

AGREEMENT FOR PROVISION OF
BEHAVIORAL HEALTH SERVICES IN
SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS

BETWEEN
COUNTY OF ORANGE

AND
«NAME1»

JANUARY 1, 2018 THROUGH JUNE 30, 2020

THIS AGREEMENT entered into this 1st day of January 2018 (effective date), is by and between the COUNTY OF ORANGE, a political subdivision of the State of California (COUNTY) and «NAME1» a «CORP_STAT» (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

WITNESSETH:

~~WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Short Term Residential Therapeutic Program Mental Health Services described herein to the residents of Orange County; and WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and conditions hereinafter set forth:~~

WHEREAS, on December 5, 2017, the Orange County Board of Supervisors authorized the Master Agreement with various ~~providers~~ Contractors for the provision of Behavioral Health Services in Short-Term Residential Therapeutic Programs for the period of January 1, 2018 through June 30, 2020; ~~and~~ in the amount not to exceed \$10,000,000, renewable for two additional one-year periods; and

WHEREAS, ~~COUNTY~~ the Orange County Board of Supervisors authorized Amendment No. 1 to amend MA-042-19010977, effective April 23, 2019 through June 30,2020, to increase the Master Agreement amount by \$6,000,000, with a revised not to exceed amount of \$10,000,000 for Period three, for a revised Total Maximum Obligation of \$16,000,000; and ~~CONTRACTOR~~

WHEREAS, the Parties now desire to enter into this Amendment No. 2 to renew the Master Agreement for County to continue receiving and Contractor to continue providing the services set forth in the Contract, renewable for one additional one-year period.

1 NOW THEREFORE, Contractor and County agree to amend the Master Agreement ~~for~~
2 ~~provision of Behavioral Health Services in Short-Term Residential Therapeutic Programs.~~ as follows:

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

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I. ACRONYMS

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

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4	A. AES	Advanced Encryption Standard
5	B. AIDS	Acquired Immune Deficiency Syndrome
6	C. ARRA	American Recovery and Reinvestment Act of 2009
7	D. BBS	Board of Behavioral Sciences
8	E. BCP	Business Continuity Plan
9	F. BHS	Behavioral Health Services
10	G. CalOPTIMA	California Orange Prevention and Treatment Integrated Medical Assistance
11	H. CAP	Corrective Action Plan
12	I. CCC	California Civil Code
13	J. CCR	California Code of Regulations
14	K. CD/DVD	Compact Disc/Digital Video or Versatile Disc
15	L. CEO	County Executive Office
16	M. CFDA	Catalog of Federal Domestic Assistance
17	N. CFR	Code of Federal Regulations
18	O. CFT	Child and Family Team
19	P. CHDP	Child Health and Disability Prevention
20	Q. CHHS	California Health and Human Services Agency
21	R. CHPP	COUNTY HIPAA Policies and Procedures
22	S. CHS	Correctional Health Services
23	T. CIPA	California Information Practices Act
24	U. CMPPA	Computer Matching and Privacy Protection Act
25	V. COI	Certificate of Insurance
26	W. CPA	Certified Public Accountant
27	X. CSW	Clinical Social Worker
28	Y. CYBHS	Children and Youth Behavioral Health Services
29	Z. DD	Dually Diagnosed
30	AA. DEA	Drug Enforcement Agency
31	AB. DHCS	California Department of Health Care Services
32	AC. DSH	Direct Service Hours
33	AD. D/MC	Drug/Medi-Cal
34	AE. DoD	US Department of Defense
35	AF. DPFS	Drug Program Fiscal Systems
36	AG. DRP	Disaster Recovery Plan
37	AH. DRS	Designated Record Set

1	AI. DSM-V	Diagnostic and Statistical Manual of Mental Disorders. 5th Edition
2	AJ. EHR	Electronic Health Records
3	AK. E-Mail	Electronic Mail
4	AL. ePHI	Electronic Protected Health Information
5	AM. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
6	AN. FIPS	Federal Information Processing Standards
7	AO. FQHC	Federally Qualified Health Center
8	AP. FSP	Full Service Partnership
9	AQ. FTE	Full Time Equivalent
10	AR. GAAP	Generally Accepted Accounting Principles
11	AS. HCA	County of Orange Health Care Agency
12	AT. HHS	Federal Health and Human Services Agency
13	AU. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public U
14		Law 104-191
15	AV. HITECH ACT	Health Information Technology for Economic and Clinical Health
16		Act, Public Law 111-005
17	AW. HSC	California Health and Safety Code
18	AX. ICC	Intensive Care Coordination
19	AY. ID	Identification
20	AZ. IEA	Information Exchange Agreement
21	BA. IEP	Individualized Education Program
22	BB. IHBS	Intensive Home Based Services
23	BC. IRIS	Integrated Records and Information System
24	BD. ISO	Insurance Services Office
25	BE. JV	Juvenile
26	BF. LCSW	Licensed Clinical Social Worker
27	BG. LMFT	Licensed Marriage and Family Therapist
28	BH. LPCC	Licensed Professional Clinical Counselor
29	BI. LPT	Licensed Psychiatric Technician
30	BJ. LVN	Licensed Vocational Nurse
31	BK. MH	Mental Health
32	BL. MHP	Mental Health Plan
33	BM. MHRC	Mental Health Rehabilitation Centers
34	BN. MHS	Mental Health Specialist
35	BO. MHSA	Mental Health Services Act
36	BP. MTP	Master Treatment Plan
37	BQ. NA	Narcotics Anonymous

1	BR. NIATx	Network Improvement of Addiction Treatment
2	BS. NIH	National Institutes of Health
3	BT. NIST	National Institute of Standards and Technology
4	BU. NMD	Non-Minor Dependents
5	BV. NOA	Notice of Action
6	BW. NP	Nurse Practitioner
7	BX. NPI	National Provider Identifier
8	BY. NPP	Notice of Privacy Practices
9	BZ. OCEMS	Orange County Emergency Medical Services
10	CA. OCPD	Orange County Probation Department
11	CB. OIG	Federal Office of Inspector General
12	CC. OMB	Federal Office of Management and Budget
13	CD. OPM	Federal Office of Personnel Management
14	CE. OQ	Outcome Questionnaire
15	CF. P&P	Policy and Procedure
16	CG. PA DSS	Payment Application Data Security Standard
17	CH. PBM	Pharmaceutical Benefits Management
18	CI. PC	California Penal Code
19	CJ. PCI DSS	Payment Card Industry Data Security Standard
20	CK. PCP	Primary Care Provider
21	CL. PHI	Protected Health Information
22	CM. PI	Personal Information
23	CN. PII	Personally Identifiable Information
24	CO. POC	Plan of Care
25	CP. PRA	California Public Records Act
26	CQ. QI	Quality Improvement
27	CR. QIC	Quality Improvement Committee
28	CS. RN	Registered Nurse
29	CT. SAMHSA	Substance Abuse and Mental Health Services Administration
30	CU. SD/MC	Short-Doyle Medi-Cal
31	CV. SIR	Self-Insured Retention
32	CW. SSA	County of Orange Social Services Agency
33	CX. STRTP	Short-Term Residential Therapeutic Program
34	CY. SUD	Substance Use Disorder
35	CZ. TAY	Transitional Age Youth
36	DA. TBS	Therapeutic Behavioral Services
37	DB. TCM	Targeted Case Management

