

1 AGREEMENT FOR PROVISION OF  
2 SCHOOL BASED BEHAVIORAL HEALTH INTERVENTION AND SUPPORT  
3 EARLY INTERVENTION SERVICES

4 BETWEEN  
5 COUNTY OF ORANGE

6 AND  
7 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
8 AS DESCRIBED IN ARTICLE IX, SECTION 9 OF THE CALIFORNIA CONSTITUTION,  
9 ON BEHALF OF UNIVERSITY OF CALIFORNIA IRVINE HEALTH  
10 FOR UNIVERSITY OF CALIFORNIA, IRVINE, CHILD DEVELOPMENT CENTER  
11 JULY 1, 2017 THROUGH JUNE 30, 2020

12  
13 THIS AGREEMENT entered into this 1st day of July 2017 (effective date), is by and between the  
14 COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and THE  
15 REGENTS OF THE UNIVERSITY OF CALIFORNIA, as described in Article IX, Section 9 of the  
16 California Constitution, on behalf of UNIVERSITY OF CALIFORNIA IRVINE HEALTH for  
17 UNIVERSITY OF CALIFORNIA, IRVINE, CHILD DEVELOPMENT CENTER (CONTRACTOR).  
18 COUNTY and CONTRACTOR may sometimes be referred to herein individually as "Party" or  
19 collectively as "Parties". This Agreement shall be administered by the County of Orange Health Care  
20 Agency (ADMINISTRATOR).

21  
22 **W I T N E S S E T H:**

23  
24 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of School Based  
25 Behavioral Health Intervention and Support Early Intervention Services described herein to the residents  
26 of Orange County; and

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

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

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2017 through June 30, 2020

Period One means the period from July 1, 2017 through June 30, 2018

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

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

**Maximum Obligation:**

Period One Maximum Obligation: \$ 440,000

Period Two Maximum Obligation: 440,000

Period Three Maximum Obligation: 440,000

TOTAL MAXIMUM OBLIGATION: \$1,320,000

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

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 04-670-5849

**CONTRACTOR TAX ID Number:** 95-2226406

**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: The Regents of the University of California, Irvine  
Attn: Child Development Center  
19262 Jamboree Road  
Irvine, CA 92612  
Sabrina E.B. Schuck, Ph.D. Director, Child Development Center  
[Sabrina@uci.edu](mailto:Sabrina@uci.edu)

## I ACRONYMS

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

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3		
4	A. ADD	Attention-Deficit Disorder
5	B. ARRA	American Recovery and Reinvestment Act of 2009
6	C. CCC	California Civil Code
7	D. CCR	California Code of Regulations
8	E. CEO	County Executive Office
9	F. CFR	Code of Federal Regulations
10	G. CHPP	COUNTY HIPAA Policies and Procedures
11	H. COI	Certificate of Insurance
12	I. CRN	Crisis Response Network
13	J. DHCS	California Department of Health Care Services
14	K. DRS	Designated Record Set
15	L. GAAP	Generally Accepted Accounting Principles
16	M. HCA	County of Orange Health Care Agency
17	N. HHS	Federal Health and Human Services Agency
18	O. HIPAA	Health Insurance Portability and Accountability Act of 1996,
19		Public Law 104-191
20	P. HITECH ACT	Health Information Technology for Economic and Clinical Health Act,
21		Public Law 111-005
22	Q. HSC	California Health and Safety Code
23	R. ISO	Insurance Services Office
24	S. MHSA	Mental Health Services Act
25	T. NPP	Notice of Privacy Practices
26	U. OIG	Federal Office of Inspector General
27	V. OMB	Federal Office of Management and Budget
28	W. OPM	Federal Office of Personnel Management
29	X. P&P	Policy and Procedure
30	Y. PC	California Penal Code
31	Z. PEI	Prevention and Early Intervention
32	AA. PHI	Protected Health Information
33	AB. PII	Personally Identifiable Information
34	AC. PRA	California Public Records Act
35	AD. SIR	Self-Insured Retention
36	AE. SFTS	Safe from the Start
37	AF. TOT	Train the Trainer

- 1 AG. USC United States Code
- 2 AH. VPE Violation Prevention Education
- 3 AI. W&IC California Welfare and Institutions Code

4  
5 **II. ALTERATION OF TERMS**

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

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

13  
14 **III. ASSIGNMENT OF DEBTS**

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

22  
23 **IV. COMPLIANCE**

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

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

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

- 36 a. Designation of a Compliance Officer and/or compliance staff.
- 37 b. Written standards, policies and/or procedures.

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

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

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

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

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

//

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

36 E. Failure to comply with the obligations stated in this Paragraph IV (COMPLIANCE) shall  
37 constitute a breach of the Agreement on the part of CONTRACTOR and ground for COUNTY to

1 terminate the Agreement. Unless the circumstances require a sooner period of cure, CONTRACTOR  
2 shall have thirty (30) calendar days from the date of the written notice of default to cure any defaults  
3 grounded on this Paragraph IV (COMPLIANCE) prior to ADMINITRATOR’s right to terminate this  
4 Agreement on the basis of such default.

