12) Work with Beneficiaries, their families, and other providers in a collaborative and
23 supportive manner; and

24 13) Provide services in a managed care environment.

25 e. CONTRACTOR shall maintain a complete list of all Network Providers including
26 name, license number, provider number(s), number of open clients, NPI number, specialty or specialties,
27 language capabilities other than English, and geographic location and ethnicity. Any changes to the
28 Network Provider list shall be submitted to ADMINISTRATOR on a monthly basis or as requested.

29 2. PROVIDER SELECTION AND CREDENTIALING – CONTRACTOR shall comply with
30 Title 9, CCR, Section 1810.435 in the selection of providers and shall review its providers for continued
31 compliance with standards at least once every three years, except as otherwise provided in the
32 Agreement.

33 a. CONTRACTOR shall include in its written provider selection P&P, a copy of which
34 shall be provided to ADMINISTRATOR upon request, a provision that practitioners shall not be
35 excluded solely because of the practitioner’s type of license or certification.

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1 b. CONTRACTOR shall give practitioners, or groups of practitioners, who apply to be
2 MHP Network Providers, and with whom the MHP decides not to contract with, written notice for the
3 reason for a decision not to contract.

4 c. CONTRACTOR shall not discriminate against particular providers that serve high-risk
5 populations or specialize in conditions that require costly treatment.

6 3. NETWORK PROVIDER CREDENTIALING

7 a. CONTRACTOR shall be responsible for credentialing Network Providers in
8 accordance with State guidelines which include, but are not limited to, verifying the following
9 information. Unless otherwise specified, primary source verification of information shall be required.
10 Primary source verification means confirmation and evidence from the issuing source or designated
11 monitoring entity of the requested information.

12 1) A current valid license to practice as an independent mental health practitioner;

13 2) A valid DEA certificate for physicians (primary source not required);

14 3) Graduation from an accredited professional school and/or highest training program
15 applicable to the academic degree, discipline, and licensure of the mental health practitioner which is
16 verified through license verification;

17 4) Board certification if the practitioner states that he/she is board certified on the
18 application;

19 5) Work history (primary source not required);

20 6) Current, adequate malpractice insurance in accordance with the Indemnification
21 and Insurance Paragraph of the Agreement;

22 7) History of professional liability claims; and

23 8) Information from recognized monitoring organizations regarding the applicant's
24 sanctions or limitations of licensure from:

25 a) State Board of Licensure or Certification and/or the National Practitioner Data
26 Bank;

27 b) State Board of Medical Examiners, the Federation of State Medical Boards, or
28 appropriate agency; and

29 c) OIG.

30 b. CONTRACTOR shall make every effort to ensure that the credentialing process does
31 not exceed one hundred eighty (180) calendar days for any provider applying to become a Network
32 Provider as evidenced by CONTRACTOR's receipt of a completed application, with the expectation
33 that the average time for credentialing shall not exceed one hundred twenty (120) calendar days.

34 c. CONTRACTOR shall provide to COUNTY the names of providers denied
35 participation in CONTRACTOR's Provider Network upon request.

36 4. OUT-OF-COUNTY PROVIDERS

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1 a. CONTRACTOR may accept claims for services provided to a COUNTY Beneficiary
2 by any out-of-county provider that has met the foundation criteria for the county in which services are
3 provided.

4 b. CONTRACTOR shall provide names of its credentialed providers to other counties
5 upon request.

6 5. RE-CREDENTIALING

7 a. CONTRACTOR shall update, verify and review all pertinent provider credentialing
8 information and qualifications, and assess the provider’s performance over the previous three (3) years.

9 b. CONTRACTOR shall identify and evaluate any changes in the provider’s licensure,
10 clinical privileges, training, experience, current competence, or health status that may affect the
11 provider’s ability to perform the services he or she is providing to members.

12 c. In order to determine whether to re-approve the provider’s participation in
13 CONTRACTOR’s network, CONTRACTOR shall, in addition to updating credentialing information,
14 examine the provider’s clinical competence, examine QI, review patient complaints, and conduct site
15 visits when appropriate, in accordance with CONTRACTOR’s site audit policy, a copy of which shall
16 be provided to ADMINISTRATOR upon request.

17 d. CONTRACTOR shall provide to COUNTY the names of providers denied
18 participation in CONTRACTOR’s Provider Network and the reason for the denial upon request.

19 6. PROVIDER APPLICATION REVIEW PROCESS

20 a. All credentialing and re-credentialing applications shall be reviewed by
21 CONTRACTOR. Providers with identified adverse issues shall be asked to provide a written
22 explanation prior to CONTRACTOR review. In addition, CONTRACTOR shall maintain P&Ps for
23 altering the conditions of the practitioner’s participation in the network based on issues of the quality of
24 care and service that may arise after completing the credentialing process. Such P&Ps shall be provided
25 to ADMINISTRATOR, upon request. Decisions to alter or terminate a provider’s participation in the
26 network shall be made by CONTRACTOR. Providers with identified quality of care or service
27 concerns shall be presented to the Peer Review Committee established by CONTRACTOR. Providers
28 shall be advised in advance of the identified problems and shall be invited to respond in writing to the
29 issues to go before the Peer Review Committee. The provider’s response, along with any additional
30 documentation supplied by CONTRACTOR, shall be reviewed by the Peer Review Committee. The
31 Peer Review Committee may recommend that no action be taken, that the provider be issued a
32 Corrective Action Plan, or that the provider be terminated from the network.