1	DC. TFC	Therapeutic Foster Care
2	DD. UMDAP	Uniform Method of Determining Ability to Pay
3	DE. UOS	Units of Service
4	DF. USC	United States Code
5	DG. W&IC	California Welfare and Institutions Code
6	DH. WIC	Women, Infants and Children

8 **II. ALTERATION OF TERMS**

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

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

17 **III. ASSIGNMENT OF DEBTS**

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

26 **IV. COMPLIANCE**

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

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

33 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
34 ~~Compliance Program, Code~~ compliance program, code of ~~Conduct~~ conduct and any
35 ~~Compliance~~ compliance related policies and procedures. CONTRACTOR's ~~Compliance Program,~~
36 ~~Code~~ compliance program, code of ~~Conduct~~ conduct and any related policies and procedures shall be
37 verified by ADMINISTRATOR's Compliance Department to ensure they include all required elements

1 by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph ~~IV~~
 2 (~~COMPLIANCE~~), to this Agreement. These elements include:

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

10 3. If CONTRACTOR does not provide proof of its own ~~Compliance~~ compliance program to
 11 ADMINISTRATOR, CONTRACTOR shall ~~acknowledge to~~ internally comply with
 12 ADMINISTRATOR's Compliance Program and Code of Conduct, the CONTRACTOR shall submit to
 13 the ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed
 14 acknowledgement that CONTRACTOR ~~shall~~ will internally comply with ADMINISTRATOR's
 15 Compliance Program and Code of Conduct. CONTRACTOR shall have as many Covered Individuals it
 16 determines necessary complete ADMINISTRATOR's annual compliance training to ensure proper
 17 compliance.

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

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

37 //

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

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

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

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

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

35 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
 36 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
 37 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing

1 services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an
2 Ineligible Person.

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

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

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

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

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

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

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

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

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

33 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
34 Individuals relative to this Agreement. This includes compliance with federal and state **health**
35 **care** healthcare program regulations and procedures or instructions otherwise communicated by
36 regulatory agencies, including the Centers for Medicare and Medicaid Services or their agents.

37 //

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

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

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

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

10 E. ~~MEDICAL~~MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE
11 STANDARDS

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

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

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

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

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

28 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
29 participate in the quality improvement activities developed in the implementation of the Quality
30 Management Program.

31 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
32 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
33 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
34 §1810.410.subds.(c)-(d).

35 F. Failure to comply with the obligations stated in this Compliance Paragraph ~~IV (COMPLIANCE)~~
36 shall constitute a breach of the Agreement on the part of CONTRACTOR and ~~ground~~grounds for
37 COUNTY to terminate the Agreement. Unless the circumstances require a sooner period of cure,

1 CONTRACTOR shall have thirty (30) calendar days from the date of the written notice of default to
 2 cure any defaults grounded on this Compliance Paragraph ~~IV (COMPLIANCE)~~ prior to
 3 ADMINISTRATOR's right to terminate this Agreement on the basis of such default.

4 5 **V. CONFIDENTIALITY**

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

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

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

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

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

28 29 **VI. COST REPORT**

30 A. CONTRACTOR shall submit an individual and/or consolidated Cost Report to COUNTY no
 31 later than sixty (60) calendar days following termination of this Agreement. CONTRACTOR shall
 32 prepare the individual and/or consolidated Cost Report in accordance with all applicable federal, state
 33 and COUNTY requirements, GAAP and the Special Provisions Paragraph of this Agreement.
 34 CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers, services,
 35 and funding sources in accordance with such requirements and consistent with prudent business practice,
 36 which costs and allocations shall be supported by source documentation maintained by CONTRACTOR,
 37 and available at any time to ADMINISTRATOR upon reasonable notice. In the event CONTRACTOR

1 has multiple Agreements for mental health services that are administered by HCA, consolidation of the
 2 individual Cost Reports into a single consolidated Cost Report may be required, as stipulated by
 3 ADMINISTRATOR. CONTRACTOR shall submit the consolidated Cost Report to COUNTY no later
 4 than five (5) business days following approval by ADMINSTRATOR of all individual Cost Reports to
 5 be incorporated into a consolidated Cost Report.

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

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

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

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

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

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

32 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,
 33 less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set
 34 forth in the Referenced Contract Provisions of this Agreement. CONTRACTOR shall not claim
 35 expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and
 36 COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR,
 37 which is subsequently determined to have been for a non-reimbursable expenditure or service, shall be

1 repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30)
2 calendar days of submission of the individual and/or consolidated Cost Report or COUNTY may elect to
3 reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due
4 COUNTY.

5 D. Unless approved by ADMINISTRATOR, costs that exceed the County Contract Rates (CCR)
6 per Medi-Cal Unit of Services, as determined by the DHCS, shall be non-reimbursable to
7 CONTRACTOR.

8 E. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in
9 the Budget Paragraph of Exhibit A to this Agreement, CONTRACTOR shall specify in the Cost Report
10 the services rendered with such revenues.

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

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

22
23 Signed _____
24 Name _____
25 Title _____
26 Date _____"

27
28 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

29 A. CONTRACTOR certifies that it and its principals:

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

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

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

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

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

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

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

16 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

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

36 //

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

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

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

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

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

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

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

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

30 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

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

1 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
2 covered employees, subcontractors, and consultants for the period prescribed by the law.

3 4 **X. EQUIPMENT**

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

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

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

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

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

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

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

5 H. CONTRACTOR shall maintain and administer a sound business program for ensuring the
 6 proper use, maintenance, repair, protection, insurance, and preservation of COUNTY Equipment.
 7

8 **XI. FACILITIES, PAYMENTS AND SERVICES**

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

14 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or
 15 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation.
 16 The reduction to the Maximum Obligation shall be in an amount proportionate to the number of days in
 17 which CONTRACTOR was determined to be unable to provide services, staffing, facilities or supplies.
 18

19 **XII. INDEMNIFICATION AND INSURANCE**

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

30 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
 31 required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary
 32 to satisfy COUNTY that the insurance provisions of this Agreement have been complied with.
 33 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on
 34 deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors
 35 performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance
 36 subject to the same terms and conditions as set forth herein for CONTRACTOR.
 37 #

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

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

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

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

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

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

29 F. QUALIFIED INSURER

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

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

1 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
2 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

22 H. REQUIRED COVERAGE FORMS

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

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

27 I. REQUIRED ENDORSEMENTS

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

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

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

37 #

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

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

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

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

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

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

18 M. The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss
19 Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the
20 Certificate of Insurance

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

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

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

31 ~~—O~~ O. Insurance certificates should be forwarded to the agency/department address listed on the
32 solicitation.