5  
6 **V. CONFIDENTIALITY**

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

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

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

22  
23 **VI. COST REPORT**

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

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

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

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

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

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

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

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

35 D. If the individual and/or consolidated Cost Report indicates the actual and reimbursable costs of  
36 services provided pursuant to this Agreement, less applicable revenues and late penalty, are lower than  
37 the aggregate of interim monthly payments to CONTRACTOR, CONTRACTOR shall remit the

1 difference to COUNTY. Such reimbursement shall be made, in cash, or other authorized form of  
2 payment, with the submission of the individual and/or consolidated Cost Report. If such reimbursement  
3 is not made by CONTRACTOR within thirty (30) calendar days after submission of the individual  
4 and/or consolidated Cost Report, COUNTY may, in addition to any other remedies, reduce any amount  
5 owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

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

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

12  
13 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and  
14 supporting documentation prepared by \_\_\_\_\_ for the cost report period  
15 beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my  
16 knowledge and belief, costs reimbursed through this Agreement are reasonable and  
17 allowable and directly or indirectly related to the services provided and that this Cost  
18 Report is a true, correct, and complete statement from the books and records of  
19 (provider name) in accordance with applicable instructions, except as noted. I also  
20 hereby certify that I have the authority to execute the accompanying Cost Report.

21  
22 Signed \_\_\_\_\_  
23 Name \_\_\_\_\_  
24 Title \_\_\_\_\_  
25 Date \_\_\_\_\_"

26  
27 **VII. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS**

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

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

35 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to  
36 any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%)  
37 of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an

1 assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community  
2 clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal  
3 Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

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

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

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

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

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

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

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

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

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

**VIII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

**IX. EQUIPMENT**

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

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

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

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

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

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

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

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

14  
15 **X. FACILITIES, PAYMENTS AND SERVICES**

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

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

27  
28 **XI. INDEMNIFICATION AND INSURANCE**

29 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,  
30 which shall not be unreasonably withheld, and hold COUNTY, its elected and appointed officials,  
31 officers, employees, agents and those special districts and agencies for which COUNTY's Board of  
32 Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims,  
33 demands or liability of any kind or nature, including but not limited to personal injury or property  
34 damage, arising from or related to the services, products or other performance provided by  
35 CONTRACTOR pursuant to this Agreement, but only in proportion to and to the extent such claims,  
36 demands, including defense costs, or liability caused by or resulting from the negligent or intentional  
37 acts or omissions of CONTRACTOR, its officers, employees, or agents. If judgment is entered against

1 CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active  
2 negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that  
3 liability will be apportioned as determined by the court. Neither Party shall request a jury  
4 apportionment.

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

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

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

28 1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all  
29 liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or  
30 subcontractor's performance of this Agreement, CONTRACTOR shall defend the COUNTY at its sole  
31 cost and expense, with counsel approved by Board of Supervisors against same, which shall not be  
32 unreasonably withheld; and

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

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



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

5 F. QUALIFIED INSURER

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

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

14 G. The program of self-insurance, policy or policies of insurance maintained by CONTRACTOR  
15 shall provide the minimum limits and coverage as set forth below:

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

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1 H. REQUIRED COVERAGE FORMS

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

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

6 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 R. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

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

5 **XII. INSPECTIONS AND AUDITS**

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

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

20 C. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of  
21 services.

22 D. CONTRACTOR shall forward to ADMINISTRATOR a copy of any audit report within  
23 fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management,  
24 financial, programmatic or any other type of audit of CONTRACTOR's operations, whether or not the  
25 cost of such operation or audit is reimbursed in whole or in part through this Agreement.  
26

27 **XIII. LICENSES AND LAWS**

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

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1 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

22 C. CONTRACTOR shall comply with all applicable governmental laws, regulations, and  
23 requirements as they exist now or may be hereafter amended or changed.

24  
25 **XIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

32 B. Both parties agree that they will not use the name(s), symbols, trademarks or service marks,  
33 presently existing or later established, of the other party nor its employees in any advertisement, press  
34 release or publicity with reference to this Agreement without the prior written approval of the other  
35 party's authorized official. Requests for approval shall be made to ADMINISTRATOR or to  
36 CONTRACTOR's signatory of this Agreement. CONTRACTOR may represent itself as a contracted  
37 provider of the services described in this Agreement for the residents of Orange County as provided in

1 Subparagraph A. above. ADMINISTRATOR may include references to the services described in this  
2 Agreement in informational materials relating to the continuum of care provided using federal, state and  
3 county funds.

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

6  
7 **XV. MAXIMUM OBLIGATION**

8 A. The Total Maximum Obligation of COUNTY for services provided in accordance with this  
9 Agreement, and the separate Maximum Obligations for each period under this Agreement, are as  
10 specified in the Referenced Contract Provisions of this Agreement, except as allowed for in  
11 Subparagraph B. below.

