

AGREEMENT FOR PROVISION OF
SURVIVOR SUPPORT SERVICES

BETWEEN

COUNTY OF ORANGE

AND

DIDI HIRSCH PSYCHIATRIC SERVICE

DBA DIDI HIRSCH MENTAL HEALTH SERVICES

JULY 1, ~~2018~~2019 THROUGH JUNE 30, ~~2019~~2020

THIS AGREEMENT entered into this 1st day of July ~~2018~~2019, is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and DIDI HIRSCH PSYCHIATRIC SERVICE DBA DIDI HIRSCH MENTAL HEALTH SERVICES, a California nonprofit corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Agreement shall be administered by the County Director of ~~Orange~~the COUNTY’s Health Care Agency ~~(or an authorized designee~~ (“ADMINISTRATOR”).

W I T N E S S E T H :

—WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Survivor Support Services described herein to the residents of Orange County; and

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

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

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REFERENCED CONTRACT PROVISIONS

Term: July 1, ~~2018~~2019 through June 30, ~~2019~~2020

Maximum Obligation:

~~TOTAL MAXIMUM OBLIGATION: \$~~ \$343,693

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 08-376-9752

CONTRACTOR TAX ID Number: ~~95-1816023~~

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: Didi Hirsch Psychiatric Service
dba Didi Hirsch Mental Health Services
4760 S. Sepulveda Blvd.
Culver City, CA 90230
David Gaffield, Director of Revenue Management
dgaffield@didihirsch.org

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I. ACRONYMS

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

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

1	AH. FTE	Full Time Equivalent
2	AI. K. GAAP	General Generally Accepted Accounting Principles
3	L. AJ. HCA	County of Orange Health Care Agency
4	AK. M. HHS	Federal Health and Human Services Agency
5	AL. N. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
6		Law 104-191
7	AM. HITECH	Health Information Technology for Economic and Clinical Health
8		Act, Public Law 111-005
9	AN. HIV	Human Immunodeficiency Virus
10	AO. O. HSC	California Health and Safety Code
11	P. ISO Insurance	AP. IRIS Integrated Records and Information
12		System
13	AQ. ITC	Indigent Trauma Care
14	AR. LCSW	Licensed Clinical Social Worker
15	AS. MAT	Medication Assisted Treatment
16	AT. MFT	Marriage and Family Therapist
17	AU. MH	Mental Health
18	AV. MHP	Mental Health Plan
19	AW. MHS	Mental Health Specialist
20	AX. MHSA	Mental Health Services Act
21	AZ. MSN	Medical Safety Net
22	BA. NIH	National Institutes of Health
23	BB. NPI	National Provider Identifier
24	BC. NPPES	National Plan and Provider Enumeration System
25	BD. OCR	Federal Office for Civil Rights
26	BE. OIG	Federal Office
27	Q. MHSA Mental Health Services Act	
28	R. NPP Notice of Privacy Practices	
29	S. OIG Office of Inspector General	
30	BF. T. OMB	Federal Office of Management and Budget
31	BG. U. OPM	Federal Office of Personnel Management
32	BH. P&P	Policy and Procedure
33	BI. PA DSS	Payment Application Data Security Standard
34	BJ. PATH	Projects for Assistance in Transition from Homelessness
35	BK. V. PC	State of California Penal Code
36	BL. PCI DSS	Payment Card Industry Data Security Standards
37	BM. PCS	Post-Release Community Supervision

1	BN.	W. PEI	Prevention and Early Intervention
2	X.	PHI	Protected Health Information
3	BO.	Y.	PII Personally Identifiable Information
4	Z.	P&P	Policy and Procedure
5	AA.	BP.	PRA California Public Record Records Act
6	AB.	BQ.	PSC Professional Services Contract System
7	BR.	SAPTBG	Substance Abuse Prevention and Treatment Block Grant
8	BS.	SIR	Self-Insured Retention
9	BT.	SMA	Statewide Maximum Allowable (rate)
10	BU.	SOW	Scope of Work
11	BV.	SUD	Substance Use Disorder
12	BW.	UMDAP	Uniform Method of Determining Ability to Pay
13	BX.	UOS	Units of Service
14	BY.	AC.	SFTS Safe from the Start
15	AD.	TOT	Train the Trainer
16	AE.	USC	United States Code
17	AF.	VPE	Violence Prevention Education
18	AG.	BZ.	WIC State of California Welfare <u>Women, Infants</u> and <u>Institutions</u>
19	Code	<u>Children</u>	

II. ALTERATION OF TERMS

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

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

III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

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

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

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

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

3. If CONTRACTOR does not provide proof of its own ~~Compliance~~ compliance program to ADMINISTRATOR, CONTRACTOR shall ~~acknowledge to~~ internally 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~~ will internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary complete ADMINISTRATOR's annual compliance training to ensure proper compliance.

4. If CONTRACTOR elects to have its own ~~Compliance Program, Code of Conduct~~ compliance program, code of conduct and any Compliance related policies and procedures ~~review~~ reviewed by ADMINISTRATOR, then CONTRACTOR shall submit a copy of its compliance ~~Program~~ program, code of ~~Conduct~~ 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~~ contractor's proposed compliance program and code of conduct contain all required elements to the ADMINISTRATOR's satisfaction as consistent with the HCA's

1 Compliance Program and Code of Conduct. ADMINISTRATOR shall inform CONTRACTOR of any
 2 missing required elements and CONTRACTOR shall revise its compliance program and code of conduct
 3 to meet ADMINISTRATOR's required elements within thirty (30) calendar days after
 4 ADMINISTRATOR's Compliance Officer's determination and resubmit the same for review by the
 5 ADMINISTRATOR.

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

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

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

31 2. An Ineligible Person shall be any individual or entity who:
 32 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in federal
 33 and state health care programs; or
 34 b. has been convicted of a criminal offense related to the provision of health care items or
 35 services and has not been reinstated in the federal and state health care programs after a period of
 36 exclusion, suspension, debarment, or ineligibility.

37 //

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

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

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

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

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

28 C. GENERAL COMPLIANCE TRAINING ~~—~~ ADMINISTRATOR shall make General
 29 Compliance Training available to Covered Individuals.