33 b. CONTRACTOR provides for notice and a fair hearing to CONTRACTOR’s Network
34 Providers, as required under applicable state and federal law, or at the discretion of CONTRACTOR’s
35 Medical Director in any case in which action is proposed to be taken by CONTRACTOR to restrict,
36 suspend or terminate the Network Provider’s ability to provide health care services to CONTRACTOR
37 Beneficiaries for reasons relating to deficiencies in quality of care, professional competence, or

1 professional conduct which affects or could adversely affect the health, safety or welfare of any
2 Beneficiaries and/or is reasonably likely to be detrimental to the delivery of quality care. If
3 CONTRACTOR takes adverse action against a provider based on a quality of care issue,
4 CONTRACTOR shall report as required by state and federal agencies and as required by the NPDB.

5 c. ADMINISTRATOR shall be notified of any providers required to submit a Corrective
6 Action Plan, or terminated as the result of a quality of care issue within fourteen (14) calendar days of
7 such action. The quality of care issue shall also be summarized and included with the notification.

8 7. PROVIDER TRAINING

9 a. CONTRACTOR, in consultation with ADMINISTRATOR shall train individual
10 Network Providers to the model and delivery of Specialty Mental Health Services requested by
11 COUNTY. Documentation, appropriate referral resource, and service linkage protocols shall be
12 emphasized.

13 b. All Network Providers shall have access to a Provider Manual, developed by
14 CONTRACTOR, at the commencement of their contract with CONTRACTOR. The Provider Manual
15 shall be provided to ADMINISTRATOR, upon request.

16 c. CONTRACTOR shall publish provider newsletters, which shall serve to update
17 providers on operational and clinical requirements, and provide clarification on contractual issues. A
18 copy of such newsletters shall be sent to ADMINISTRATOR.

19 d. CONTRACTOR shall conduct and/or sponsor in-service training for all of its Network
20 Providers and any non-network providers as requested by ADMINISTRATOR. These trainings shall
21 address both operational and clinical standards. For the purpose of coordinating trainings,
22 CONTRACTOR shall provide a list of its scheduled trainings to ADMINISTRATOR.

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

30 a. CONTRACTOR shall recruit and retain culturally competent staff reflective of the
31 populations receiving services including bilingual/bicultural professional staff. These staff shall have
32 passed a proficiency exam that was approved by ADMINISTRATOR. CONTRACTOR shall utilize a
33 language translation or interpreter or other service acceptable to ADMINISTRATOR.

34 b. CONTRACTOR shall actively solicit providers for its network to ensure that
35 Beneficiary requests to use culture-specific providers are met. CONTRACTOR is not required to solicit
36 only Medi-Cal providers for its network. Regular analysis of the Provider Network, including reports of
37 Beneficiary satisfaction, shall be conducted in order to identify any network needs that might arise. In

1 cases where a Beneficiary's request for a culture-specific provider cannot be met, CONTRACTOR shall
 2 conduct an immediate provider search to meet the Beneficiary's need and shall begin an expedited
 3 credentialing process in order to add the identified provider to the network. Qualified interpreters shall
 4 not be intended to replace bilingual professionals, but may be utilized only when no alternative is
 5 immediately available. A qualified interpreter shall be defined as a person not trained in mental health
 6 services that have completed an appropriate course which covers terms and concepts associated with
 7 mental illness, psychotropic medications, and cultural beliefs and practices which may influence the
 8 client's mental health.

9 **D. CLAIMS PROCESSING AND ADJUDICATION – NETWORK PROVIDERS**

10 1. CONTRACTOR shall maintain a rules-based and date-sensitive claims system to meet the
 11 needs of all standard Medi-Cal beneficiary claims.

12 2. CONTRACTOR shall establish a claims adjudication process which will accept either
 13 paper or electronic claims including, but not limited to, verification that if the Beneficiary has a Share of
 14 Cost that the Share of Cost has been met.

15 3. CONTRACTOR shall maintain timelines in the claims process as follows:

16 a. Claims for services shall be requested to be submitted to CONTRACTOR by the
 17 Network Providers within thirty (30) days of the date of services but in no case shall CONTRACTOR
 18 process any claim that is initially submitted more than ninety (90) days from the date of service, except
 19 as required otherwise by law, rules, or regulation as described in the Licenses and Laws Paragraph of
 20 this Agreement.

21 b. CONTRACTOR shall maintain a thirty (30) calendar day or less turnaround on clean
 22 claims. Clean claims shall be those that require no additional information (such as provider
 23 identification, diagnosis and/or CPT codes) and which can be processed completely upon initial entry.

24 c. When pending a claim for missing data, the Network Provider shall receive notification
 25 from CONTRACTOR within fourteen (14) calendar days from the date of receipt. This notification
 26 shall include what is needed to continue processing the claim.

27 d. CONTRACTOR shall request that the information be returned within fourteen (14)
 28 calendar days.

29 4. CONTRACTOR shall:

30 a. Provide adequately trained claims processing and clerical staff, and suitable equipment.

31 b. Review each completed claim to determine that the services rendered are within the
 32 Medi-Cal scope of service, and that applicable prior approvals have been obtained.

33 c. Share of Cost – CONTRACTOR shall require that all Network Providers attempt to
 34 collect the Share of Cost from beneficiaries and that reimbursement of claims shall be reduced by the
 35 beneficiaries' Share of Cost.

36 d. CONTRACTOR shall have access to the Medi-Cal Eligibility Website and MEDS to
 37 determine client eligibility and any Share of Cost remaining for the date of service.

1 e. CONTRACTOR shall have access to the weekly inpatient and monthly IMD list as
2 they relate to paying inpatient and IMD claims. These lists will be provided by ADMINISTRATOR.

3 f. CONTRACTOR shall ensure that the Network Providers notify the Beneficiary of
4 his/her Share of Cost obligation. The Beneficiary shall be made to understand that when the Share of
5 Cost obligation is met, Medi-Cal will cover the remainder of the unit cost.