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

36 S. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease
37 insurance of any of the above insurance types throughout the term of this Agreement. Any increase or

1 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately
2 protect COUNTY.

3 ~~PT.~~ COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
4 CONTRACTOR does not deposit copies of acceptable ~~COIs~~ Certificate of Insurance and endorsements
5 with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,
6 ~~such failure shall constitute a breach of CONTRACTOR's obligation hereunder and ground for~~
7 ~~termination of this Agreement by~~ may be in breach without further notice to CONTRACTOR, and
8 COUNTY shall be entitled to all legal remedies.

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

12 ~~R.V.~~ SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

36 //

37 //

XIII. INSPECTIONS AND AUDITS

1
2 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
3 of the State of California, the Secretary of the United States Department of Health and Human Services,
4 the Comptroller General of the United States, or any other of their authorized representatives, shall have
5 access to any books, documents, and records, including but not limited to, financial statements, general
6 ledgers, relevant accounting systems, medical and client records, of CONTRACTOR that are directly
7 pertinent to this Agreement, for the purpose of responding to a beneficiary complaint or conducting an
8 audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth
9 in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all
10 reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and the
11 premises in which they are provided.

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

C. AUDIT RESPONSE

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

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

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

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

XIV. LICENSES AND LAWS

1
2 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
3 the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates,
4 accreditations, waivers, and exemptions necessary for the provision of the services hereunder and
5 required by the laws, regulations and requirements of the United States, the State of California,
6 COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify
7 ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the
8 pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers
9 and exemptions. Said inability shall be cause for termination of this Agreement.

10 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

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

34 1. ARRA of 2009.

35 2. W&IC, Division 5, Community Mental Health Services.

36 3. W&IC, Division 6, Admissions and Judicial Commitments.

37 4. W&IC, Division 7, Mental Institutions.

- 1 5. HSC, §§1250 et seq., Health Facilities.
- 2 6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 3 7. CCR, Title 9, Rehabilitative and Developmental Services.
- 4 8. CCR, Title 17, Public Health.
- 5 9. CCR, Title 22, Social Security.
- 6 10. CFR, Title 42, Public Health.
- 7 11. CFR, Title 45, Public Welfare.
- 8 12. USC Title 42. Public Health and Welfare.
- 9 13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 10 14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 11 15. 42 USC §1857, et seq., Clean Air Act.
- 12 16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 13 17. Policies and procedures set forth in Mental Health Services Act.
- 14 18. Policies and procedures set forth in DHCS Letters.
- 15 19. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 16 20. 31 USC 7501–7507, as well as its implementing regulations under 2 CFR Part 200,
17 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for
18 Federal Awards.
- 19 21. California Welfare and Institutions Code, §14100.2, Medicaid Confidentiality.
- 20 22. D/MC Certification Standards for Substance Abuse Clinics, July 2004.
- 21 23. D/MC Billing Manual (March 23, 2010).
- 22 24. Federal Medicare Cost reimbursement principles and cost reporting standards.
- 23 25. State of California-Health and Human Services Agency, Department of Health Care
24 Services, Mental Health Services Division (MHSD), Medi-Cal Billing Manual,
25 October 2013.
- 26 26. Orange County Medi-Cal Mental Health Managed Care Plan.
- 27 27. Short Doyle/Medi-Cal Manual for the Rehabilitation Option and Targeted Case
28 Management.
- 29 28. Short-Doyle/Medi-Cal Modifications/Revisions for the Rehabilitation Option and Targeted
30 Case Management Manual, including DMH Letter 94-14, dated July 7, 1994, DMH Letter
31 No. 95-04, dated July 27, 1995, DMH Letter 96-03, dated August 13, 1996.

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

35 E. CONTRACTOR shall make every reasonable effort to obtain appropriate licenses and/or
36 waivers to provide Medi-Cal billable treatment services at school or other sites requested by
37 ADMINISTRATOR.

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

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

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

12 **XVIII. NONDISCRIMINATION**

13 **A. EMPLOYMENT**

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

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

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

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

35 5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR
 36 and/or subcontractor shall state that all qualified applicants will receive consideration for employment
 37 without regard to race, religious creed, color, national origin, ancestry, physical disability, mental

1 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
2 expression, age, sexual orientation, or military and veteran status. Such requirements shall be deemed
3 fulfilled by use of the term EOE.

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

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

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

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

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

37 //

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

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

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

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

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

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

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

25 **XIX. NOTICES**

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

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

31 2. When faxed, transmission confirmed;

32 3. When sent by Email; or

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

36 B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of
37 this Agreement or as otherwise directed by ADMINISTRATOR and shall be effective when faxed,

1 transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United
2 Parcel Service, or any other expedited delivery service.

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

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

10 **XX. NOTIFICATION OF DEATH**

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

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

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

21 2. WRITTEN NOTIFICATION

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

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

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

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

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

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

6 **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

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

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

32 D. CONTRACTOR shall retain all financial records for a minimum of ~~seven (7)~~ ten (10) years from
 33 the ~~commencement~~ termination of the contract, unless a longer period is required due to legal
 34 proceedings such as litigations and/or settlement of claims.

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

37 //

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

3 ~~—F.~~ If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may
4 provide written approval to CONTRACTOR to maintain records in a single location, identified by
5 CONTRACTOR.

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

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

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

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

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

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

21 1. Have documents readily available within ~~forty-eight (48)~~ twenty-four (24) hour notice of a
22 scheduled audit or site visit.

23 2. Provide auditor or other authorized individuals access to documents via a computer
24 terminal.

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

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

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

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

~~(18) years, or for seven (7) years after the last date of service, whichever is longer.~~

XXIII. 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.

XXIV. REVENUE

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

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

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

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

XXV. SEVERABILITY

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

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XXVI. SPECIAL PROVISIONS

1
2 A. CONTRACTOR shall not use the funds provided by means of this Agreement for the following
3 purposes:

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

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

- 24 1. Funding travel or training (excluding mileage or parking).
- 25 2. Making phone calls outside of the local area unless documented to be directly for the
26 purpose of client care.
- 27 3. Payment for grant writing, consultants, certified public accounting, or legal services.
- 28 4. Purchase of artwork or other items that are for decorative purposes and do not directly
29 contribute to the quality of services to be provided pursuant to this Agreement.

XXVII. STATUS OF CONTRACTOR

30
31
32 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be
33 wholly responsible for the manner in which it performs the services required of it by the terms of this
34 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and
35 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the
36 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR
37 or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR

1 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or
 2 subcontractors as they relate to the services to be provided during the course and scope of their
 3 employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be
 4 entitled to any rights or privileges of COUNTY's employees and shall not be considered in any manner
 5 to be COUNTY's employees.