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

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

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

37 //

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

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

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

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

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

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

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

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

22 E. ~~MEDICAL~~MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE
23 STANDARDS

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

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

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

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

37 //

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

3 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
4 participate in the quality improvement activities developed in the implementation of the Quality
5 Management Program.

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

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

16 **V. CONFIDENTIALITY**

17
18 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any audio
19 and/or video recordings, in accordance with all applicable federal, state and county codes and regulations,
20 as they now exist or may hereafter be amended or changed.

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

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

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

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

1 CONTRACTOR members of the Board of Directors or its designee or authorized agent, employees,
2 consultants, subcontractors, volunteers and interns.

4 VI. CONFLICT OF INTEREST ~~COST REPORT~~

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

13 VII. COST REPORT

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

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

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

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

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

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

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

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

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

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

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

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

Signed _____
Name _____
Title _____
Date _____"

VIII. DEBARMENT AND SUSPENSION CERTIFICATION

A. CONTRACTOR certifies that it and its principals:

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

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

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

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

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

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

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

4 **IX. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS**

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

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

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

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

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

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

37 //

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

6. COUNTY reserves the right to immediately terminate the Agreement in the event COUNTY determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to COUNTY for the provision of services under the Agreement.

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

1. After approval of ~~a subcontract, ADMINISTRATOR~~the subcontractor, ADMINISTRATOR may revoke the approval of ~~a subcontract~~the subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the ~~subcontract~~subcontractor subsequently fails to meet the requirements of this Agreement or any provisions that ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor expenses reported by CONTRACTOR.

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

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

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

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

X. DISPUTE RESOLUTIONS

A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a

1 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be
2 brought to the attention of the COUNTY Purchasing Agency by way of the following process:

3 1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a
4 final decision regarding the disposition of any dispute between the Parties arising under, related to, or
5 involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final
6 decision.

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

12 B. Pending the final resolution of any dispute arising under, related to, or involving this Agreement,
13 CONTRACTOR agrees to proceed diligently with the performance of services secured via this
14 Agreement, including the delivery of goods and/or provision of services. CONTRACTOR's failure to
15 proceed diligently shall be considered a material breach of this Agreement.

16 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and shall
17 be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a decision
18 within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed a final
19 decision adverse to CONTRACTOR's contentions.

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

26
27 **XI. EMPLOYEE ELIGIBILITY VERIFICATION**

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

37 //

XII. EQUIPMENT

1
2 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all
3 property of a Relatively Permanent nature with significant value, purchased in whole or in part by
4 ADMINISTRATOR to assist in performing the services described in this Agreement. “Relatively
5 Permanent” is defined as having a useful life of one (1) year or longer. Equipment which costs \$5,000 or
6 over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital
7 Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and other
8 taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained PHI or
9 PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to phones,
10 tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of Equipment
11 purchased, in whole or in part, with funds paid pursuant to this Agreement shall be depreciated according
12 to GAAP.

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

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

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

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

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

35 G. Unless this Agreement is followed without interruption by another agreement between the
36 ~~parties~~ Parties for substantially the same type and scope of services, at the termination of this Agreement
37 //

1 for any cause, CONTRACTOR shall return to COUNTY all Equipment purchased with funds paid
2 through this Agreement.

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

6 **XIII. FACILITIES, PAYMENTS AND SERVICES**

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

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

17 **XIV. INDEMNIFICATION AND INSURANCE**

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

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

35 C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of
36 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an
37 Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for

1 CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less
2 than the level of coverage required by COUNTY from CONTRACTOR under this Agreement. It is the
3 obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and
4 to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance
5 must be maintained by CONTRACTOR through the entirety of this Agreement for inspection by
6 COUNTY representative(s) at any reasonable time.

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

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

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

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

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

26 F. QUALIFIED INSURER

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

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

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

37 //

<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 <u>(4 passengers or less)</u>	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

H. REQUIRED COVERAGE FORMS

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

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

I. REQUIRED ENDORSEMENTS

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

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

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

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

//

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

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

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

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

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

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

21 ~~MN.~~ If CONTRACTOR's Professional Liability, Technology Errors & Omissions and/or Network
22 Security & Privacy Liability are "Claims Made" ~~policy(ies), policies,~~ CONTRACTOR shall agree to
23 maintain coverage for two (2) years following the completion of the Agreement.

24 ~~NO.~~ The Commercial General Liability policy shall contain a "severability of interests" clause
25 also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

26 ~~O.~~ P. Insurance certificates should be forwarded to the agency/department address listed on the
27 solicitation.

28 Q. If the Contractor fails to provide the insurance certificates and endorsements within seven (7)
29 days of notification by CEO/Purchasing or the agency/department purchasing division, award may be
30 made to the next qualified vendor.

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

35 PS. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
36 CONTRACTOR does not deposit copies of acceptable ~~COIs~~ Certificate of Insurance and endorsements
37 with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, ~~such~~

1 ~~failure shall constitute a breach of CONTRACTOR's obligation hereunder and ground for termination of~~
 2 this Agreement ~~by~~ may be in breach without further notice to CONTRACTOR, and COUNTY shall be
 3 entitled to all legal remedies.

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

7 ~~RU.~~ SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

31
 32 **XV. INSPECTIONS AND AUDITS**

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

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

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

10 C. AUDIT RESPONSE

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

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

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

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

31 XVI. LICENSES AND LAWS

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

1 writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals,
2 permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be
3 cause for termination of this Agreement.

4 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

5 ~~1.~~ 1. CONTRACTOR certifies it is in full compliance with all applicable federal and State
6 reporting requirements regarding its employees and with all lawfully served Wage and Earnings
7 Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the
8 term of the Agreement with the County of Orange. Failure to comply shall constitute a material breach of
9 the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the COUNTY
10 shall constitute grounds for termination of the Agreement.

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

13 a. In the case of an individual ~~contractor~~ CONTRACTOR, his/her name, date of birth, social
14 security number, and residence address;

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

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

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

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

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

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

34 1. ARRA of 2009.

35 ~~2.~~ 2. Trafficking Victims Protection Act of 2000.

36 3. WIC, Division 5, Community Mental Health Services.

37 34. WIC, Division 6, Admissions and Judicial Commitments.