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

14  
15 **XVI. MINIMUM WAGE LAWS**

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

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

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

30  
31 **XVII. NONDISCRIMINATION**

32 **A. EMPLOYMENT**

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

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

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

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

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

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

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

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

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

- 3 1. Denying a client or potential participant any service, benefit, or accommodation.
- 4 2. Providing any service or benefit to a participant which is different or is provided in a  
5 different manner or at a different time from that provided to other participants.
- 6 3. Restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed  
7 by others receiving any service or benefit.
- 8 4. Treating a 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 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 participants through a written statement that CONTRACTOR’s and/or subcontractor’s participants may  
14 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 participants not able  
18 to resolve such problems at the point of service. Participants may initiate a grievance or complaint  
19 directly with CONTRACTOR either orally or in writing.

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

22 b. Throughout the problem resolution and grievance process, participant rights shall be  
23 maintained, including access to the Patients’ Rights Office at any point in the process. Participants shall  
24 be informed of their right to access the 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.

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

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



1 otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to  
2 enforce 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  
4 state law, this Agreement may be canceled, terminated or suspended in whole or in part and  
5 CONTRACTOR or subcontractor may be declared ineligible for further contracts involving federal,  
6 state or county funds.

7  
8 **XVIII. 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  
17 Service, or any other expedited delivery service.

18 B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of  
19 this 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  
25 damage 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.

28  
29 **XIX. 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  
33 the 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  
37 served pursuant to this Agreement; provided, however, weekends and holidays shall not be included for

1 | purposes of computing the time within which to give telephone notice and, notwithstanding the time  
2 | limit herein 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  
5 | via encrypted email to ADMINISTRATOR a written report within sixteen (16) hours after becoming  
6 | aware 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  
10 | pursuant to this Agreement.

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

15 |  
16 | **XX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

24 |  
25 | **XXI. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**XXII. RESEARCH AND PUBLICATION**

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

**XXIII. REVENUE**

A. PARTICIPANT FEES – CONTRACTOR shall charge a fee to participants to whom services are provided pursuant to this Agreement, their estates and responsible relatives, in accordance with the fee system designated by ADMINISTRATOR. This fee shall be based upon the person's ability to pay for services, but it shall not exceed the actual cost of services provided. No person shall be denied services because of an inability to pay.

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

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

**XXIV. 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.

**XXV. 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.

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

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

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

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

11 8. Severance pay for separating employees.

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

14 10. Supplanting current funding for existing services.

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

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

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

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

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

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

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

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

28 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
29 CONTRACTOR's participants.

30  
31 **XXVI. STATUS OF CONTRACTOR**

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

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

5  
6 **XXVII. TERM**

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

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

15  
16 **XXVIII. TERMINATION**

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

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

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

- 25 1. The loss by CONTRACTOR of legal capacity.
- 26 2. Cessation of services.
- 27 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
28 another entity without the prior written consent of COUNTY.
- 29 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
30 required pursuant to this Agreement.
- 31 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of  
32 this Agreement.
- 33 6. The continued incapacity of any physician or licensed person to perform duties required  
34 pursuant to this Agreement.
- 35 7. Unethical conduct or malpractice by any physician or licensed person providing services  
36 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR

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1 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
2 Agreement.

3 D. CONTINGENT FUNDING

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

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

7 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)  
8 approved by the Board of Supervisors.

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

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

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

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

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

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

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

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

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

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

34 8. To the extent services are terminated, cancel outstanding commitments covering the  
35 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding  
36 commitments which relate to personal services. With respect to these canceled commitments,  
37 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims

1 arising out of such cancellation of commitment which shall be subject to written approval of  
2 ADMINISTRATOR.

3 9. Provide written notice of termination of services to each participant being served under this  
4 Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of  
5 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars  
6 day period.

7 G. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be  
8 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.  
9

10 **XXIX. THIRD PARTY BENEFICIARY**

11 Neither party hereto intends that this Agreement shall create rights hereunder in third parties  
12 including, but not limited to, any subcontractors or any participants provided services pursuant to this  
13 Agreement.  
14

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

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

22 **XXXI. THE REGENTS**

23 COUNTY acknowledges that the Regents of the University of California (“The Regents”) has  
24 entered into this Agreement solely on behalf of and with respect to the University of California, Irvine,  
25 Child Development Center, and not on behalf of or with respect to any other division, business or  
26 operating unit, enterprise, facility, group, plan, or program that is or may be owned, controlled,  
27 governed, or operated by, or affiliated with, The Regents, including, without limitation, any other  
28 university, campus, health system, medical center, hospital, clinic, medical group, physician, or health or  
29 medical plan or program (collectively, the “Excluded UC Affiliates”). In light of the foregoing,  
30 COUNTY further acknowledges and agrees that, notwithstanding any other provision contained in this  
31 Agreement:  
32

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

37 //



- 1 (b) None of the Excluded UC Affiliates shall constitute or be deemed to constitute an affiliate of
- 2 the Regents or of the University of California, Irvine Medical Center for any purpose under this
- 3 Agreement; and
- 4 (c) The University of California, Irvine Medical Center, through The Regents or otherwise, shall
- 5 have the right to participate in, provide services under, contract as part of, and otherwise be
- 6 involved in the management or operation of, any health or medical insurance or benefit plan,
- 7 program, service or product that is sponsored or offered in whole or in part by The Regents on a
- 8 system-wide basis.