6 7 **XXVIII. TERM**

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

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

17 18 **XXIX. TERMINATION**

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

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

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

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

37 //

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

5 D. CONTINGENT FUNDING

6 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
 7 a. The continued availability of federal, state and county funds for reimbursement of
 8 COUNTY's expenditures, and
 9 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)
 10 approved by the Board of Supervisors.

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

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

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

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

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

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

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

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

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

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

36 8. To the extent services are terminated, cancel outstanding commitments covering the
 37 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding

1 commitments which relate to personal services. With respect to these canceled commitments,
2 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims
3 arising out of such cancellation of commitment which shall be subject to written approval of
4 ADMINISTRATOR.

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

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

11
12 **XXX. THIRD PARTY BENEFICIARY**

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

16
17 **XXXI. WAIVER OF DEFAULT OR BREACH**

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

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

3 «NAME1»
4

5
6 BY: _____ DATED: _____
7

8 TITLE: _____
9

10
11 BY: _____ DATED: _____
12

13 TITLE: _____
14

15
16
17 COUNTY OF ORANGE
18

19
20 BY: _____ DATED: _____
21

22 HEALTH CARE AGENCY
23

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

29
30 BY: _____ DATED: _____
31

32 DEPUTY
33
34

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

1 EXHIBIT A
 2 AGREEMENT FOR PROVISION OF
 3 BEHAVIORAL HEALTH SERVICES IN
 4 SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS
 5 BETWEEN
 6 COUNTY OF ORANGE
 7 AND
 8 «NAME1»
 9 JANUARY 1, 2018 THROUGH JUNE 30, 2020

10
 11 **I. COMMON TERMS AND DEFINITIONS**

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

14 1. Active and Ongoing Case Load means documentation, by CONTRACTOR, for completion
 15 of entry and evaluation services provided to Clients into COUNTY’s IRIS. Documentation also
 16 includes level, frequency, and duration of services received by Clients, and these services must be
 17 consistent with Clients’ level of impairments as well as treatment goals. In addition, services are to be
 18 individualized and solution-focused, using evidenced-based practices, especially those that are trauma
 19 informed.

20 2. Administrative Support means individual(s) who is/are responsible for providing a broad
 21 range of office support to program and management staff that includes: answering and directing phone
 22 calls, writing correspondences, entering data in spreadsheets, preparing invoices for payment,
 23 maintaining tracking reports and files, and working on special projects, as assigned.

24 3. Admission means documentation, by CONTRACTOR, for completion of entry and
 25 evaluation services provided to Clients into IRIS.

26 4. CFT is the group of individuals who are convened by the placing agency under the
 27 provisions of Sections 16501 and 11462.01 of the W&I code and who are engaged in the direction of all
 28 phases of treatment in a variety of team-based processes which identify the strengths and needs of the
 29 child or youth and his or her family, and help achieve the positive outcomes of safety, permanency, and
 30 well-being.

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

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

37 //

1 7. Data Collection System means software used for the collection, tracking, and reporting of
2 outcomes data for Clients enrolled in the STRTP or FSP programs.

3 8. DSH means the time, measured in hours and portions of hours, that a clinician spends
4 providing services to Clients or significant others on behalf of Clients. DSH credit, both billable and
5 non-billable minutes, is obtained by providing mental health, case management, medication support, and
6 crisis intervention services to Clients open in IRIS.

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

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

15 11. Group Home is a facility for housing youth and is licensed by Community Care Licensing
16 under the provisions of CCR, Title 22, Division 6, et seq.

17 12. Head of Service means an individual ultimately responsible for overseeing the program and
18 is required to be a licensed mental health professional or mental health rehabilitation specialist as
19 defined in Section 630 of Title 9 of the California Code of Regulations.

20 13. Intake means the initial meeting between a Client and CONTRACTOR's staff, and includes
21 an evaluation of the Client to determine if the Client meets program criteria and is willing to seek
22 services.

23 14. Interagency Placement Committee is comprised of the county placing agency with statutory
24 authority for the care, custody, and control for the child or NMD, a licensed mental health professional
25 from the county mental health plan (MHP), and may include other representatives from the county
26 agencies which have shared responsibility for the well-being of the child or NMD.

27 15. IRIS means the COUNTY's database system that collects Clients' information such as
28 registration, scheduled appointments, laboratory information system, invoice and reporting capabilities,
29 compliance with regulatory requirements, electronic medical records, and other relevant applications.

30 16. LCSW means a licensed individual, pursuant to the provisions of Chapter 14 of the
31 California Business and Professions Code, who can provide clinical services to Clients. The license
32 must be current and in force, and has not been suspended or revoked. Also, it is preferred that the
33 individual has at least one (1) year of experience treating children and TAY.

34 17. LMFT means a licensed individual, pursuant to the provisions of Chapter 13 of the
35 California Business and Professions Code, pursuant to the provisions of Chapter 14 of the California
36 Business and Professions Code, who can provide clinical services to Clients. The license must be
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1 current and in force, and has not been suspended or revoked. Also, it is preferred that the individual has
2 at least one (1) year of experience treating children and TAY.

3 18. LPCC means a licensed individual, pursuant to the provisions of Chapter 13 of the
4 California Business and Professions Code, pursuant to the provisions of Chapter 16 of the California
5 Business and Professions Code, who can provide clinical service to Clients. The license must be current
6 and in force, and has not been suspended or revoked. Also, it is preferred that the individual has at least
7 one (1) year of experience treating children and TAY.

8 19. LPT means a licensed individual, pursuant to the provisions of Chapter 10 of the California
9 Business and Professions Code, who can provide clinical services to Clients. The license must be
10 current and in force, and has not been suspended or revoked. Also, it is preferred that the individual has
11 at least one (1) year of experience treating children and TAY.

12 20. Licensed Psychologist means a licensed individual, pursuant to the provisions of Chapter
13 6.6 of the California Business and Professions Code, who can provide clinical services to Clients. The
14 license must be current and in force, and has not been suspended or revoked. Also, it is preferred that
15 the individual has at least one (1) year of experience treating children and TAY.

16 21. LVN means a licensed individual, pursuant to the provisions of Chapter 6.5 of the
17 California Business and Professions Code, who can provide clinical services to Clients. The license
18 must be current and in force, and has not been suspended or revoked. Also, it is preferred that the
19 individual has at least one (1) year of experience treating children and TAY.

20 22. Medical Necessity means diagnosis, impairment, and intervention related criteria as defined
21 in the COUNTY's MHP under Medical Necessity for Medi-Cal reimbursed Specialty Mental Health
22 Services.

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

32 a. Assessment means a service activity, which may include a clinical analysis of the
33 history and current status of a Client's mental, emotional, behavioral disorder, and relevant cultural
34 issues. The Assessment also needs to include history of services being provided, diagnosis, and use of
35 testing procedures.