6 g. For Beneficiaries with a Share of Cost who have the ability to meet their Share of Cost
7 obligation, CONTRACTOR shall maintain authorization procedures that include ongoing review of a
8 Beneficiary's Share of Cost status. CONTRACTOR will make all reasonable efforts to ensure that all
9 authorized services are eligible for Medi-Cal reimbursement.

10 h. CONTRACTOR shall ensure that a Beneficiary with a Share of Cost was eligible for
11 Medi-Cal on the date of service during the adjudication process of the Network Provider's claim.

12 i. The spend-down of Share of Cost is the amount remaining for the month of the date of
13 service, or the amount of the service, whichever is less.

14 j. CONTRACTOR shall maintain procedures regarding the referral of Beneficiaries who:
15 1.) Are unable to pay their Share of Cost and for whom the denial of mental health
16 services based on inability to pay Share of Cost would result in a significant functional impairment, or
17 2.) CONTRACTOR is unable to determine if they have met their Share of Cost for
18 other Medi-Cal services received and for whom the denial of Mental Health Services based on inability
19 to pay Share of Cost would result in a significant functional impairment.

20 k. The Network Provider shall send in a claim form, reflecting the gross amount, Share of
21 Cost amount (if applicable) and the balance due after the Share of Cost has been met.

22 l. If the Network Provider's claim is sent with a balance due, CONTRACTOR shall
23 verify Share of Cost remaining to avoid double payment, as well as verify if payment is correct due to
24 Share of Cost reporting lag.

25 5. Other Health Coverage – CONTRACTOR shall direct Beneficiaries with Other Health
26 Coverage that includes behavioral health coverage to seek services through Network Providers who take
27 the Other Health Coverage in which they are enrolled.

28 a. CONTRACTOR shall direct Beneficiaries who obtain Other Health Coverage that
29 includes behavioral health coverage, and who have been receiving services by an ASO Network
30 Provider to seek services as soon as possible through other Providers who take Other Health Coverage
31 in which they have become enrolled.

32 b. CONTRACTOR shall direct Beneficiaries with Other Health Coverage that does not
33 include behavioral health coverage to seek services through COUNTY for a level of care assessment
34 and further treatment if medically necessary.

35 c. CONTRACTOR shall direct Beneficiaries who obtain Other Health Coverage that does
36 not include behavioral health coverage after they have been seeing an ASO Network Provider to seek
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1 services as soon as possible through COUNTY for a level of care assessment and further treatment if
2 medically necessary.

3 d. This is subject to change if the DHCS rules change regarding accepting claims for
4 Other Health Coverage that does not include behavioral health coverage.

5 e. CONTRACTOR shall direct inpatient providers who submit claims for Beneficiaries
6 with Medicare to bill fee-for-service Medi-Cal directly as described in the Medi-Cal manual.

7 f. CONTRACTOR shall direct inpatient providers who submit claims for Beneficiaries
8 with Other Health Coverage other than Medicare to also send proof of denial or partial payment with the
9 CMS1500 to CONTRACTOR who will pay remainder up to what would have been paid if only Medi-
10 Cal eligible.

11 6. Payment/Claim Resolution

12 a. CONTRACTOR shall facilitate the resolution of problems concerning payment and any
13 billing documentation (if necessary) with Network Providers.

14 b. In the event a payment dispute arises between CONTRACTOR and a Network
15 Provider, CONTRACTOR shall make every attempt to resolve such disputes up to and including the use
16 of a formal provider appeal process. All CONTRACTOR actions shall be undertaken while keeping the
17 rights of the Beneficiary the foremost priority.

18 c. If a Network Provider disputes the denial of a submitted claim or the amount of
19 payment, he/she may contact CONTRACTOR's Claims Department. The Claims Department shall be
20 able to review the adjudication process with the Network Provider and give a more detailed explanation
21 of a denied encounter unit or a reduced payment. If, in the course of such contact, CONTRACTOR is
22 able to determine that an error was made on the part of CONTRACTOR, a re-adjudication of the claim
23 shall be made so that the proper payment amount may be remitted.

24 d. If, for any reason, CONTRACTOR is unable to resolve the problem to the full
25 satisfaction of the Network Provider, CONTRACTOR shall offer to facilitate the formal Provider
26 Appeal Process. CONTRACTOR's appeal process shall include review by CONTRACTOR's Director
27 of Clinical Services or designee, CONTRACTOR's Medical Director or designee, and
28 CONTRACTOR's Utilization Management Committee. If, after the third level appeal, the provider still
29 is not satisfied, he/she will be referred to COUNTY or State Medi-Cal appeals process.

30 e. All appeals processes shall be communicated to Network Providers via the distribution
31 of CONTRACTOR's provider manual at the time of contracting.

32 f. CONTRACTOR shall be responsible to all Network Providers for funds paid, in any
33 form, for non-reimbursable services, for services to persons who are not Medi-Cal beneficiaries, or for
34 payment to any provider or other entity not entitled to such payment. CONTRACTOR shall reimburse
35 the ASO Account for any such payments. CONTRACTOR may pursue reimbursement from affected
36 providers, as appropriate.

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1 E. MEDI-CAL CLAIMS PROCESSING AND REVIEW - CONTRACTOR shall provide
2 COUNTY, at a minimum, a monthly Medi-Cal 837 claiming file:

3 1. With the exception of claims for IMD, this file shall contain a matching Medi-Cal claim for
4 each Medi-Cal claim that was adjudicated by the CONTRACTOR to the Network Provider.