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

3  
4 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,  
5 SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF  
6 CALIFORNIA IRVINE HEALTH FOR UNIVERSITY OF CALIFORNIA, IRVINE,  
7 CHILD DEVELOPMENT CENTER

8  
9 DocuSigned by:  
10 BY: Snehal Bhatt DATED: 3/27/2017  
11 EEE15A657B78467...

12 TITLE: Director, Purchasing and Risk Services

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14 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

15  
16 TITLE: \_\_\_\_\_

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20 COUNTY OF ORANGE

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22  
23 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

24 HEALTH CARE AGENCY

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

29  
30 DocuSigned by:  
31 BY: Eric Divine DATED: 3/23/2017  
32 C4E3886C1E6D4FD...

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

1 EXHIBIT A  
2 TO AGREEMENT FOR PROVISION OF  
3 SCHOOL BASED BEHAVIORAL HEALTH INTERVENTION AND SUPPORT  
4 EARLY INTERVENTION SERVICES  
5 BETWEEN  
6 COUNTY OF ORANGE  
7 AND

8 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
9 AS DESCRIBED IN ARTICLE IX, SECTION 9 OF THE CALIFORNIA CONSTITUTION,  
10 ON BEHALF OF UNIVERSITY OF CALIFORNIA IRVINE HEALTH  
11 FOR UNIVERSITY OF CALIFORNIA, IRVINE, CHILD DEVELOPMENT CENTER  
12 JULY 1, 2017 THROUGH JUNE 30, 2020

13  
14 **I. COMMON TERMS AND DEFINITIONS**

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

- 17 1. Admission means completion of the entry and/or Intake process for program Participants.
- 18 2. Assessment means a professional review and Evaluation of an individual’s Behavioral  
19 Health Needs and/or Behavioral Health Conditions in order to determine the most appropriate course of  
20 services.
- 21 3. At Risk means a state of high stressor and low protective factor that would increase  
22 likelihood of development of a Behavioral Health Condition.
- 23 4. Behavioral Health Condition means diminished cognitive, emotional, or social abilities, but  
24 not to the extent that the criteria for a mental disorder are met.
- 25 5. Behavioral Health Need means an identified behavior that could potentially become an  
26 issue or problem such as lack of social or communication skills.
- 27 6. Behavioral Health Intervention Support Services means a systems approach utilizing both  
28 systemic and individualized strategies for achieving social, behavioral and learning outcomes for  
29 children, staff, families and community.
- 30 7. Early Intervention means the act of intervening, interfering or interceding at the  
31 manifestation of a Behavioral Health Condition, with the intent of measurably improving a behavioral  
32 health problem or to prevent a Behavioral Health Condition from getting worse.
- 33 8. Enrollment means the data entry of a Participant’s program information into  
34 CONTRACTOR’s database for purposes of recording and tracking a Participant’s involvement in the  
35 program.
- 36 9. Evaluation means the systematic investigation of the value and impact of an intervention or  
37 program.

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

5 11. Family Member means any traditional and/or non-traditional support system, significant  
6 other, or natural support designated by the Participant.

7 12. Group Intervention means the delivery of a specific service to more than one participant at  
8 a time.

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

12 14. Individual Intervention means intensive individual instructional strategies and support for a  
13 participant who has serious and persistent behavioral and academic challenges.

14 15. Information Dissemination means the distribution of a collection of facts or data.

15 16. Intake means the initial meeting between a Participant and the CONTRACTOR’s  
16 admission team to evaluate a participant’s issue of concern and determine how a program could best  
17 meet his/her needs.

18 17. Level of Well-being means the state of satisfaction, happiness, and/or sense of control that a  
19 participant feels about his/her present situation/condition as measured by a validated instrument/scale.

20 18. MHSA means the law that provides funding for expanded community mental health  
21 services, also known as “Proposition 63.”

22 19. Month of Full Time School means the completion of the specific calendar month’s number  
23 of school days.

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

26 21. Participant means an individual enrolled in a program and who engages in activities aimed  
27 at preventing and/or eliminating the development of Behavioral Health Conditions.

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

33 23. PII means any information that could be readily used to identify a specific person, including  
34 but not limited to: name, address, telephone number, email address, driver’s license number, Social  
35 Security number, bank account information, credit card information, or any combination of data that  
36 could be used to identify a specific person, such as a birth date, zip code, mother’s maiden name and  
37 gender.

1 24. Prevention means the group or individual interventions that occur before the initial onset of  
2 a Behavioral Health Condition. Prevention promotes positive cognitive, social, and emotional  
3 development and encourages a state of well-being that allows the individuals to function well in the face  
4 of changing and sometimes challenging circumstances.

5 25. Program Protocol means the written program description, goals, objectives, and policies  
6 established by CONTRACTOR for the provision of services specified in the Agreement.

7 26. Referral means the process of sending an individual from one service to another for health  
8 care, mental health, and/or other support services, or an unsuccessful linkage attempt.

9 27. School Failure means the process of an individual experiencing continued lack of academic  
10 success and achievement based on learning disabilities, emotional disorders, family stress, and/or other  
11 conditions that, if not resolved, may result in suspension, truancy, and/or expulsion.