- 1 ~~45.~~ WIC, Division 7, Mental Institutions.
- 2 ~~56.~~ HSC, §§1250 et seq., Health Facilities.
- 3 ~~67.~~ PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 4 ~~78.~~ CCR, Title 9, Rehabilitative and Developmental Services.
- 5 ~~89.~~ CCR, Title 17, Public Health.
- 6 ~~9.~~ ~~10.~~ CCR, Title 22, Social Security.
- 7 ~~11.~~ ~~10.~~ CFR, Title 42, Public Health.
- 8 ~~112.~~ CFR, Title 45, Public Welfare.
- 9 ~~1213.~~ USC Title 42. Public Health and Welfare.
- 10 ~~1314.~~ Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 11 ~~1415.~~ 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 12 ~~1516.~~ 42 USC §1857, et seq., Clean Air Act.
- 13 ~~1617.~~ 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 14 ~~1718.~~ 31 USC 7501.70, Federal Single Audit Act of 1984.
- 15 ~~18. Policies and procedures set forth in Mental Health Services Act.~~
- 16 19. Policies and procedures set forth in Mental Health Services Act.
- 17 20. Policies and procedures set forth in DHCS Letters.
- 18 ~~2021.~~ HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 19 ~~2122.~~ 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 20 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22 **XVII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

23 A. Any written information or literature, including educational or promotional materials, distributed

24 by CONTRACTOR to any person or organization for purposes directly or indirectly related to this

25 Agreement must be approved at least thirty (30) days in advance and in writing by ADMINISTRATOR

26 before distribution. For the purposes of this Agreement, distribution of written materials shall include,

27 but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads, and electronic media such

28 as the Internet.

29 B. Any advertisement through radio, television broadcast, or the Internet, for educational or

30 promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this

31 Agreement must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

32 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly

33 available social media sites) in support of the services described within this Agreement, CONTRACTOR

34 shall develop social media policies and procedures and have them available to ADMINISTRATOR upon

35 reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used

36 to either directly or indirectly support the services described within this Agreement. CONTRACTOR

37 shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media

1 developed in support of the services described within this Agreement. CONTRACTOR shall also include
2 any required funding statement information on social media when required by ADMINISTRATOR.

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

5
6 **XVIII. MAXIMUM OBLIGATION**

7 A. The Maximum Obligation of COUNTY for services provided in accordance with this Agreement
8 is as specified in the Referenced Contract Provisions of this Agreement, except as allowed for in
9 Subparagraph B. below.

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

12
13 **XIX. MINIMUM WAGE LAWS**

14 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and
15 State of California Labor Code, §1178.5, CONTRACTOR ~~shall~~ pay no less than the greater of the federal
16 or California Minimum Wage to all its ~~employees~~ Covered Individuals (as defined within the
17 “Compliance” paragraph of this Agreement) that directly or indirectly provide services pursuant to this
18 Agreement, in any manner whatsoever. CONTRACTOR ~~shall~~ require and verify that all ~~of its contractors~~
19 ~~or other persons~~ Covered Individuals providing services pursuant to this Agreement ~~on behalf of~~
20 ~~CONTRACTOR also pay their employees~~ be paid no less than the greater of the federal or California
21 Minimum Wage.

22 B. CONTRACTOR ~~shall~~ comply and verify that its ~~contractors~~ Covered Individuals comply with
23 all other federal and State of California laws for minimum wage, overtime pay, record keeping, and child
24 labor standards pursuant to providing services pursuant to this Agreement.

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

29
30 **XX. NONDISCRIMINATION**

31 **A. EMPLOYMENT**

32 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals (as defined
33 in the “Compliance” paragraph of this Agreement) shall not unlawfully discriminate against any employee
34 or applicant for employment because of his/her race, religious creed, color, national origin, ancestry,
35 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,
36 gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally,
37 during the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its

1 subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for
 2 employment because of his/her race, -religious creed, color, national origin, ancestry, physical disability,
 3 mental disability, medical condition, genetic information, marital status, sex, gender, gender identity,
 4 gender expression, age, sexual orientation, or military and veteran status.

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

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

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

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

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

26 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
 27 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
 28 on the basis of race, -religious creed, color, national origin, ancestry, physical disability, mental disability,
 29 medical condition, genetic information, marital status, sex, gender, gender identity, gender expression,
 30 age, sexual orientation, or military and veteran status -in accordance with Title IX of the Education
 31 Amendments of 1972 as they relate to 20 USC §1681 - §1688; -Title VI of the Civil Rights Act of 1964
 32 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6,
 33 Article 1 (§10800, et seq.) of the ~~California Code of Regulations~~ CCR; and Title II of the Genetic
 34 Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent
 35 rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and
 36 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this

37 //

1 Nondiscrimination paragraph, ~~Discrimination~~discrimination includes, but is not limited to the following
2 based on one or more of the factors identified above:

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

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

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

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

22 b. Throughout the problem resolution and grievance process, ~~client~~Client rights shall be
23 maintained, including access to the COUNTY's Patients' Rights Office at any point in the process. Clients
24 shall be informed of their right to access the COUNTY's Patients' Rights Office at any time.

25 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as
26 to the findings regarding the alleged complaint and, if not satisfied with the decision, ~~may file an appeal~~has
27 the right to request a State Fair Hearing.

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

35 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall
36 intimidate, coerce or take adverse action against any person for the purpose of interfering with rights
37 secured by federal or state laws, or because such person has filed a complaint, certified, assisted or

1 otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to enforce
2 rights secured by federal or state law.

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

8 **XXI. NOTICES**

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

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

14 2. When faxed, transmission confirmed;

15 3. When sent by Email; or

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

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

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

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

29 **XXII. NOTIFICATION OF DEATH**

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

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

35 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by
36 telephone immediately upon becoming aware of the death due to non-terminal illness of any person served
37 pursuant to this Agreement; ~~provided, however, weekends and holidays shall not be included for purposes~~

1 ~~of computing the time within which to give telephone notice and, notwithstanding the time limit herein~~
2 ~~specified,~~ notice need only be given during normal business hours.

3 2. WRITTEN NOTIFICATION

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

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

11 c. When notification via encrypted email is not possible or practical CONTRACTOR may
12 hand deliver or fax to a known number said notification.