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1 b. Collateral means significant support individual(s) in a Client's life and is/are used to
2 define services provided to the Client with the intent of improving or maintaining the mental health
3 status of the Client. The Client may or may not be present for this service activity.

4 c. Co-Occurring can refer to dual diagnoses of different conditions occurring within the
5 same individuals. In this case, it refers to clients who have substance use disorders as well as mental
6 health disorders. See DD Integrated Treatment Model as well.

7 d. DD Integrated Treatment Model means a program that uses a stage-wise treatment
8 model and is non-confrontational, follows behavioral principles, considers interactions between mental
9 illness and substance abuse, and has gradual expectations of abstinence. Mental illness and substance
10 abuse research has strongly indicated that a Client with co-occurring disorder needs treatment for both
11 problems to recover fully and focusing on one does not ensure the other will go away. Dual diagnosis
12 services integrate assistance for each condition by helping Clients recover from mental illness and
13 substance abuse in one setting and at the same time.

14 e. ICC Service means assessment and plan development services, to children and youth
15 that qualify under the Katie A. Subclass, that must address the child/youth's mental health need(s)
16 through the coordination of care with providers not primarily associated with mental health services
17 such as the Social Services Agency, Probation Department, and schools (although the Client, collateral
18 and mental health providers may also be present). ICC is also a service available to all Medi-
19 Cal/EPSDT children and youth who may benefit from medically necessary intensive services regardless
20 of Katie A. eligibility status (See DHCS MHSUDS Information Notice No.: 16-004). ICC must be
21 provided in conjunction with a Child Family Team.

22 f. IHBS Service means intensive, individualized and strength-based interventions, with
23 children and youth that qualify under the Katie A. Subclass, to assist the child/youth and his/her
24 significant support persons to develop skills to achieve the goals and objectives of the child/youth's
25 treatment plan. IHBS only includes Individual Rehabilitation and Collateral services. Mental Health
26 Services other than Individual Rehabilitation and Collateral will be claimed separately from IHBS.
27 IHBS is also a service available to all Medi-Cal/EPSDT children and youth who may benefit from
28 medically necessary intensive services regardless of Katie A. eligibility status (See DHCS MHSUDS
29 Information Notice No.:16-004). IHBS must be provided in conjunction with a Child Family Team.

30 g. Medication Support Services means services provided by licensed physicians,
31 registered nurses, or other qualified medical staff, which include: prescribing, administering, dispensing
32 and monitoring of psychiatric medications or biologicals that are necessary to alleviate symptoms of
33 mental illness. These services also include evaluation and documentation of the clinical justification and
34 effectiveness of medication, dosage, side effects, compliance, and response to medication. In addition,
35 the licensed physicians, registered nurses, or other qualified medical staff must obtain informed consent
36 from Clients prior to providing medication education and plan development related to the delivery of
37 these services and/or assessment to Clients.

1 h. Rehabilitation Service means an activity which includes assistance to improving,
2 maintaining, or restoring a Client's or group of Clients' functional skills, daily living skills, social and
3 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or
4 medication education.

5 i. TCM means services that assist a Client to access needed medical, educational, social,
6 prevocational, vocational, rehabilitative, or other community services. These service activities may
7 include, but are not limited to: communicating and coordinating services through referral; monitoring
8 service delivery to ensure Clients' access to service and the service delivery system; and tracking of
9 Clients' progress and plan development.

10 j. TBS means one-on-one behavioral interventions with a Client, which is designed to
11 reduce or eliminate targeted behaviors as identified in the Client's treatment plan. Collateral services are
12 also provided to parent(s)/guardian(s) as part of TBS. Clients must be Medi-Cal eligible and meet TBS
13 class membership and service need requirements. Documentation in the medical record must support
14 Medical Necessity for these intensive services. Cases in which Clients are receiving more than twenty
15 (20) hours per week of TBS or those who are expected to receive more than four months (120 days) of
16 TBS must be approved by ADMINISTRATOR. ADMINISTRATOR has to approve individuals that are
17 delivering these intervention services to ensure they are qualified to deliver these services.

18 k. Therapy means a therapeutic intervention that focuses primarily on symptom reduction
19 as a means to improve functional impairments. Therapy may be delivered to a Client or a group of
20 Clients, which may include family therapy with Client being present.

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

23 m. Mental Health Worker means an individual who has obtained a Bachelor's degree in a
24 mental health field or has a high school diploma along with two (2) years of experience delivering
25 services in a mental health field.

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

33 24. Needs and Services Plan means the documentation of the child/youth's specific behavioral
34 goals (including transition goals) and mental health services provided by the STRTP in consultation with
35 the CFT as required by Section 87068.2 of Title 22 of the California Code of Regulations.

36 25. NPI means the standard unique health identifier that was adopted by the Secretary of HHS
37 under HIPAA of 1996 for health care providers. All HIPAA covered healthcare providers, individuals,

1 and organizations must obtain an NPI for use to identify themselves in HIPAA standard transactions.
2 The NPI is assigned for life.

3 26. NOA-A means a Medi-Cal requirement that informs the beneficiary that she/he is not
4 entitled to any specialty mental health service. The COUNTY has expanded the requirement for an
5 NOA-A to all beneficiaries requesting an assessment for services and found not to meet the Medical
6 Necessity criteria for specialty mental health services.

7 27. NPP means a document that notifies Clients of uses and disclosures of PHI. The NPP may
8 be made by, or on behalf of, the health plan or health care provider as set forth in the of 1996 HIPAA.

9 28. Nurse Practitioner means a medical professional with an advanced degree in nursing that
10 performs a variety of duties in care settings focused around a nursing model.

11 29. Outcomes Analyst/Data Mining Analyst means an individual who ensures that an STRTP or
12 FSP program maintains a focus on program outcomes. This individual will be responsible for reviewing
13 outcome data, analyzing data, and developing strategies for gathering new data from Client's perspective
14 to improve FSP's understanding of Client's needs and desires towards furthering their Recovery. This
15 individual will also provide feedback to the program and work collaboratively with the employment
16 specialist, education specialist, benefits specialist, and other staff in the program to strategize and
17 improve outcomes in service delivery. In addition, this position will be responsible for attending all data
18 and outcome related meetings and ensuring that the STRTP or FSP is being proactive in all data
19 collection requirements and changes at the local and state levels.

20 30. Outreach means linking potential Clients to appropriate mental health services within the
21 community. Outreach activities will include educating the community about the services offered and
22 requirements for participation in the programs. Such activities may result in the CONTRACTOR
23 developing referral sources for Clients from various programs being offered within the community.

24 31. PBM Company means a company contracted by the COUNTY that manages the medication
25 benefits for Clients that are qualified for medication benefits.