12 28. School-based Interventions means a comprehensive approach to enhance regular classroom  
13 strategies to enable learning; supports children during vulnerable periods of transitions (e.g. to a new  
14 school or to a new class); increases and strengthens home and school connections; identifies and  
15 supports trauma-exposed children; responds to and prevents crises; increases and strengthens  
16 community involvement and support and facilitates children' and family's access to effective services  
17 and special assistance as needed.

18 29. Social Skills Training means a type of intervention and training that targets the  
19 development of specific skill sets adaptive for children. Specific skills addressed include, but are not  
20 limited to, the following: accepting consequences, ignoring provocation, assertive communication,  
21 social problem solving, cooperation, good sportsmanship, and general friendship-making skills. Social  
22 Skills Training is implemented in a group format, for one (1) hour on a daily basis and in an educational  
23 series utilizing specific psychosocial interventions, modeling and role-playing to promote adaptive skill  
24 acquisition.

25 30. Social Support means assistance that may include companionship, emotional backing,  
26 cognitive guidance, material aid and special services.

27 31. Training means the action or method used to transfer skills and/or knowledge to a target  
28 audience.

29 32. Trauma-Exposed Individuals mean those who are exposed to traumatic events or prolonged  
30 traumatic conditions, including grief, loss and isolation, including those who are unlikely to seek help  
31 from any traditional behavioral or mental health service.

32 33. Unduplicated Participant means an individual that is counted only once, despite how many  
33 services the individual is enrolled in during each period as specified in the Referenced Contract  
34 Provisions of the Agreement.

35 34. Unit of Service means the number and/or type of activities the CONTRACTOR will fulfill  
36 during each period as specified in the Referenced Contract Provisions of the Agreement.

37 //

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

3  
4 **II. PAYMENTS**

5 A. COUNTY shall pay CONTRACTOR, monthly in arrears, at the rate of \$2,291 per Participant  
6 per month; or at ADMINISTRATOR’s discretion, any prorated portion thereof, provided the total of  
7 such payments shall not exceed the COUNTY’s Maximum Obligation for each Period as set forth in the  
8 Referenced Contract Provisions of the Agreement.

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

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

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

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

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

24  
25 **III. REPORTS**

26 A. FISCAL

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

35 2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These  
36 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report  
37 anticipated year-end actual costs and revenues for CONTRACTOR’s program described in the Services

1 paragraph of Exhibit A to the Agreement. Such reports shall include actual monthly costs and revenue  
2 to date and anticipated monthly costs and revenue to the end of the fiscal year, and shall include a  
3 projection narrative justifying the year-end projections. Year-End Projection Reports shall be submitted  
4 in conjunction with the Monthly Expenditure and Revenue Reports.

5 B. PROGRAMMATIC – CONTRACTOR shall submit monthly Programmatic reports to  
6 ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall  
7 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings  
8 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the  
9 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not  
10 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve  
11 satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth  
12 (20th) calendar day following the end of the month being reported.

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

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

19  
20 **IV. SERVICES**

21 A. FACILITY – CONTRACTOR shall maintain one (1) facility for the provision of services  
22 described herein and as specified in the Facilities, Payments and Services Paragraph of the Agreement,  
23 at the following location, or any other location approved, in advance, in writing, by  
24 ADMINISTRATOR:

25  
26 19262 Jamboree Road  
27 Irvine, CA 92612  
28

29 B. CONTRACTOR shall provide subject services to those children, ages five (5) to thirteen (13),  
30 through eighth grade level, and their families who reside in COUNTY that have been identified by the  
31 CONTRACTOR as beginning to show moderate or serious signs of emotional and behavioral  
32 disturbance and will benefit from the academic program described herein. A minimum of sixteen (16)  
33 children meeting the outlined criteria will participate in Behavioral Health Intervention and Support  
34 Services.

35 C. CONTRACTOR shall provide a regular educational school experience with modifications to  
36 meet the psychosocial and academic needs of children and families with challenges in attention,  
37 behavior and learning or ADD symptoms. Program goals are to normalize Participants’ classroom

1 behavior through general and individualized accommodations; teach children social skills that will  
2 enhance interpersonal relations; provide parents with Training to assist with competence and confidence  
3 in implementing behavior modification strategies; provide program Participants with guidance and  
4 assistance with transitioning to the next academic setting; reduce family and marital stress; and improve  
5 overall family relationships;

6 1. CONTRACTOR shall provide the following services:

7 a. Intake Assessment – CONTRACTOR shall identify and assess potential Participants  
8 who demonstrate financial need based on approval of ADMINSTRATOR; and one (1) or more of the  
9 following four (4) criteria:

10 1) Demonstrate behavioral challenges that are impairing child in his/her regular  
11 education placement;

12 2) Demonstrate impaired social competencies as defined by social relationship  
13 problems, difficulty establishing and maintaining meaningful relationships with family, peers, adult care  
14 providers and educators;

15 3) Demonstrate family discord associated with loss of employment, divorce or  
16 separation, domestic violence, or some other traumatic or violent situation; and

17 4) Demonstrate the need for parent Training as determined by CONTRACTOR or  
18 referring partner organizations.