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

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

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

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

26
27 **XXIV. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

37 //

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

5 4. CONTRACTOR shall ensure the maintenance of medical records required by §70747
 6 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical
 7 necessity of the service, and the quality of care provided. Records shall be maintained in accordance with
 8 §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

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

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

17 D. CONTRACTOR shall retain all financial records for a minimum of seven (7) years from the
 18 ~~commencement~~ termination of the contract, unless a longer period is required due to legal proceedings
 19 such as litigations and/or settlement of claims.

20 E. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years
 21 following discharge of the participant, client and/or patient.

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

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

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

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

36 2. The enrollment, payment, claims adjudication, and case or medical management record
 37 systems maintained by or for a health plan; or

3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.
G. CONTRACTOR may retain client, and/or patient documentation electronically in accordance with the terms of this Agreement and common business practices. If documentation is retained electronically, CONTRACTOR shall, in the event of an audit or site visit:

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

H. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and security of PII and/or PHI. CONTRACTOR shall ~~notify COUNTY immediately by telephone call plus email or fax,~~ upon ~~the~~ discovery of a Breach of ~~unsecured PHI~~ privacy and/or security of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law or regulation, and copy ADMINISTRATOR on such notifications.

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

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

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

XXV. RESEARCH AND PUBLICATION

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

XXVI. SEVERABILITY

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

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XXVII. SPECIAL PROVISIONS

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, ~~or~~ interns, consultants, subcontractors, and members of the Board of Directors or governing body.
5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body for expenses or services.
6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR's staff.
7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at www.opm.gov.
8. Severance pay for separating employees.
9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.
10. Supplanting current funding for existing services.

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

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

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1 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
2 CONTRACTOR's ~~clients~~ Clients.

4 **XXVIII. STATUS OF CONTRACTOR**

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

17 **XXIX. TERM**

18 A. The term of this Agreement shall commence as specified in the Referenced Contract Provisions
19 of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified
20 in the Referenced Contract Provisions of this Agreement unless otherwise sooner terminated as provided
21 in this Agreement: ~~provided, however,~~ CONTRACTOR shall be obligated to perform such duties as
22 would normally extend beyond this term, including but not limited to, obligations with respect to
23 confidentiality, indemnification, audits, reporting, and accounting.

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

27 **XXX. TERMINATION**

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

30 ~~B.~~ B. CONTRACTOR shall be responsible for meeting all programmatic and administrative
31 contracted objectives and requirements as indicated in this Agreement. CONTRACTOR shall be subject
32 to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not
33 meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe as
34 determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is resolved
35 and/or the Agreement could be terminated.

36 C. Unless otherwise specified in this Agreement, COUNTY may terminate this Agreement upon
37 five (5) calendar days' written notice if CONTRACTOR fails to perform any of the terms of this

1 Agreement. At ADMINISTRATOR's sole discretion, CONTRACTOR may be allowed up to thirty (30)
2 calendar days for corrective action.

3 ~~E~~D. COUNTY may terminate this Agreement immediately, upon written notice, on the occurrence of
4 any of the following events:

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

19 ~~D~~E. CONTINGENT FUNDING

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

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

33 ~~F~~G. In the event this Agreement is terminated by either party Party pursuant to Subparagraphs B., C.,
34 or D. above, CONTRACTOR shall do the following:

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

37 //

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

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

5 4. If ~~clients~~ Clients are to be transferred to another facility for services, furnish
6 ADMINISTRATOR, upon request, all ~~client~~ Client information and records deemed necessary by
7 ADMINISTRATOR to effect an orderly transfer.

8 5. Assist ADMINISTRATOR in effecting the transfer of ~~clients~~ Clients in a manner consistent
9 with ~~client's~~ Client's best interests.

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

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

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

20 9. Provide written notice of termination of services to each ~~client~~ Client being served under this
21 Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of
22 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars
23 day period.

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

27 **XXXI. THIRD PARTY BENEFICIARY**

28 Neither ~~party~~ Party hereto intends that this Agreement shall create rights hereunder in third parties
29 including, but not limited to, any subcontractors or any ~~clients~~ Clients provided services pursuant to this
30 Agreement.

32 **XXXII. WAIVER OF DEFAULT OR BREACH**

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

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

3
4 DIDI HIRSCH PSYCHIATRIC SERVICE, DBA
5 DIDI HIRSCH MENTAL HEALTH SERVICES
6

7
8 BY: _____ DATED: _____
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11 TITLE: - _____
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16 COUNTY OF ORANGE
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19 BY: _____ DATED: _____
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21 HEALTH CARE AGENCY
22

23
24 APPROVED AS TO FORM
25 OFFICE OF THE COUNTY COUNSEL
26 ORANGE COUNTY, CALIFORNIA
27

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29 BY: _____ DATED: - _____
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31 DEPUTY
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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
36 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
37 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her
signature alone is required by ADMINISTRATOR.

EXHIBIT A
 TO AGREEMENT FOR PROVISION OF
 SURVIVOR SUPPORT SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 DIDI HIRSCH PSYCHIATRIC SERVICE
 DBA DIDI HIRSCH MENTAL HEALTH SERVICES
 JULY 1, ~~2018~~2019 THROUGH JUNE 30, ~~2019~~2020

I. COMMON TERMS AND DEFINITIONS

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

A. Admission means completion of the entry and/or Intake process for program Participants.

B. ASIST means a two (2)-day intensive, interactive and practice-dominated course designed to help first responders and caregivers (e.g. professionals, paraprofessionals and lay people) recognize risk and learn how to intervene to prevent the immediate risk of suicide.

C. Assessment means a professional review and Evaluation of an individual’s behavioral health needs and conditions in order to determine the most appropriate course of services, if indicated, and may ascertain eligibility for specific programs.

D. At Risk means a state of high stressor and low protective factor that would increase likelihood of development of a behavioral health condition.

E. Behavioral Health Condition means diminished cognitive, emotional, or social abilities, but not to the extent that the criteria for a mental disorder are met.

F. Closed Support Group means a group, eight (8) weeks in length, that only members could attend and no new members could be added to for the purpose of trust building, consistency in communication, and mutual support.

G. Drop in Support Group means a group that is open on a monthly basis to Participants who either graduated from closed Support Groups, and still could benefit from attending a Support Group or who just need support on an as needed basis.

H. Early Intervention means the act of intervening, interfering or interceding early with the intent of measurably improving a behavioral health problem or concern very early in its manifestation or to prevent a Behavioral Health Condition from getting worse.