5 2. CONTRACTOR shall also:

6 a. Ensure that all billing activity is maintained, controlled and exchanged as necessary in
7 compliance with all current Federal requirements, as well as State regulatory requirements as set forth
8 by DHCS;

9 b. Ensure that billing staff has a thorough knowledge and understanding of SDMC billing
10 on an ongoing basis. It is the responsibility of the CONTRACTOR to maintain this knowledge and train
11 staff when changes in staffing and/or regulations occur. ADMINISTRATOR is available to be a
12 consultant on fine points or details; but will not train CONTRACTORS new staff.

13 c. Ensure compliance on an ongoing basis with emerging and future Federal and State
14 regulatory requirements within established deadlines;

15 d. Work cooperatively with ADMINISTRATOR during any system/application changes
16 or enhancements to ensure continuity of compliant operations;

17 e. Ensure Federal HIPAA compliance;

18 f. Have ability to compile and electronically transmit Medi-Cal 837 claim files to
19 ADMINISTRATOR for submission to and adjudication by the State of California;

20 g. Have ability to receive electronic transmissions of Medi-Cal 835 adjudicated claims
21 files back from ADMINISTRATOR, if necessary, as received by the State of California;

22 h. Resolve any issues with errors in claim submissions within the established timeframes,
23 and perform re-submissions as necessary;

24 i. CONTRACTOR shall review all claims to see that they are billed within the 12 months
25 from DOS requirement. Any stale dated claims (those over 12 months) will be the responsibility of the
26 CONTRACTOR and not billed to the ADMINISTRATOR. Any stale dated claims that may have been
27 previously reported to and paid by the ADMINISTRATOR will be reimbursed to the
28 ADMINISTRATOR as indicated below; in the Services Paragraph of this Exhibit A to the Agreement.

29 j. CONTRACTOR shall report all stale dated costs to the ADMINISTRATOR. These
30 costs will be reported on the monthly Expenditure and Revenue Report; as requested by the
31 ADMINISTRATOR.

32 k. Conduct reviews and audits to see that claims submissions by Network Providers and
33 payments for approved claims are accurate. If the review/audit reveals that money is payable from one
34 party to the other, that is, reimbursement by CONTRACTOR to COUNTY, or payment of sums due
35 from COUNTY to CONTRACTOR, said funds shall be due and payable from one party to the other
36 within sixty (60) calendar days of receipt of the review/audit results.

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1) If claims to be reimbursed are within the current fiscal period; they will be settled through the monthly Expense and Revenue Report and payment process.

2) If claims to be reimbursed are not within the current fiscal period the CONTRACTOR will reimburse COUNTY.

3) If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

3. CONTRACTOR shall establish an ongoing primary technical contact or project manager with whom issues can be discussed and resolved.

4. 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.

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

- a. Designate the responsible position(s) in your organization for managing the funds allocated to this program;
- b. Maximize the use of the allocated funds;
- c. Ensure timely and accurate reporting of monthly expenditures;
- d. Maintain appropriate staffing levels;
- e. Request budget and/or staffing modifications to the Agreement;
- f. Effectively communicate and monitor the program for its success;
- g. Track and report expenditures electronically;
- h. Maintain electronic and telephone communication between key staff and the Contract and Program Administrators; and
- i. Act quickly to identify and solve problems.

F. ACCESS LINE

1. CONTRACTOR shall staff and operate a twenty-four (24) hour-seven (7) days a week toll free Access Line which is a primary portal of entry for providers and Orange County Medi-Cal Beneficiaries and their families. This line may not be a taped recording, and must have a live operator at all times.

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1 2. CONTRACTOR shall utilize a script developed by ADMINISTRATOR for answering
2 Access Line requests for services.

3 3. CONTRACTOR’s Access Line clinicians shall speak the languages of most of the
4 enrollees. For enrollees who may require language translation, CONTRACTOR shall utilize a language
5 interpreter service or other service acceptable to ADMINISTRATOR. The California Relay Service
6 may be used for hearing-impaired members.

7 G. MENTAL HEALTH SERVICES

8 1. SCREENING

9 a. CONTRACTOR shall provide the Beneficiary with a very brief screening to first
10 determine if the Beneficiary is seeking mental health services followed by verification of Medi-Cal
11 eligibility.

12 b. If the caller is not verified to be a Medi-Cal beneficiary, CONTRACTOR shall
13 complete brief screening and refer the individual to the local COUNTY Medi-Cal Office for potential
14 enrollment and provide community resources for treatment.

15 c. At no time, shall a caller be offered a call back to conduct screening and complete
16 linkage to services unless stated in Telephone Access Log as a caller’s request.

17 d. CONTRACTOR shall screen Beneficiaries who are requesting services not provided by
18 CONTRACTOR and identify and provide resources.

19 2. CASE MANAGEMENT SERVICES - Whenever clinically necessary, CONTRACTOR’s
20 case managers shall assist and support beneficiaries as part of care coordination services. Clinicians will
21 link beneficiaries with complex or co-morbid conditions to appropriate care, focus on the integration of
22 mental health and primary care, and help beneficiaries connect to their PCPs or collaborate with their
23 health plan to assure timely services are received.

24 3. TIMELY ACCESS TO SERVICES – When a call is received through the Access Line,
25 CONTRACTOR shall determine and document in Access Log if the request for services is emergent,
26 urgent, or routine.

27 a. If the caller’s needs are indicated as requiring emergent or urgent care,
28 CONTRACTOR shall make a referral to COUNTY’s CAT or COUNTY Mental Health Outpatient
29 Clinic without delay to prevent further decompensation or compromise of the member’s condition.
30 CONTRACTOR shall at no time refer callers to inpatient care and must follow COUNTY criteria for
31 inpatient assessment.