26 32. POC means a written plan, including by reference any Juvenile Court order(s), developed
27 and signed by the WRAP Family Team that includes the following elements:

- 28 a. A statement of an overall goal or vision for the Client and Client's family.
- 29 b. The strengths of the Client and Client's family.
- 30 c. The needs, as defined by specific life areas that must be met to achieve the goal(s) of
31 the Client and Client's family.
- 32 d. Prevention and intervention Safety Plans.
- 33 e. The type, frequency, and duration of intervention strategies.
- 34 f. Financial responsibility for the components of the POC.
- 35 g. Desired outcomes.

36 33. Pre-Licensed Psychologist means an individual who has a Ph.D. or Psy.D. in Clinical
37 Psychology and is registered with the Board of Psychology as a Registered Psychologist or

1 Psychological Assistant, while acquiring hours for licensing and providing services under a waiver in
2 accordance with W&IC section 575.2. The waiver may not exceed five (5) years.

3 34. Pre-Licensed Therapist means an individual who has a Master's Degree in social work or
4 MFT, PCC and is registered with the BBS as an associate clinical social worker, PCC intern, or MFT
5 intern, while acquiring hours for licensing. Registration is subject to regulations adopted by BBS.

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

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

17 37. Psychiatrist means an individual who meets the minimum professional and licensure
18 requirements set forth in Title 9, CCR, Section 623, and, preferably, has at least one (1) year of
19 experience treating children and TAY.

20 38. Psychology Student or Psychology Intern means an individual who is in school pursuing a
21 Ph.D. or Psy.D. in Clinical Psychology, and may or may not meet the criteria for a DHCS Waiver in
22 order to provide services in accordance with DHCS Information Letter No. 10-03. The waiver may not
23 exceed (5) years.

24 39. QIC means a committee that meets quarterly to review one percent (1%) of all "high-risk"
25 Medi-Cal Clients in order to monitor and evaluate the quality and appropriateness of services provided.
26 At a minimum, the committee is comprised of one (1) ADMINISTRATOR, one (1) clinician, and one
27 (1) physician who are not involved in the clinical care of the cases.

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

31 41. RN means a licensed individual, pursuant to the provisions of Chapter 6 of the California
32 Business and Professions Code, who can provide clinical services to Clients. The license must be
33 current and in force, and has not been suspended or revoked. Also, it is preferred that the individual has
34 at least one (1) year of experience treating children and TAY.

35 42. STRTP means a residential facility operated by a public agency or private organization and
36 licensed by the California Department of Social Services pursuant to Section 1562.01 that provides an
37 integrated program of specialized and intensive care and supervision, services and supports, treatment, and

1 short-term 24-hour care and supervision to children with the aim of moving the youth to a less restrictive
2 environment within six months. The care and supervision provided by a short-term residential therapeutic
3 program shall be nonmedical, except as otherwise permitted by law. Private short-term residential
4 therapeutic programs shall be organized and operated on a nonprofit basis.

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

12 44. Supervisory Review means ongoing clinical case reviews in accordance with procedures
13 developed by the COUNTY to determine the appropriateness of the diagnosis and treatment plan for
14 Clients, as well as to monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting
15 standards. Supervisory review is conducted by the program/clinic director or designee.

16 45. Token means the security device which allows an end-user to access the
17 ADMINISTRATOR’s computer based IRIS.

18 46. UMDAP means the method used for determining the annual Client liability for mental
19 health services received from the COUNTY’s mental health system and is set by the State of California.

20 47. Wellness Coordinator means an individual who specializes in assisting Clients with access
21 to a myriad of health care needs, nutrition resources, and other community supports. This individual
22 will be responsible for documenting the services required, as well as communicating the needs of Clients
23 to the Family Team.

24 48. Wraparound Orange County means the Wraparound program administered by COUNTY’s
25 SSA and is available to children and TAY who are returning from or being considered for placement in
26 group homes.

27 B. CONTRACTOR AND ADMINISTRATOR may mutually agree, in writing, to modify the
28 Common Terms and Condition Paragraph of this Exhibit A to the Agreement.

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II. BUDGET

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

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>	<u>TOTAL</u>
ADMINISTRATIVE COSTS				
«ADMIN_LINE_1»	\$ «P1 ADMIN1_SAL»	\$ «P2 ADMIN1_SAL»	\$ «P3 ADMIN1_SAL»	\$ «ADMIN_LINE1_SAL»
«ADMIN_LINE_2»	«P1 ADMIN2_BEN»	«P2 ADMIN2_BEN»	«P3 ADMIN2_BEN»	«ADMIN_LINE2_BEN»
«ADMIN_LINE_3»	«P1 ADMIN3_SS»	«P2 ADMIN3_SS»	«P3 ADMIN3_SS»	«ADMIN_LINE3_SS»
«ADMIN_LINE_4»	«P1 ADMIN4_IC»	«P2 ADMIN4_IC»	«P3 ADMIN4_IC»	«ADMIN_LINE4_IC»
SUBTOTAL ADMINISTRATIVE COSTS	\$ «P1 ADMIN_SUB»	\$ «P2 ADMIN_SUB»	\$ «P3 ADMIN_SUB»	\$ «ADMIN_SUB»
PROGRAM COSTS				
«PRGM_LINE_1»	\$ PRGM1_SAL»	\$ «P2 PRGM1_SAL»	\$ «P3 PRGM1_SAL»	\$ «PRGM_LINE1_SAL»
«PRGM_LINE_2»	«P1 PRGM2_BEN»	«P2 PRGM2_BEN»	«P3 PRGM2_BEN»	«PRGM_LINE2_BEN»
«PRGM_LINE_3»	«P1 PRGM3_SS»	«P2 PRGM3_SS»	«P3 PRGM3_SS»	«PRGM_LINE3_SS»
«PRGM_LINE_4»	«P1 PRGM4_SC»	«P2 PRGM4_SC»	«P3 PRGM4_SC»	«PRGM_LINE4_SC»
SUBTOTAL PROGRAM COSTS	\$ «P1 PGM_SUB»	\$ «P2 PGM_SUB»	\$ «P3 PGM_SUB»	\$ «PGM_SUB»
TOTAL GROSS COSTS	\$ «P1 TG_COSTS»	\$ «P2 TG_COSTS»	\$ «P3 TG_COSTS»	\$ «TG_COSTS»
REVENUE				
Federal Medi-Cal	\$ «P1 FED_MC»	\$ «P2 FED_MC»	\$ «P3 FED_MC»	\$ «FED_MC»
County MHSA	«P1 STATE_EPSDT»	«P2 STATE_EPSDT»	«P3 STATE_EPSDT»	«STATE_EPSDT»
TOTAL REVENUE	\$ «P1 TOTAL REV»	\$ «P2 TOTAL REV»	\$ «P3 TOTAL REV»	\$ «TOTAL REV»
TOTAL MAXIMUM OBLIGATION	\$ «P1 MAX OBL»	\$ «P2 MAX OBL»	\$ «P3 MAX OBL»	\$ «TOTAL MAX OBL»

B. CONTRACTOR agrees that the amount of the MHSA match is dependent upon, and shall at no time be greater than, the amount of Federal Medi-Cal actually generated by CONTRACTOR, unless authorized by ADMINISTRATOR.