I. Engagement means the process by which a trusting relationship between a worker and Participant is established with the goal to link the Participant to appropriate services.

J. Enrollment means the data entry of a Participant’s program information into CONTRACTOR’s database for purposes of recording and tracking a Participant’s involvement in the program.

1 K. Evaluation means the systematic investigation of the value and impact of an intervention or
2 program.

3 L. Evidence-based Practice means the range of prevention and intervention services of
4 well-documented effectiveness. An Evidence-based Practice has quantitative and qualitative data
5 showing positive outcomes and has been subject to expert/peer review that has determined that a particular
6 approach or strategy has a significant level of evidence of effectiveness.

7 M. Family Member means any traditional and/or non-traditional support system, significant other, or
8 natural support designated by the Participant.

9 N. Group Intervention means the delivery of services to more than one individual or family.

10 O. Health Education means practice of educating and teaching individuals and groups of people
11 about behaviors conducive to the promotion, maintenance, and restoration of good physical and behavioral
12 health.

13 P. Information Dissemination means the distribution of a collection of facts or data.

14 Q. Intake means the initial meeting between a Participant and a worker to evaluate a Participant's
15 issue of concern and determine how a program could best meet his or her needs.

16 R. Lethality Assessment Scale means an instrument or tool developed based on SRAS typically used
17 by crisis counselors to determine the level of risks a caller poses and then render appropriate care
18 accordingly. The scale has a rating from zero (0) to five (5). The higher the score means the higher the
19 level of risk.

20 S. Level of Well-being means the state of satisfaction, happiness, and/or in control that a Participant
21 feels about his/her present situation/condition as measured by a validated instrument/scale.

22 T. Linkage means when an individual is connected to programs or services through warm hand-off
23 or follow-up to ensure the connection is made.

24 U. Live Scan means the technique and the technology used by law enforcement agencies and private
25 facilities to capture fingerprints and palm prints electronically, without the need for the more traditional
26 method of ink and paper.

27 V. Media Events means culturally relevant activities conducted by CONTRACTOR which are
28 coordinated with and publicized by the media, including radio and TV appearances.

29 W. MHSA means the law that provides funding for expanded community mental health services, also
30 known as "Proposition 63."

31 X. NPP means a document that notifies individuals of uses and disclosures of PHI that may be made
32 by or on behalf of the health plan or health care provider as set forth in the HIPAA.

33 Y. Outreach means the face-to-face contact with potential Participants to link them to appropriate
34 behavioral health services and may include activities that involve educating the community about the
35 services offered and requirements for participation in the programs.

36 Z. Participant means an individual who engages in activities aimed at preventing and/or eliminating
37 the development of a behavioral health condition.

1 AA. Participant Advocacy means the provision of education and Referral services to assist Participants
2 in getting appropriate care and services.

3 AB. PEI means those programs directed towards individuals and families for education to prevent any
4 onset of a behavioral health concern. Early Intervention programs are of short-duration (usually less than
5 one year), relatively low-intensity intervention approach to measurably improve a Behavioral Health
6 Condition or concern very early in its manifestation. The expected results are to avoid the need for more
7 expensive behavioral health treatment or services, or to prevent a Behavioral Health Condition from
8 getting worse.

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

14 AD. PII means any information that could be readily used to identify a specific person, including but
15 not limited to: name, address, telephone number, email address, driver's license number, Social Security
16 number, bank account information, credit card information, or any combination of data that could be used
17 to identify a specific person, such as a birth date, zip code, mother's maiden name and gender.

18 AE. Presentation/Speaking Engagement means structured, culturally-appropriate behavioral Health
19 Education and prevention activities directed to Participants.

20 AF. Program Protocol means the written program description, goals, objectives, and policies
21 established by CONTRACTOR for the provision of services in the Agreement.

22 AG. Referral means when an individual receives information or contacts for services or programs, or
23 an unsuccessful Linkage attempt.

24 AH. Resilience means the personal qualities of optimism and hope and the personal traits of good
25 problem solving skills that lead individuals to live, work and learn with a sense of mastery and
26 competence.

27 AI. SafeTALK means an approximately three (3)-hour long Training designed for everyone in the
28 community and is designed to ensure that persons with thoughts of suicide are connected to helpers who
29 are prepared to provide first aid interventions. SafeTALK is designed to be used in organizations and
30 communities where there are already ASIST-Trained caregivers.

31 AJ. SRAS means nationally-recognized practice guidelines, which contain incorporation of the four
32 (4) core principles--Suicidal Desire, Suicidal Capability, Suicidal Intent and Buffers along with the
33 subcomponents in the development of a suicide risk Assessment instrument.

34 AK. Support Group means a group consisting of eight (8) to twelve (12) people, led by a therapist and
35 a co-facilitator/survivor, who provide one another with unconditional support, information, and skills to
36 cope with the psychological stressors and/or loss associated with attempted or completed suicide.

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1 AL. SRT means a team comprised of Trained survivor volunteers that are sent to the scene of a suicide
2 through collaboration with the local law enforcement, coroner’s office, and/or crisis response team for the
3 purposes of support and resource Linkage.

4 AM. Training means the action or method used to transfer skills and/or knowledge to a target audience.

5 AN. Train the Trainer means the process of where an individual or group passes on the skills,
6 knowledge, and abilities of course work to others so they may become educators, coaches, tutors, mentors
7 etc. to disseminate information, material, and skills to others.

8 AO. Trauma-Exposed Individuals means those who are exposed to traumatic events or prolonged
9 traumatic conditions, including grief, loss and isolation, including those who are unlikely to seek help
10 from any traditional behavioral health service.

11 AP. TSC means survivors, who have completed an eight (8)-week group, three (3)-hour SafeTalk
12 Training, and a half-day of telephone support Training with role play and who would be matched up with
13 survivors, who experience a similar loss for the purpose of support until the survivors are enrolled in a
14 group or for sixty (60) days, whichever comes first.

15 AQ. Unduplicated Participant means an individual who is counted only once, despite how many
16 services the individual is enrolled in during each period as specified in the Referenced Contract Provisions
17 of the Agreement.

18 AR. Unit of Service means the number and/or type of activities the CONTRACTOR will fulfill during
19 the term of the Agreement.