32 1) Emergent services shall be indicated when the Beneficiary has a psychiatric
33 condition that meets COUNTY’s criteria for acute psychiatric hospitalization and cannot be treated at a
34 lower level of care. These criteria include the Beneficiary being a danger to himself/herself or others or
35 an immediate inability of the Beneficiary to provide for, or utilize food, shelter or clothing as a result of
36 a mental disorder. These calls must be linked within two (2) hours.

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1 2) Urgent services shall be indicated when a situation experienced by a Beneficiary
2 that, without timely intervention, is highly likely to result in an immediate emergency psychiatric
3 condition. Beneficiaries in need of urgent services shall receive timely mental health intervention that
4 shall be appropriate to the severity of the condition. Linkage for these services must be within twenty-
5 four (24) hours.

6 3) CONTRACTOR must obtain confirmation that any caller assessed as requiring
7 emergent or urgent care has been appropriately connected to COUNTY or police. If the Beneficiary did
8 not show up to the appointed session/evaluation, CONTRACTOR shall contact the Beneficiary to
9 further facilitate services.

10 4) Appointment standards regarding emergent and urgent care shall be communicated
11 to Network Providers as part of the Network Provider handbook and shall be incorporated in their
12 Network Provider contractual agreement with CONTRACTOR.

13 b. If the caller's needs are indicated as requiring routine care, CONTRACTOR shall make
14 a referral to a Network Provider for an appointment to be offered within fourteen (14) calendar days of
15 the referral. Routine services shall be indicated when a Beneficiary's mental health needs are not
16 urgent, but for whom mental health services of some type can improve functioning and/or reduce
17 symptoms, or for whom mental health services are necessary to maintain his or her highest level of
18 functioning.

19 c. CONTRACTOR's Access Line clinicians shall be available to briefly screen and triage
20 all of the Beneficiary's mental health needs. All of CONTRACTOR's Access Line clinicians providing
21 brief screening services shall be licensed by the State of California, Board of Behavioral Sciences.
22 Access Line clinicians shall be trained to identify signs of distress in callers.

23 d. Beneficiaries requesting mental health services shall not be denied services solely
24 based upon a telephone clinical screening. Should it not be possible to determine a Beneficiary's needs,
25 during the brief telephone clinical screening, CONTRACTOR shall take further steps to ensure
26 beneficiaries are referred to the most appropriate level of care by referring the Beneficiary for a face-to-
27 face assessment by an approved Network Provider.

28 1) A referral for a face-to-face assessment shall be culturally appropriate.

29 2) During the face-to-face assessment, psychological testing may be used to assist in
30 the diagnostic evaluation process in cases where the clinical assessment alone is insufficient to
31 determine appropriate diagnosis and treatment needs.

32 a) CONTRACTOR shall require that testing be provided only by licensed clinical
33 psychologists.

34 b) Network Providers requesting psychological testing related to treatment
35 decisions must submit a request, to CONTRACTOR, which shall be reviewed by CONTRACTOR.

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1 e. Access Line clinicians shall be evaluated at least once annually by CONTRACTOR to
2 ensure consistency and appropriateness of referrals. CONTRACTOR shall make findings available to
3 ADMINISTRATOR.

4 1) CONTRACTOR’s Access Line clinicians shall be periodically evaluated by
5 CONTRACTOR through routine audits and formal reliability studies to ensure consistency in decisions
6 related to medical necessity and clinical impressions.

7 2) A randomly selected sample of member files shall be audited by CONTRACTOR
8 at least quarterly to evaluate Access Line clinician decision compliance with decision-making criteria.

9 4. SCREENING and ASSESSMENT CATEGORIES – As a result of the telephone clinical
10 brief screening, or face-to-face assessment, as appropriate, CONTRACTOR’s Access Line clinicians
11 shall refer the Beneficiary for further assessment and treatment according to the following guidelines.

12 a. Severe/Complex Need for Services - Beneficiaries screened or assessed to have a
13 severe or complex need for Mental Health Services if they meet the state standards for medical necessity
14 for treatment and COUNTY’s admission criteria. These Beneficiaries shall be referred to COUNTY for
15 further assessment and care coordination. CONTRACTOR shall ensure a timely and successful referral
16 for these Beneficiaries.

17 b. Medication Management Need for Services

18 1) These Beneficiaries shall meet medical necessity criteria for treatment or meet
19 COUNTY admission criteria. These Beneficiaries will either be able to attend scheduled outpatient
20 office appointments, or be in a facility such as a Board and Care. Beneficiaries in a SNF or
21 Medical/Surgical hospital or in some cases in an ER shall be eligible for psychiatric
22 consultation/treatment. Authorization and process shall be determined with ADMINISTRATOR.

23 2) Beneficiaries referred from COUNTY, no additional screening or assessment shall
24 be required by CONTRACTOR.

25 3) Annual or semi-annual re-authorization through CONTRACTOR shall be required
26 of Network Providers to continue these services for beneficiaries.

27 4) CONTRACTOR shall collaborate with physical health care providers to ensure the
28 most appropriate level of medication management is provided.

29 c. Episodic Need for Services - Beneficiaries referred to CONTRACTOR’s Network of
30 Providers for services shall receive up to a total of six (6) treatment hours to include assessment. The
31 parties agree that, due to the episodic nature of illness experienced by the Specialty Mental Health
32 population, it is expected that many Beneficiaries’ needs shall be met by these six (6) initial hours
33 authorized. Additional hours of service will require authorization by CONTRACTOR through an
34 automated reauthorization process.

35 d. Out of COUNTY Services - CONTRACTOR shall be responsible for processing and
36 paying claims for services provided to COUNTY Beneficiaries who meet medical necessity for
37 treatment and may require services while out of COUNTY as a result of urgent need or placement by

1 COUNTY care coordinators and/or Social Services staff.

2 1) CONTRACTOR shall comply in good faith with all Medi-Cal rules and regulations
3 applicable to the provision of Specialty Mental Health Services for Medi-Cal beneficiaries who are
4 minors and who reside out-of-home and out of COUNTY.