C. The total cost of services provided for in the Agreement are based upon projected revenue generation and shall be reimbursed by Federal Medi-Cal and MHSA.

D. In the event CONTRACTOR collects fees and insurance, including Medicare, for services provided pursuant to this Agreement, CONTRACTOR may make written application to ADMINISTRATOR to retain such revenues; provided, however, the application must specify that the fees and insurance shall be utilized exclusively to provide mental health services. ADMINISTRATOR

1 may, at its sole discretion, approve any such retention of revenues. Approval by ADMINISTRATOR
 2 shall be in writing to CONTRACTOR and shall specify the amount of said revenues to be retained and
 3 the quantity of services to be provided by CONTRACTOR. Fees received from private resources on
 4 behalf of Medi-Cal Clients shall not be eligible for retention by CONTRACTOR.

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

16 F. FINANCIAL RECORDS - CONTRACTOR shall prepare and maintain accurate and complete
 17 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type
 18 of service for which payment is claimed. Any apportionment of or distribution of costs, including
 19 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will
 20 be made in accordance with GAAP and Medicare regulations. The Client eligibility determination and
 21 fee charged to and collected from Clients, together with a record of all invoices rendered and revenues
 22 received from any source, on behalf of Clients treated pursuant to the Agreement, must be reflected in
 23 CONTRACTOR's financial records.

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

27 **III. PAYMENTS**

28 A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amount of
 29 \$«MO_ARREARS» per month. All payments are interim payments only, and subject to final settlement
 30 in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be
 31 reimbursed for the actual cost of providing the services, which may include Indirect Administrative
 32 Costs, as identified in Subparagraph II.A. of this Exhibit A to the Agreement; provided, however, the
 33 total of such payments does not exceed the Maximum Obligation for each period as stated in the
 34 Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are
 35 reimbursable pursuant to COUNTY, state, and/or federal regulations. ADMINISTRATOR may, at its
 36 discretion, pay supplemental invoices for any month for which the provisional amount specified above
 37 has not been fully paid.

1 program described in the Services Paragraph of this Exhibit A to the Agreement. Such reports will also
2 include actual productivity as defined by ADMINISTRATOR.

3 2. Year-End Projections. In conjunction with the Expenditure and Revenue Report,
4 CONTRACTOR shall provide monthly year-end projections that shall include year-to-date incurred
5 costs and revenues and anticipated year-end costs to be incurred and revenues for CONTRACTOR's
6 program described in the Services Paragraph of this Exhibit A to the Agreement.

7 3. The Expenditure and Revenue and Year-End Projection report shall be received by
8 ADMINISTRATOR no later than the twentieth (20th) day following the end of the month being
9 reported.

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

15 D. PROGRAMMATIC – Throughout the term of the Agreement, CONTRACTOR shall submit
16 monthly programmatic reports to ADMINISTRATOR, which shall be received by ADMINISTRATOR
17 no later than twenty (20) calendar days following the end of the month being reported. Programmatic
18 reports shall be in a format(s) approved by ADMINISTRATOR and shall include a description of
19 CONTRACTOR's progress in implementing the provisions of the Agreement, number of active cases,
20 number of Client's admitted/discharged, details of outreach activities and their results, any pertinent
21 facts or interim findings, staff changes, status of licenses and/or certifications, changes in population
22 served and reasons for any such changes. CONTRACTOR shall be prepared to present and discuss their
23 programmatic reports at their monthly scheduled meetings with ADMINISTRATOR and shall state
24 whether or not it is progressing satisfactorily in achieving all the terms of the Agreement, and if not,
25 shall specify what steps are being taken to achieve satisfactory progress.

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

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

33 G. CONTRACTOR agrees to enter psychometrics into COUNTY's EHR/IRIS system as requested
34 by ADMINISTRATOR. Said psychometrics are for the COUNTY's analytical uses only, and shall not
35 be relied upon by CONTRACTOR to make clinical decisions. CONTRACTOR agrees to hold
36 COUNTY harmless, and indemnify pursuant to Section XI, from any claims that arise from non-
37 COUNTY use of said psychometrics.

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

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5 **V. SERVICES**

6 **A. FACILITIES**

7 1. CONTRACTOR shall maintain a minimum of «NO OF FACILITIES» fully licensed
8 «NO OF BEDS» bed facility(ies) for the provision of STRTP Services, which meets the minimum
9 requirements for Medi-Cal eligibility.

10 2. CONTRACTOR shall provide ADMINISTRATOR with a list of all facility locations prior
11 to the commencement of services under this Agreement.

12 3. CONTRTACTOR shall notify ADMINISTRATOR of any facility location(s) change after
13 the execution of this Agreement, and the change in location may be approved within COUNTY's sole
14 discretion, as follows:

15 a. Should an in-County CONTRACTOR wish to change the facility location(s) that will
16 remain within the County of Orange, the change must be approved by the Orange County Board of
17 Supervisors.

18 b. Should an in-County CONTRACTOR wish to change the facility location(s) that will
19 be outside the County of Orange, the change must be approved in writing by ADMINISTRATOR.

20 c. Should an out-of-County CONTRACTOR wish to change the facility location(s) that
21 will remain outside the County of Orange, the change must be approved in writing by
22 ADMINISTRATOR.

23 4. CONTRACTOR's administrative staff holiday schedule shall be consistent with
24 COUNTY's holiday schedule unless otherwise approved, in advance and in writing, by
25 ADMINISTRATOR.

26 5. Upon COUNTY's certification of the provider's existing site(s), the CONTRACTOR shall
27 be responsible for making any necessary changes to meet and maintain Medi-Cal site standards.

28 **B. SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAM SERVICES**

29 1. CONTRACTOR shall provide mental health outpatient services to include, at minimum,
30 assessment, crisis intervention, medication management support, and targeted case management to
31 Clients placed by local placing agencies and those pursuant to AB1299.

32 2. CONTRACTOR shall provide medically necessary services to Medi-Cal eligible, special
33 population Clients that meet the eligibility standards as set by Assembly Bill (AB) 403 (Chapter 773,
34 Statutes of 2015) and AB 1997 (Chapter 612, Statutes of 2016). Services shall be provided at a level
35 and frequency and duration that is consistent with each Client's level of dysfunction and treatment goals,
36 and consistent with individualized, solution-focused, evidenced-based practices that are used to
37 transition the youth to a more enduring home environment within six months (exceptions to this

1 timeframe must meet AB 403 requirements). The population to whom services are to be provided shall
2 include, but may not be limited to Minors/NMDs, ages 12-20 who are placed in the STRTP and/or who
3 have been placed and are receiving post placement transition services who meet the COUNTY's
4 admission criteria under the Medi-Cal Outpatient Consolidation Plan.