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21 **II. BUDGET**

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

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	<u>TOTAL</u>	<u>TOTAL</u>
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2	ADMINISTRATIVE COST	
3	Indirect Costs	\$ 31,245
4	SUBTOTAL	\$ 31,245
5	ADMINISTRATIVE COST	
6		
7	PROGRAM COST	
8	Salaries	\$172,967
9	Benefits	38,053
10	Services and Supplies	93,491
11	Subcontracts	7,938
12	SUBTOTAL PROGRAM COST	\$312,448
13		
14	TOTAL GROSS COST	\$343,693
15		
16	REVENUE	
17	MHSA	\$343,693
18	TOTAL REVENUE	\$343,693
19		
20	TOTAL	\$343,693
21	MAXIMUM OBLIGATION	
22		

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

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

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

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6 **III. PAYMENTS**

7 A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amount of
8 \$28,641 per month. All payments are interim payments only, and subject to Final Settlement in
9 accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be
10 reimbursed for the actual cost of providing the services hereunder; provided, however, the total of such
11 payments does not exceed COUNTY's Maximum Obligation as specified in the Referenced Contract
12 Provisions of the Agreement and, provided further, CONTRACTOR's costs are reimbursable pursuant to
13 COUNTY, state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental
14 invoices for any month for which the provisional amount specified above has not been fully paid.

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

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

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

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

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

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

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

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

8 9 **IV. REPORTS**

10 **A. FISCAL**

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

19 2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These
20 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report anticipated
21 year-end actual costs and revenues for CONTRACTOR's program described in the Services Paragraph of
22 this Exhibit A to the Agreement. Such reports shall include actual monthly costs and revenue to date and
23 anticipated monthly costs and revenue to the end of the fiscal year, and shall include a projection narrative
24 justifying the year-end projections. Year-End Projection Reports shall be submitted in conjunction with
25 the Monthly Expenditure and Revenue Reports.

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

30 C. PROGRAMMATIC – CONTRACTOR shall submit monthly Programmatic reports to
31 ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall
32 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings
33 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the
34 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not
35 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve
36 satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth (20th)
37 calendar day following the end of the month being reported.

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

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

7
8 **V. SERVICES**

9 **A. FACILITIES**

10 1. CONTRACTOR shall maintain facility for the provision services described herein at the
11 following location(s), or any other location approved, in advance, in writing, by ADMINISTRATOR.
12 The facility shall include space to support the services identified within the Agreement.

13
14 ~~2021 E. 4th Street, Suite 204~~ 2000 E. 4th Street, Suite 201
15 ~~Santa Ana, California 92705~~ Santa Ana, California 92705

16
17 2. CONTRACTOR shall maintain regularly scheduled service hours, Monday through Friday
18 9:00 a.m. – 5:00 p.m. throughout the year, and maintain the capability to provide services in the evening
19 hours until 8:00 p.m. and on weekends in order to accommodate Participants unable to participate during
20 regular business hours. CONTRACTOR’s holiday schedule shall be consistent with COUNTY’s holiday
21 schedule unless otherwise approved in writing by ADMINISTRATOR.

22 B. CONTRACTOR shall provide Survivor Support Services as a broad range of personalized social
23 development services that are culturally and linguistically appropriate. CONTRACTOR shall provide
24 COUNTY-wide services to persons who have lost a family member, friend, or loved one to suicide and
25 to those who had an incomplete suicide attempt. Services are to identify and understand the factors that
26 promote a survivor’s resilience and strengths and address issues of stigma and shame. The services shall
27 include, but are not limited to, the following:

28 1. Outreach – CONTRACTOR shall conduct different types of Outreach activities throughout
29 COUNTY to educate the community about suicide; reduce stigma associated with suicide; promote help
30 seeking behavior; signs and symptoms and inform them about available resources. The Outreach methods
31 shall include community Outreach and education and media Outreach. CONTRACTOR shall reach out
32 to all individuals, who have attempted suicide and the family members/loved ones of those who have
33 attempted or committed suicide. Special attention will be paid to culturally or linguistically isolated or
34 underserved groups including but not limited to monolingual non-English speakers, new immigrants, Deaf
35 and Hard of Hearing, Veterans, Lesbian and Gay, Bisexual, and Transgender persons, youth, older adults,
36 victims of crime, refugees and persons experiencing a significant life change.

37 //

1 2. Service Inquiries – which may include calls, request for support, etc. Follow-up and
2 appropriate action (enrollment, referral, and linkage) is to be ensured for all service inquiries.

3 3. Crisis Support – CONTRACTOR upon request from community members, schools, or
4 agencies shall offer immediate support and resource Referrals to survivor(s) coping with any form of
5 suicide attempt. Support can include crisis phone support, face-to-face meetings, or debriefing sessions
6 with individuals, family members, students, teachers, agency or school staff, or any other community
7 member or organization affected by a suicide attempt.

8 4. Support Groups – CONTRACTOR shall provide one hundred and fifty eight (158) Support
9 Groups, to all eligible Participants affected by suicide. Support Groups will be confidential, culturally
10 appropriate, be available in multiple languages, and use evidence-based, and/or promising practice
11 curriculum.

12 a. CONTRACTOR shall provide a minimum of eight (8) Closed Survivors After Suicide
13 (SAS) Support Group series, a minimum of four (4) Closed Support Group series to other languages, with
14 each series being eight (8) weeks in length, for a total of ninety six (96) Closed Support Group sessions.
15 Closed Support Groups will have eight (8) to ten (10) Participants.

16 b. CONTRACTOR shall provide a minimum of sixty two (62) Open Support Groups for
17 those not able to participate in the Closed Support Groups due to cultural, emotional, or other reasons.
18 Open Support Groups may be one-time or multiple sessions with the goal of transitioning individuals into
19 the Closed Support Group series. Open Support Groups will have two (2) to eight (8) Participants. Groups
20 may have no more than ten (10) participants.

21 c. Groups may be comprised of Participants of mixed sex, race, and relationship to the loved
22 one to help Participants understand suicide from varied points of view.

23 d. After Participants finish the Support Groups, they can attend any of the monthly
24 Drop-In Support Groups for continued support or for help through specific events, including but not limit
25 to birthdays, holidays, anniversaries, and weddings when it might be more difficult to cope with their loss.
26 Survivors who have not participated in a Support Group may also attend these functions.