19 b. After identifying potential Participants CONTRACTOR shall:

20 1) Conduct a team review Assessment of risk and impairment as measured by a  
21 variety of Evaluation tools and questionnaires;

22 2) Conduct a semi-structured psychological interview with the family to determine the  
23 degree of risk of mental health diagnosis; and

24 3) Conduct a one (1) day school observation visit to “shadow” school program to  
25 acclimate the child to the school setting.

26 c. Initial Parent Training (eight [8]-week session) – CONTRACTOR shall meet with the  
27 Participant’s parents in a group setting on one (1) evening each week prior to or during the Participant’s  
28 Enrollment in CONTRACTOR’s program. CONTRACTOR shall provide parents with instruction on  
29 how to work with their child to develop problem solving strategies and techniques, and  
30 CONTRACTOR’s support staff shall guide parents during the multiple family group sessions to  
31 demonstrate and practice those strategies and techniques. CONTRACTOR shall make individual  
32 workshop sessions available to parents as necessary.

33 d. Social Skills Training (eight [8]-week session) – CONTRACTOR shall provide  
34 Participants with Social Skills Training either prior, after Enrollment and/or during Transition phase, in  
35 CONTRACTOR’s program in a peer group setting to enhance their social and emotional relationships  
36 with peers, siblings, parents, and others. Participants will be taught strategies and skills for  
37 demonstrating, accepting, cooperation, and problem solving.



1 e. Classroom Academic Support Services – CONTRACTOR shall provide a regular  
2 education setting using a modified California standards-based curriculum to meet the needs of  
3 Participants with impaired compliance, productivity, and relationships due to challenges with attention,  
4 behavior, and learning. Classroom activities will be designed to normalize classroom behavior, help  
5 Participants access California standards-based curriculum, and increase classroom productivity. Each  
6 classroom will consist of fifteen (15) Participants and will be conducted by a credentialed teacher with  
7 extensive Training/experience in applied behavior analysis. Each classroom will be supported by two  
8 (2) behavior specialists trained to work with the target population. Classroom modification will be  
9 made to meet the need of Participants.

10 1) Specific modifications will include:

- 11 a) Five to one (5:1) ratio of positive to negative feedback throughout each school
- 12 day;
- 13 b) Structured token economy where feedback on individualized target behaviors
- 14 occur very thirty (30) minutes;
- 15 c) “Time-outs” from the token economy to modify undesirable behaviors;
- 16 d) Development of behavior self-monitoring techniques to encourage reflective
- 17 cognition;
- 18 e) School-based daily reinforcement of behavioral choices, daily “report card”
- 19 feedback to parents to allow home-based reinforcement of school behavior;
- 20 2) Fluid and flexible daily individualized target behaviors to enable each child to meet
- 21 their academic potential; and
- 22 3) Individual therapy, small group therapy, and educational therapy or other academic
- 23 supports available and provided as necessary.
- 24 4) Participants will receive in classroom services for up to eighteen (18) months
- 25 unless prior written approval is received by ADMINISTRATOR.

26 f. Academic Transitional Support Services – Families shall participate in  
27 CONTRACTOR’s program for a period of twelve (12) months, or until they have created a sustainable,  
28 practical behavioral support plan. The plan will be designed to reinforce normalized behavior that can  
29 be generalized to the next academic setting. CONTRACTOR’s staff will work with each family to  
30 teach them how to effectively collaborate with their child’s home school district, how to select  
31 appropriate school placement, and how to work with program officials to ensure a smooth transition to  
32 the new academic environment.

33 g. Alumni and Follow-Up Program Services – CONTRACTOR shall ensure  
34 generalization of Participant treatment in the next academic setting. Key components of the program  
35 shall include telephone interviews to monitor Participant progress at six (6) months and at twelve (12)  
36 months of the program. The follow-up telephone interviews by CONTRACTOR will be used to  
37 measure the ability of the child and family to generalize skills and services obtained in the course to the

1 next academic setting. Up to four (4) follow-up meetings will be provided for academic transitional  
2 support and to track student progress.

3 D. CONTRACTOR shall require parents to attend weekly multiple family group classes for the  
4 duration of the program.

5 E. CONTRACTOR shall provide child care to ensure parent’s attendance to all required classes.

6 F. CONTRACTOR shall complete the following Units of Service for each Enrolled Participant:

- 7 1. Two hundred eight (208) days of year-round full time school days;
- 8 2. Eight (8) social skills classes – one and a half (1.5) hours each;
- 9 3. Eight (8) initial parent group sessions – two (2) hours each;
- 10 4. Twenty-two (22) multi-family group sessions – at a minimum of one and a half (1.5) hours  
11 each;
- 12 5. Target Progress Report - Behavioral Health Assessments – weekly, forty-four (44) total;
- 13 6. At least ten (10) individual meetings for Participant or Family Members.

14 G. CONTRACTOR shall develop procedures for and train all staff in behavioral intervention  
15 techniques.

16 H. CONTRACTOR shall conduct on-going Evaluations of the program, ensure participation of  
17 parents/teachers/staff on completion of Evaluation requirements and provide analysis to  
18 ADMINISTRATOR as requested.

19 I. CONTRACTOR shall make its best efforts to provide services pursuant to the Agreement in a  
20 manner that is culturally and linguistically appropriate for the population(s) served.