5 2) COUNTY will cooperate with the CONTRACTOR in connection with providing
6 authorization for services to Beneficiaries who are deemed by the appropriate state or federal authorities
7 to be COUNTY’s Medi-Cal responsibility. COUNTY may retain responsibility for providing services
8 for any minor placed out of COUNTY at COUNTY’s discretion, after notification to CONTRACTOR,
9 at any point in the treatment.

10 e. Other Need for Services – Beneficiaries shall be referred to their MCP or PCP for
11 treatment, if beneficiary’s face-to-face assessment determines that the mental health need would be
12 responsive to physical health care based treatment. Mental disorders that result from a general medical
13 condition shall be excluded from the medical necessity criteria for treatment, provided a NOA-A, if
14 applicable and, beyond assessment, are not the responsibility of COUNTY or CONTRACTOR.

15 f. Excluded Diagnosis – A Beneficiary’s face-to-face assessment determines that the
16 Beneficiary has an excluded diagnosis and therefore does not meet medical necessity criteria for
17 receiving treatment from either COUNTY or CONTRACTOR, and a NOA-A shall be provided, if
18 applicable.

19 1) CONTRACTOR may have Network Providers who are capable of treating these
20 Beneficiaries and can bill the State for these excluded diagnoses under the remaining FFS system.
21 CONTRACTOR shall identify such providers within CONTRACTOR’s network and shall make the
22 appropriate referral in a timely manner.

23 2) CONTRACTOR may also refer these Beneficiaries to those community clinics not
24 under contract with COUNTY to provide mental health services for these Beneficiaries.

25 5. AUTHORIZATION OF SERVICES

26 a. Inpatient and IMD Attending – These Beneficiaries shall meet medical necessity for
27 treatment and COUNTY admission criteria; therefore, no additional screening shall be required by
28 CONTRACTOR. CONTRACTOR shall be responsible for reimbursing attending psychiatrists. Claims
29 for services for these Beneficiaries will be processed in accordance with the following:

30 1) Acute Psychiatric Hospitals and IMDs – Attending psychiatrists shall be
31 reimbursed by FFS rates set by COUNTY.

32 2) CONTRACTOR must ensure that it does not reimburse for more than one (1)
33 professional service per day without prior authorization.

34 b. Out of COUNTY Treatment Authorization

35 1) CONTRACTOR may accept claims for authorized outpatient Specialty Mental
36 Health Services by any out of COUNTY provider that has completed a single case agreement with
37 CONTRACTOR.

1 2) CONTRACTOR shall monitor claims payments to non-contracted out of
2 COUNTY providers for outpatient Specialty Mental Health Services billed to CONTRACTOR. Any
3 out of COUNTY provider meeting this criterion will be advised in writing by CONTRACTOR that the
4 cumulative claims exceeding \$1,000 will be denied unless provider becomes a Network Provider in the
5 CONTRACTOR's network. CONTRACTOR will also advise Network Providers that they must obtain
6 authorization from CONTRACTOR for ongoing services. These services will be authorized following
7 the in-county benefit guidelines.

8 3) Children and adolescent beneficiaries shall be allowed up to fifteen (15) visits for
9 medication management; one (1) assessment visit, one (1) hour in duration; and fourteen (14) follow-up
10 visits, fifteen (15) minutes in duration.

11 4) Contractor shall authorize up to twenty-six (26) therapy visits over a six (6) month
12 period. The type of therapy; Individual, Group, or Family therapy; shall be at the discretion of the
13 Network Provider.

14 c. PAR - If a Network Provider determines that the Beneficiary requires more hours of
15 treatment than initially allowed in Services Paragraph of this Exhibit A to the Agreement, a PAR shall
16 be submitted to CONTRACTOR for review and authorization of subsequent hours.

17 1) The PAR shall include, at a minimum, a statement of presenting problems
18 including diagnosis, justification for extended services, a brief treatment plan including the number of
19 additional requested services to resolve the problem, treatment goals, as well as information relevant to
20 the specific diagnosis, mental status, symptomatology, functional impairment, and a description of
21 linkages to other community resources and support groups.

22 2) The information provided from the PAR shall be reviewed by the Access Line
23 clinicians and if the Beneficiary's need can be met with an additional authorization, up to an additional
24 three (3) hours may be authorized. If, however, the Access Line clinician determines the Beneficiary
25 may require COUNTY level of care and may be better served by COUNTY, the Beneficiary may be
26 referred and linked to COUNTY for further assessment. If COUNTY assessment determines COUNTY
27 level of care is not appropriate, COUNTY reserves the right to refer back to CONTRACTOR for
28 services

29 3) With approval from ADMINISTRATOR, the PAR process can be modified and/or
30 replaced by other similar systems that authorize more hours of treatment than initially allowed to a
31 Beneficiary provided that justification includes utilizing the minimum criteria detailed in the Services
32 Paragraph of this Exhibit A to the Agreement.

33 4) Access Line clinicians shall utilize Medical Necessity criteria and as needed,
34 consultations with designated COUNTY staff to guide the screening for medical necessity and
35 appropriateness of mental health services.

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d. Outpatient Psychiatric Medication and Adult Psychotherapy Services

1) New authorizations for Beneficiaries shall be allowed up to six (6) visits for the initial six (6) months. Additional hours of service will require re-authorization by CONTRACTOR.

2) Subsequent authorizations for ongoing services shall be allowed up to twelve (12) visits for the subsequent twelve (12) months. CONTRACTOR shall develop appropriate service utilization criteria.