27 5. Individual Support – CONTRACTOR shall provide one on one grief and loss support to those
28 unable to attend Support Groups; those waiting to be in a Support Group; and those who prefer to receive
29 individual support only. Individual support shall initially be provided by staff that would provide
30 unconditional regard for the Participant's thoughts and feelings then link the Participant with available
31 resources that would help them cope with the loss of a loved one. Individual support may also be provided
32 by connecting a Participant with a TSC, a trained survivor, who lost a loved one to similar circumstances
33 and is willing to provide ongoing telephone support to the new Participant. Individual support will also
34 be provided by a qualified therapist, who speaks the Participant's preferred language.

35 6. Training - CONTRACTOR shall conduct Training in the community targeting individuals,
36 who have attempted suicide, the family members/loved ones of those who have attempted or died by
37 suicide, and community members. These trainings may include, but not be limited to, ASIST and

safeTALK trainings and will address recognizing risk and learning to intervene to prevent the immediate risk of suicide for clinicians, first responders, and medical providers and family members. Special attention will be paid to culturally or linguistically isolated or underserved groups including but not limited to monolingual non-English speakers, new immigrants, Deaf and Hard of Hearing, Veterans, Lesbian and Gay, Bisexual, and Transgender, Questioning, and Intersex persons, youth, older adults, victims of crime, refugees and persons experiencing a significant life change.

7. Survivors of Suicide Attempts (SOSA) Group - CONTRACTOR shall, as specified in the Referenced Contract Provisions of the Agreement, facilitate a minimum of three (3), eight (8)-week, postvention groups with focused sessions for those who have had an incomplete suicide attempt. The size of the group will be no more than eight (8) participants.

C. CONTRACTOR shall track and implement the following ADMINISTRATOR approved and recommended outcome measures across all services. The use of inventory scales such as the Patient Health Questionnaire (PHQ-9), the SSS survey, and/or other tools as approved are to be administered at onset and termination of services. CONTRACTOR shall at a minimum achieve the following Units of Service. CONTRACTOR understands total number of Unduplicated Participants served includes all program Participants including those in Outreach presentations in the community, Training events, and individual/group support activities. CONTRACTOR will also track additional items as agreed upon with ADMINISTRATOR.

SURVIVOR SUPPORT SERVICES	Units of Service
Percent of calls responded to within twenty-four (24) hours	100%
Number of Crisis Support activities conducted	20
Number of Closed Support Group sessions conducted	64
Number of Closed Support Group sessions conducted in a foreign or sign language	32
Number of Open Support Group sessions conducted	62 32
Total number of Support Group sessions conducted	158 128
Total number of individual sessions provided	400 430
SOSA Group	3
Trainings	45
Outreach Activities	120

1. CONTRACTOR shall utilize ADMINISTRATOR approved forms to collect pertinent data, which would be entered and analyzed for Participant's level of satisfaction, program management, and quality improvement purposes. In addition, CONTRACTOR shall utilize a data collection system for tracking Participant Enrollment, demographics, and service utilization. CONTRACTOR shall provide

1 the ADMINISTRATOR with monthly data reports or as needed upon request. Using an approved
2 satisfaction survey, ninety percent (90%) of Participants will report satisfaction with services received.

3 2. CONTRACTOR shall strive to meet the following goals:

4 a. Reduce the levels of grief and depression in Participants. CONTRACTOR shall utilize
5 the SSS survey as an instrument to measure ability to manage grief and the PHQ-9 to measure a change
6 in the level of depression in eight (8) week Support Group Participants. The tools will be administered
7 prior to beginning the Support Group and at the conclusion of the Support Group's final session. A
8 minimum of fifty percent (50%) of Participants will increase their ability to manage grief based on the
9 SSS survey and a minimum of sixty percent (60%) of Participants will show a reduction in depression
10 based on the PHQ-9 scores.

11 b. Ensure that all Participants in support activities are directed to an appropriate level of
12 intervention (enrollment, services, referral, and linkage).

13 3. CONTRACTOR shall, on an ongoing basis and in partnership with ADMINISTRATOR,
14 develop, modify, and incorporate different/additional outcome measurements, as approved by the
15 ADMINISTRATOR.

16 D. CONTRACTOR shall conduct on-going Evaluations of the services provided and provide
17 analysis to ADMINISTRATOR on a regular basis and in a format agreeable to both parties.

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

20 VI. STAFFING

21 A. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in
22 Full-Time Equivalents (FTEs) continuously throughout the term of the Agreement. One (1) FTE shall be
23 equal to an average of forty (40) hours work per week.
24

<u>PROGRAM</u>	<u>FTE</u>
— Division Director	0.05
— Program Director	0.25
— Program Coordinator II	0.30
— Therapist II Bilingual	0.62
— Administrative Assistant	0.50
— Research Analyst	0.05
— Therapist I Bilingual	0.70
— Lead Clinical Supervisor Bilingual	0.75
— Director of Research and Evaluation	0.02
— Subcontractor (Access California)	0.20

1	TOTAL FTE	3.44
2		
3	<u>PROGRAM</u>	<u>FTE</u>
4	Division Director*	0.00
5	Program Director*	0.00
6	Assistant Program Director	0.33
7	Therapist II Bilingual	0.51
8	Administrative Assistant, SA	0.85
9	Research Analyst	0.03
10	Therapist I	0.85
11	Lead Clinical Supervisor	0.50
12	Subcontractor (Access California)	0.14
13	<u>*Division Director & Program Director roles, tasks and responsibilities associated with Survivor Support Services at 0.05 and 0.125 FTE respectively to be provided by In-Kind Provider Contribution.</u>	
14		
15	<u>TOTAL FTE</u>	<u>3.21</u>
16		

17 B. Cultural appropriateness shall be a continuous focus in the development of the programming,
 18 recruitment, and hiring of staff to better serve Participants and their family members. CONTRACTOR
 19 shall maintain documentation of such efforts which may include, but not be limited to records of
 20 participation in COUNTY sponsored and/or other applicable Training; recruitment and hiring of staff
 21 P&Ps; literature in multiple languages and formats, as appropriate; and descriptions of measures taken to
 22 enhance accessibility for, and sensitivity to, persons who are physically challenged.