21 J. OUTCOME MEASURES – CONTRACTOR shall implement and track ADMINISTRATOR  
22 approved objectives and outcome measures across all services.

- 23 1. Performance Objective #1 – Improve Students’ ability to behave at school:
  - 24 a. Students will show improvement in identified target behavior.
  - 25 b. Students identified with Attention Deficit Disorder will demonstrate a reduction of  
26 symptoms.
- 27 2. Performance Objective #2 – Improve Social Functioning for Students:
  - 28 a. Students will demonstrate an improvement in oral fluency
- 29 3. Performance Objective #3 – Improve confidence in parenting skills.
  - 30 a. Parents will report an increase in confidence in behavior management skills

31 K. Participant Grievance Review and Resolution Policy – CONTRACTOR shall establish and  
32 maintain a Participant Grievance Resolution Policy and document that any Participant to whom services  
33 are provided under the terms of this Agreement has received the policy and that CONTRACTOR’s final  
34 decision related to a grievance. CONTRACTOR shall submit a copy of its Participant Grievance  
35 Resolution Policy to ADMINISTRATOR within thirty (30) calendar days of the effective date of the  
36 Agreement and within fifteen (15) calendar days of the adoption, by CONTRACTOR, of any revisions  
37 to the policy. CONTRACTOR’s Participant Grievance Resolution Policy is subject to approval by

1 ADMINISTRATOR for the purpose of maintaining consistency with established standards and policies.

2 L. CONTRACTOR shall attend regular meetings with ADMINISTRATOR to discuss contractual  
3 and other issues related to, but not limited to, compliance with P&Ps, service delivery, and performance  
4 objectives and outcomes.

5 M. CONTRACTOR shall document all adverse incidents affecting the physical and/or emotional  
6 welfare of Participants, including but not limited to serious physical harm to self or others, serious  
7 destruction of property, developments, etc., and which may raise liability issues with COUNTY, and  
8 shall advise ADMINISTRATOR of any special incidents, conditions, or issues that adversely affect the  
9 quality or accessibility of Participant-related services provided by, or under contract with COUNTY, as  
10 set forth in Subparagraph C. of the Notices Paragraph of the Agreement.

11 N. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,  
12 with respect to any person who has been referred to CONTRACTOR by ADMINISTRATOR under the  
13 terms of the Agreement. Further, CONTRACTOR agrees that the funds provided hereunder shall not be  
14 used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian  
15 institution, or religious belief.

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

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1 EXHIBIT B  
2 TO AGREEMENT FOR PROVISION OF  
3 SCHOOL BASED BEHAVIORAL HEALTH INTERVENTION AND SUPPORT  
4 EARLY INTERVENTION SERVICES  
5 BETWEEN  
6 COUNTY OF ORANGE  
7 AND

8 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
9 AS DESCRIBED IN ARTICLE IX, SECTION 9 OF THE CALIFORNIA CONSTITUTION,  
10 ON BEHALF OF UNIVERSITY OF CALIFORNIA IRVINE HEALTH  
11 FOR UNIVERSITY OF CALIFORNIA, IRVINE, CHILD DEVELOPMENT CENTER  
12 JULY 1, 2017 THROUGH JUNE 30, 2020  
13

14 **I. BUSINESS ASSOCIATE CONTRACT**

15 A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

34 5. The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA  
35 regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by  
36 other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.  
37 //

1 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in  
2 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the  
3 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the  
4 terms of this Business Associate Contract and the applicable standards, implementation specifications,  
5 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,  
6 with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed  
7 pursuant to the Agreement.

8 B. DEFINITIONS

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

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

15 a. Breach excludes:

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

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

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

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

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

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

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

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

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

1 4. “DRS” shall have the meaning given to such term under the HIPAA Privacy Rule in 45  
2 CFR § 164.501.

3 5. “Disclosure” shall have the meaning given to such term under the HIPAA regulations in  
4 45 CFR § 160.103.

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

7 7. “Individual” shall have the meaning given to such term under the HIPAA Privacy Rule in  
8 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance  
9 with 45 CFR § 164.502(g).

10 8. “Physical Safeguards” are physical measures, policies, and procedures to protect  
11 CONTRACTOR’s electronic information systems and related buildings and equipment, from natural  
12 and environmental hazards, and unauthorized intrusion.

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

15 10. “PHI” shall have the meaning given to such term under the HIPAA regulations in  
16 45 CFR § 160.103.

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

19 12. “Secretary” shall mean the Secretary of the Department of Health and Human Services or  
20 his or her designee.

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

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

28 15. “Subcontractor” shall have the meaning given to such term under the HIPAA regulations in  
29 45 CFR § 160.103.

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

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

36 18. “Use” shall have the meaning given to such term under the HIPAA regulations in  
37 45 CFR § 160.103.

C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

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

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

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

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

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

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

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

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

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

10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,

1 and to make information related to such Disclosures available as would be required for COUNTY to  
2 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with  
3 45 CFR § 164.528.