6. COORDINATION WITH PHYSICAL HEALTH CARE – CONTRACTOR shall address the following issues in coordinating mental health and physical health care services with the PCPs:

a. Timely coordination and referral.

b. Timely exchange of information.

c. Education of both Beneficiaries and Network Providers regarding system coordination.

d. Coordination of medications and laboratory services as they relate to the mental health and physical needs of the Beneficiary.

1) A part of CONTRACTOR’s PAR process shall include collecting and evaluating the Beneficiary’s medication regimen. All medication monitoring forms shall be made available to the PCP’s upon request.

2) If CONTRACTOR’s Access Line clinicians discover potential coordination of medication concerns between the treating psychiatrist and the PCP, telephone calls shall be placed to both providers to ensure appropriate coordination of care.

e. Defining responsibility/roles of case management/care coordination services.

1) Whenever clinically necessary, CONTRACTOR’s clinicians shall work with the local managed care plan(s) case management departments and membership liaison staff to coordinate necessary services.

2) CONTRACTOR shall also have access to IRIS to assist in identifying which Beneficiaries are accessing the traditional Short-Doyle delivery system and shall coordinate client care with COUNTY mental health staff at corresponding program(s) where client is receiving services.

3) Specialty Network Provider consultation shall be provided to the Beneficiary’s PCP. Upon appropriate Beneficiary consent, Network Providers shall coordinate with the PCP regarding a patient concern. With proper Beneficiary consent, CONTRACTOR shall release the information from the Network Provider to the PCP to facilitate care coordination.

4) CONTRACTOR shall require its Network Providers to follow community standards of good clinical practice, provide informed consent and clarification to Beneficiaries about treatments that may impact their service delivery, and to update the PCP regarding the progress of the treatment.

7. DENIALS, REDUCTIONS, OR TERMINATION OF MENTAL HEALTH SERVICES

a. All reductions in benefits and/or denials of treatment authorization shall be reviewed by CONTRACTOR.

1 b. In the event that CONTRACTOR reduces benefits or denies further treatment entirely,
2 both the Network Provider and Beneficiary shall be notified by CONTRACTOR in writing by sending a
3 NOA form.

4 1) If services are denied, CONTRACTOR shall send an NOA-A form.

5 2) If services, as requested by the Network Provider, are terminated, reduced, or
6 changed and authorized by CONTRACTOR, CONTRACTOR shall send a NOA-B form.

7 3) Quarterly, CONTRACTOR shall submit, to COUNTY, a report listing all NOA's
8 issued by type.

9 4) CONTRACTOR shall provide detailed information substantiating the issuance of a
10 NOA, upon request of ADMINISTRATOR.

11 c. COUNTY shall supply CONTRACTOR with NOA forms. All NOA forms include
12 instructions regarding second opinion and appeals processes.

13 1) A Beneficiary may request a second opinion. CONTRACTOR is responsible for
14 second opinions for NOAs issued by CONTRACTOR.

15 2) A Network Provider or Beneficiary may request an expedited appeal review in the
16 event that treatment is ongoing.

17 3) The expedited appeal process shall include a first level review of the case by the
18 CONTRACTOR's Medical Director (or other physician designee) within twenty-four (24) hours of
19 receipt of the oral or written appeal from the provider. If the Network Provider is still unsatisfied,
20 he/she shall be referred to COUNTY or may pursue the State Medi-Cal Fair Hearing process.

21 4) Should the CONTRACTOR fail to respond to the appeal or expedited appeal
22 within the mandated timelines, the CONTRACTOR shall send the Beneficiary a NOA-D form.

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

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IX. STAFFING

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

ADMINISTRATION	<u>FTEs</u>
HR Representative	0.040
Project Manager	0.100
Accounting Manager	0.020
Tech. Ops	0.180
Application Developer	0.130
EDI Specialist	0.030
Data Base Developer/Analyst	<u>0.004</u>
SUBTOTAL ADMINISTRATION	0.504
PROGRAM	
Program Director	1.000
Clinical Manager	1.000
Clinical Lead	1.000
Utilization Review Clinician	4.000
Membership Service Representative/Care Coordinator I	5.000
Medical Director	0.260
ASO Network Manager	1.000
Claims Appeal Manager	0.150
Claims Data Specialist (Pooled Staff)	1.000
Credentialing Specialist (Pooled Staff)	0.300
Quality Improvement Coordinator	0.530
Care Coordinator II	2.000
After Hours Clinician (Pooled Staff)	0.250
Data Base Developer	0.250
Sr. Accountant	0.200
Data Base Administrator	<u>0.500</u>
SUBTOTAL PROGRAM	18.440
TOTAL FTEs	18.944

B. CONTRACTOR shall provide sufficient administrative and program staffing to ensure its delivery of all services specified in this Exhibit A to the Agreement.

1 C. CONTRACTOR agrees Access Line team shall be located in Orange County, California and
2 shall be available to COUNTY Monday through Friday, from 8:00 a.m. through 6:00 p.m. Pacific Time.
3 CONTRACTOR shall staff an after-hours Access Line team, which shall be available from 6:00 p.m.
4 through 8:00 a.m. Pacific Time.

5 D. CONTRACTOR shall ensure the recruitment and retention of bilingual, culturally competent
6 staff to meet the diverse needs of the community threshold languages as determined by COUNTY.
7 CONTRACTOR shall also ensure recruitment and retention of staff that have experience in working
8 with diverse populations with specialty needs, including but not limited to, children/adolescents and
9 older adults. Any staffing vacancies occurring at a time when bilingual and bicultural composition of
10 the staffing does not meet the above requirement must be filled with bilingual and bicultural staff unless
11 ADMINISTRATOR consents, in writing, to the filling of those positions with non-bilingual staff.
12 Salary savings resulting from such vacant positions may not be used to cover costs other than salaries
13 and employee benefits unless otherwise authorized in writing, in advance, by ADMINISTRATOR.