23 C. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold
 24 languages as determined by ADMINISTRATOR. Whenever possible, bilingual/bicultural staff should be
 25 retained. Any staff vacancies occurring at a time when bilingual and bicultural composition of the
 26 program staffing does not meet the above requirement should be filled with bilingual and bicultural staff.

27 D. CONTRACTOR is highly encouraged to augment the above paid staff with qualified and Trained
 28 volunteers and/or interns upon written approval of ADMINISTRATOR. CONTRACTOR shall
 29 provide ongoing supervision to volunteers and/or interns consistent with the prevailing educational and
 30 suicide prevention standards or as specified by ADMINISTRATOR.

31 E. CONTRACTOR shall maintain personnel files for each staff member, including management and
 32 other administrative positions, both direct and indirect, which shall include, but not be limited to, an
 33 application for employment, qualifications for the position, documentation of bicultural/bilingual
 34 capabilities, if applicable, pay rate and Evaluations justifying pay increases.

35 F. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of
 36 any staffing vacancies that occur during the term of the Agreement.

37 G. CONTRACTOR shall ensure that all staff, albeit paid or unpaid, complete necessary Training

1 prior to discharging duties associated with their responsibilities. This Training may include, but not be
2 limited to, two (2) day ASIST, three (3) hour SafeTALK, and any other Training necessary to assist the
3 CONTRACTOR and COUNTY to be in compliance with prevailing standards of practice as well as state
4 and federal regulatory requirements.

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

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1 EXHIBIT B
 2 TO AGREEMENT FOR PROVISION OF
 3 SURVIVOR SUPPORT SERVICES
 4 BETWEEN
 5 COUNTY OF ORANGE
 6 AND
 7 DIDI HIRSCH PSYCHIATRIC SERVICE
 8 DBA DIDI HIRSCH MENTAL HEALTH SERVICES
 9 JULY 1, ~~2018~~2019 THROUGH JUNE 30, ~~2019~~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, and
19 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 “Business
22 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, as it exists now or be hereafter updated with notice to

1 CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the
 2 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and
 3 electronic PHI created, received, maintained, transmitted, used, or disclosed 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 of
 8 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 that
 21 an unauthorized person to whom the disclosure was made would not reasonably have been able to retain
 22 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 CFR
 35 § 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 45
4 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with
5 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 and
8 environmental hazards, and unauthorized intrusion.

9 9. "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable
10 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 his
16 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 methodology
30 specified by the Secretary of Health and Human Services in the guidance issued on the HHS Web site.

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

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

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

37 //

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 through
17 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 Individual
20 in order to meet the requirements under 45 CFR § 164.524. If CONTRACTOR maintains an EHR with
21 PHI, and an individual requests a copy of such information in an electronic format, CONTRACTOR shall
22 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 (30)
25 calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify COUNTY in
26 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 CFR
36 § 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 obligation
6 under the HIPAA Privacy and/or Security rules CONTRACTOR will comply with the requirements of 45
7 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 employees,
11 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 terminate
19 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 no
22 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 claimed
24 violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves
25 inactions or actions by CONTRACTOR, except where CONTRACTOR or its subcontractor, employee,
26 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 and
11 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 CONTRACTOR
13 or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR
14 shall develop and maintain a written information privacy and security program that includes
15 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, maintains,
25 or transmits on behalf of COUNTY. These steps shall include, at a minimum:

26 a. Complying with all of the data system security precautions listed under 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 security
6 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 functions
10 or activities on behalf of COUNTY in connection with Agreement, or access or disclose PHI COUNTY
11 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
12 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 for
26 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 algorithm
14 which is 128bit or higher, such as AES. Such PHI shall not be considered "removed from the premises"
15 if it is only being transported from one of CONTRACTOR's locations to another of CONTRACTOR's
16 locations.

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

21 f. Patch Management. All workstations, laptops and other systems that process and/or store
22 PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits
23 on behalf of COUNTY must have critical security patches applied, with system reboot if necessary. There
24 must be a documented patch management process which determines installation timeframe based on risk
25 assessment and vendor recommendations. At a maximum, all applicable patches must be installed within
26 thirty (30) calendar or business days of vendor release. Applications and systems that cannot be patched
27 due to operational reasons must have compensatory controls implemented to minimize risk, where
28 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 characters
34 and must be a non-dictionary word. Passwords must not be stored in readable format on the computer.
35 Passwords must be changed every ninety (90) days, preferably every sixty (60) days. Passwords must be
36 changed if revealed or compromised. Passwords must be composed of characters from at least three (3)
37 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 assurance
8 that administrative, physical, and technical controls are functioning effectively and providing adequate
9 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 circumstance
22 or situation that causes normal computer operations to become unavailable for use in performing the work
23 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 schedule
26 for making backups, storing backup offsite, an inventory of backup media, and an estimate of the amount
27 of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly
28 full backup and monthly offsite storage of DHCS data. BCP for contractor and COUNTY (e.g. the
29 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 unattended
33 at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that
34 information is not being observed by an employee authorized to access the information. Such PHI in
35 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 CONTRACTOR
2 or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is contained shall be
3 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 intended
14 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 five
18 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 and
21 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 law
25 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 known
28 to CONTRACTOR.

29 b. CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known,
30 or by exercising reasonable diligence would have known, to any person who is an employee, officer, or
31 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 notification
34 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 period
 4 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 45
 17 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the COUNTY.

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

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

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

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

35 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or other
 36 costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs in
 37 //

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

8 a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, for
9 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 is
15 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 CONTRACTOR
17 of any instance of which it is aware in which the confidentiality of the information has been breached.

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

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

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

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

27 H. PROHIBITED USES AND DISCLOSURES

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

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

37 I. OBLIGATIONS OF COUNTY

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

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

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

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

12 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C
 TO AGREEMENT FOR PROVISION OF
 SURVIVOR SUPPORT SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 DIDI HIRSCH PSYCHIATRIC SERVICE
 DBA DIDI HIRSCH MENTAL HEALTH SERVICES
 JULY 1, ~~2018~~2019 THROUGH JUNE 30, ~~2019~~2020

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

9 B. TERMS OF AGREEMENT

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

14 2. Responsibilities of CONTRACTOR

15 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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