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

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

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

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

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

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



1 applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the  
2 event:

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

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

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

11 D. SECURITY RULE

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

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

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

28 a. Complying with all of the data system security precautions listed under Subparagraph E.,  
29 below;

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

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

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

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

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

10 E. DATA SECURITY REQUIREMENTS

11 1. Personal Controls

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

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

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

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

37 //

2. Technical Security Controls

a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the COUNTY.

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

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

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

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

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

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight

1 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the  
2 computer. Passwords must be changed every ninety (90) calendar or business days, preferably every  
3 sixty (60) calendar or business days. Passwords must be changed if revealed or compromised.  
4 Passwords must be composed of characters from at least three (3) of the following four (4) groups from  
5 the standard keyboard:

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

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

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

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

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

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

34 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to  
35 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
36 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is  
37 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files

1 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as  
2 website access, file transfer, and E-Mail.

3 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and  
4 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,  
5 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a  
6 comprehensive intrusion detection and prevention solution.

7 3. Audit Controls

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

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

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

21 4. Business Continuity/Disaster Recovery Control

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

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

34 5. Paper Document Controls

35 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
36 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left  
37 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means

1 that information is not being observed by an employee authorized to access the information. Such PHI  
2 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in  
3 baggage on commercial airplanes.

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

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

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

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

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

25 **F. BREACH DISCOVERY AND NOTIFICATION**

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

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

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

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

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

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

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

4 b. Any other information that COUNTY is required to include in the notification to

5 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or

6 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day

7 period set forth in 45 CFR § 164.410 (b) has elapsed, including:

8 1) A brief description of what happened, including the date of the Breach and the date

9 of the discovery of the Breach, if known;

10 2) A description of the types of Unsecured PHI that were involved in the Breach (such

11 as whether full name, social security number, date of birth, home address, account number, diagnosis,

12 disability code, or other types of information were involved);

13 3) Any steps Individuals should take to protect themselves from potential harm

14 resulting from the Breach;

15 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to

16 mitigate harm to Individuals, and to protect against any future Breaches; and

17 5) Contact procedures for Individuals to ask questions or learn additional information,

18 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

19 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in

20 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the

21 COUNTY.

22 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation

23 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that

24 CONTRACTOR made all notifications to COUNTY consistent with this Subparagraph F. and as

25 required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or

26 disclosure of PHI did not constitute a Breach.

27 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or

28 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

29 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the

30 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit

31 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as

32 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR’s initial report of

33 the Breach to COUNTY pursuant to Subparagraph F.2. above.

34 8. CONTRACTOR shall continue to provide all additional pertinent information about the

35 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after

36 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable

37 requests for further information, or follow-up information after report to COUNTY, when such request

1 is made by COUNTY.

2 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or  
3 other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs  
4 in addressing the Breach and consequences thereof, including costs of investigation, notification,  
5 remediation, documentation or other costs associated with addressing the Breach.

6 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

16 1) The Disclosure is required by law; or

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

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

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

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

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

31 H. PROHIBITED USES AND DISCLOSURES

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

37 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI



1 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
2 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by  
3 42 USC § 17935(d)(2).

4 I. OBLIGATIONS OF COUNTY

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

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

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

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

16 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

1 EXHIBIT C  
2 TO AGREEMENT FOR PROVISION OF  
3 SCHOOL BASED BEHAVIORAL HEALTH INTERVENTION AND SUPPORT  
4 EARLY INTERVENTION SERVICES  
5 BETWEEN  
6 COUNTY OF ORANGE  
7 AND

8 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
9 AS DESCRIBED IN ARTICLE IX, SECTION 9 OF THE CALIFORNIA CONSTITUTION,  
10 ON BEHALF OF UNIVERSITY OF CALIFORNIA IRVINE HEALTH  
11 FOR UNIVERSITY OF CALIFORNIA, IRVINE, CHILD DEVELOPMENT CENTER  
12 JULY 1, 2017 THROUGH JUNE 30, 2020  
13

14 **I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

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

17 A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

9 B. TERMS OF AGREEMENT

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

14 2. Responsibilities of CONTRACTOR

15 CONTRACTOR agrees:

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

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

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

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

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

37 //

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  
3 CMPPA Agreement between SSA and CHHS and in the Agreement between SSA and DHCS, known as  
4 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  
6 Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies  
7 Exchanging Electronic Information with 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  
10 CONTRACTOR with respect to such information.

11 d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful  
12 effect that is known to CONTRACTOR of a use or disclosure of DHCS PI or PII by CONTRACTOR or  
13 its 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  
21 DHCS PII, upon request by COUNTY and/or DHCS, CONTRACTOR shall provide COUNTY and/or  
22 DHCS with a list of all employees, contractors and agents who have access to DHCS PII, including  
23 employees, contractors and agents of its subcontractors and agents.

24 g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist  
25 the COUNTY to the extent necessary to ensure the DHCS's compliance with the applicable terms of the  
26 CIPA including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS  
27 PI, production of DHCS PI, disclosure of a security Breach involving DHCS PI and notice of such  
28 Breach to 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 Breach of unsecured DHCS PI  
32 and PII or security incident in accordance with Subparagraph F. of the Business Associate Contract,  
33 Exhibit B to the Agreement.

34 i. Designation of Individual Responsible for Security. CONTRACTOR shall designate  
35 an 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.