14 E. CONTRACTOR shall use an Interpreter Service when a caller speaks a language not spoken by
15 staff, as well as the California Relay Service for hearing impaired members.

16 F. CONTRACTOR shall maintain personnel files for each staff member, both administrative and
17 programmatic, both direct and indirect, which shall include, but not be limited to, an application for
18 employment, qualifications for the position, documentation of bicultural/bilingual capabilities (if
19 applicable), valid licensure verification, if applicable, and pay rate and evaluations justifying pay
20 increases.

21 G. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of
22 any staffing vacancies that occur during the term of the Agreement. CONTRACTOR's notification
23 shall include at a minimum the following information: employee name(s), position title(s), date(s) of
24 resignation, date(s) of hire, and a description of recruitment activity.

25 H. CONTRACTOR shall notify ADMINISTRATOR, in writing, at least seven (7) days in
26 advance, of any new staffing changes; including promotions, temporary FTE changes and internal or
27 external temporary staffing assignment requests that occur during the term of the Agreement.

28 I. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of all
29 P&Ps. CONTRACTOR shall provide signature confirmation of the P&P training for each staff member
30 and place it in their personnel files.

31 J. CONTRACTOR shall ensure that all staff, albeit paid or unpaid, complete necessary training
32 prior to discharging duties associated with their titles and any other training necessary to assist the
33 CONTRACTOR and COUNTY to be in compliance with prevailing standards of practice as well as
34 State and Federal regulatory requirements.

35 K. CONTRACTOR shall provide ongoing supervision throughout all shifts to all staff, albeit paid
36 or unpaid, direct line staff or supervisors/directors, to enhance service quality and program
37 effectiveness. Supervision methods should include debriefings and consultation as needed, individual

1 supervision or one-on-one support, and team meetings. Supervision should be provided by a supervisor
2 who has extensive knowledge regarding mental health issues.

3 L. CONTRACTOR shall ensure that designated staff completes COUNTY’s Annual Provider
4 Training and Annual Compliance and Cultural Competency Training.

5 M. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of
6 Tokens for appropriate individual staff to access ADMINISTRATOR designated reporting system at no
7 cost to CONTRACTOR.

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

10 2. CONTRACTOR shall ensure information obtained by the use of a token be used for the
11 sole purpose of this contract and shall not be shared with any other lines of business without the
12 expressed or written consent of the Beneficiary.

13 3. CONTRACTOR shall request and return tokens pursuant to COUNTY Standard Operating
14 Procedure (SOP) for Processing Token Requests for Administrative Services Organization (ASO).

15 4. CONTRACTOR shall maintain an inventory of the Tokens, by serial number, date
16 issued/returned and the staff member to whom each is assigned.

17 5. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the
18 Token for any staff member assigned a Token.

19 6. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following
20 conditions:

- 21 a. Token of any staff member who no longer supports the Agreement;
- 22 b. Token of any staff member who no longer requires access to ADMINISTRATOR
23 designated reporting system;
- 24 c. Token of any staff member who leaves employment of CONTRACTOR; or
- 25 d. Token is malfunctioning; or
- 26 e. Termination of Agreement.

27 7. CONTRACTOR shall reimburse COUNTY for Tokens lost, stolen, or damaged through
28 acts of negligence.

29 N. NPI – CONTRACTOR, including each applicable employee that provides services under the
30 Agreement, shall obtain a valid, updated NPI upon execution of the Agreement or prior to providing
31 services under the Agreement. CONTRACTOR shall report to ADMINISTRATOR, on a form
32 approved or supplied by ADMINISTRATOR, all NPIs as soon as they are available.

33 O. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
34 Staffing Paragraph of this Exhibit A to the Agreement.

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1 EXHIBIT B
2 TO AGREEMENT FOR PROVISION OF
3 ADMINISTRATIVE SERVICES ORGANIZATION
4 FOR SPECIALTY MENTAL HEALTH OUTPATIENT SERVICES
5 BETWEEN
6 COUNTY OF ORANGE
7 AND
8 BEACON HEALTH STRATEGIES, LLC
9 JULY 1, 2017 THROUGH JUNE 30, 2020

10
11 **I. BUSINESS ASSOCIATE CONTRACT**

12 A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

34 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
35 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the
36 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
37 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 policies and procedures, to
6 manage the selection, development, implementation, and maintenance of security measures to protect
7 electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection
8 of that information.

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

11 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to
33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
34 and to make information related to such Disclosures available as would be required for COUNTY to
35 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45
36 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 in a
13 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) days written notice in the
36 event:

37 //

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

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

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

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

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

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

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

37 //

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

34 2. Technical Security Controls

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or
37 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 42 USC §
37 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 (30) days, provided termination of the Agreement is
20 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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1 EXHIBIT C
2 TO AGREEMENT FOR PROVISION OF
3 ADMINISTRATIVE SERVICES ORGANIZATION
4 FOR SPECIALTY MENTAL HEALTH OUTPATIENT SERVICES
5 BETWEEN
6 COUNTY OF ORANGE
7 AND
8 BEACON HEALTH STRATEGIES, LLC
9 JULY 1, 2017 THROUGH JUNE 30, 2020

10
11 **I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

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

14 A. DEFINITIONS

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

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

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

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

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

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

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

33 8. "PI" shall have the meaning given to such term in California Civil Code § 1798.3(a).

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

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

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

8 B. TERMS OF AGREEMENT

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

13 2. Responsibilities of CONTRACTOR

14 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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37 //