5 3. CONTRACTOR shall provide community-based intervention services that emphasize the
6 strengths of the child and family and include the delivery of coordinated, highly individualized,
7 unconditional trauma-informed services to address needs and achieve positive outcomes in their lives.

8 4. In the situation where a Medi-Cal Client no longer meets Medi-Cal eligibility as verified by
9 the State Medi-Cal website or Medi-Cal Eligibility Data System (MEDS), CONTRACTOR, upon
10 reasonable discovery of this situation, shall in consultation with the CFT discharge the Client from IRIS
11 and refer the Client to appropriate services in the community. If necessary, CONTRACTOR can
12 request, in writing, approval from ADMINISTRATOR to continue to provide services for a specified
13 amount of time/sessions as determined appropriate by ADMINISTRATOR while linking the Client to
14 other appropriate services.

15 5. CONTRACTOR shall provide a sufficient amount of treatment services during evening
16 hours and on weekends to accommodate Clients and their guardians not able to participate during
17 regular day-time hours. Treatment services shall include, but may not be limited to:

18 a. Performing clinical and psycho-diagnostic admission assessment within five (5)
19 calendar days of admission using DSM/ICD-10 CM diagnosis, to include all aspects of the assessment
20 summary noted in the DHCS Mental Health Program Approval protocol and clinical consideration of
21 each fundamental need: physical, psychological, maturational, developmental, familial, educational,
22 social, environmental and recreational. Additional examinations, tests and evaluations may be conducted
23 as clinically indicated. Findings of the examinations and evaluations shall be documented in the Client
24 record as an Intake Summary and signed by CONTRACTOR's licensed mental health professional
25 within five (5) days of admission.

26 b. Obtaining valid consents for treatment.

27 c. Developing a written Needs and Services Plan in consultation with the CFT for each
28 Client that shall be based on the assessment and diagnosis of that Client. The Needs and Services Plan
29 shall delineate and justify all specific treatment modes and therapeutic modalities to be used, shall be
30 developed within ten (10) calendar days of admission and will include the components outlined in
31 Section 84068.2 of Title 22 of the California Code of regulations, shall be developed in accordance with
32 ADMINISTRATOR standards, and use a full range of appropriate psychiatric and psychological
33 treatment modalities. Such plans shall identify specific treatment modes, milestones for the individual
34 Client, transition goals, obstacles/symptoms, and efforts of significant support person(s) and program
35 staff on behalf of the Client. All Needs and Services Plans shall include observable and measurable
36 Client milestones.

37 //

1 d. Use of individual therapy, brief intensive services, and short-term group therapy
2 modalities including cognitive behavioral and child management therapy techniques. CONTRACTOR
3 shall develop and implement group therapy modalities for conditions that, according to established
4 research, would particularly show improvement when treated in this manner.

5 e. Collateral services, including support to a Client's adult caregivers or significant others
6 to help them in their parenting role. Services shall be provided to adult caregivers or significant others
7 when it is determined that it is in the best interest in treating the minor Client, and CONTRACTOR shall
8 promote active participation of Client's family. CONTRACTOR shall refer the adult caregiver(s) or
9 significant other(s) to an appropriate adult behavioral health provider for medication and/or behavioral
10 health services to address the adult caregiver's or significant other's DSM-/ICD-10 CM mental disorder.

11 f. Providing other behavioral health services which may include, but not be limited to,
12 family therapy, crisis intervention, treatment planning, discharge planning, case management, linkage,
13 and consultation.

14 g. Medication support services, including a system of medication quality review, which
15 shall be provided by well trained, experienced psychiatrists knowledgeable in the use of medication to
16 improve the functioning and enhance the self-esteem of children. Medication used solely for psychiatric
17 purposes, and no other purposes, shall be prescribed for all Clients for whom it is clinically indicated.
18 CONTRACTOR shall ensure that the following are adhered to:

19 1) Established plan for maximizing use of physician time.

20 2) A psychiatrist shall examine each child prior to prescribing any psychotropic
21 medication and include a screening to determine whether there are potential medical complications that
22 may contribute to the child's mental health condition. The prescribing psychiatrist shall sign a written
23 medication review for each child prescribed psychotropic medication as clinically appropriate but at
24 least every six weeks. A psychiatrist shall review the course of treatment for all children who are not on
25 psychotropic medication at least every 90 days and include the results of the review in a progress note
26 signed by the psychiatrist at the time the review is completed. The psychiatrist shall provide completed
27 JV-220's to the appropriate Court on the schedule and in the format outlined by the current California
28 Rules of Court, Rule 5.640.

29 3) CONTRACTOR shall use COUNTY's formulary and prescribing practices.

30 4) Prescriptions may be filled at any pharmacy with which the COUNTY's PBM has a
31 contract; provided that CONTRACTOR shall be responsible for noting the Medi-Cal number on
32 prescriptions for Medi-Cal Clients.

33 5) CONTRACTOR shall provide COUNTY, in writing, with the name, license
34 number, and Drug Enforcement Agency number of any physician who will be prescribing medications,
35 prior to the physician's start date. Failure to so notify COUNTY may result in CONTRACTOR being
36 liable for the cost of the medication.

37 6) CONTRACTOR shall order such laboratory tests as are necessary.

1 h. CONTRACTOR shall provide or cause to be provided, all necessary substance abuse
2 treatment services for Clients who are dually diagnosed with a concurrent substance abuse problem in
3 addition to their mental illness, when appropriate.

4 6. CONTRACTOR shall identify Clients that are eligible to receive intensive mental health
5 services as members of the Katie A. Subclass. CONTRACTOR will use the “Medi-Cal Manual for
6 Intensive Care Coordination (ICC), Intensive Home Based Services (IHBS), & Therapeutic Foster Care
7 for Medi-Cal Beneficiaries” to determine eligibility, provide services, and guide documentation of these
8 services. CONTRACTOR will coordinate with COUNTY on all aspects of mental health services
9 provided to Clients of the Katie A. Subclass. CONTRACTOR may act as the mental health
10 representative in Child Family Teams (CFT’s) if needed.

11 7. CONTRACTOR shall participate in any clinical case review and implement any
12 recommendations made by COUNTY or the CFT to improve Client care.

13 8. CONTRACTOR shall have the licensed mental health professional conduct a review of all
14 progress notes on a regular basis, but not less than once every seven (7) calendar days. The licensed
15 mental health professional who has reviewed the progress notes shall notate this review in a progress
16 note that shall be signed and dated at the time of the review. CONTRACTOR shall ensure that all chart
17 documentation complies with all federal, state, and local guidelines and standards.

18 C. CONTRACTOR RESPONSIBILITIES

19 1. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of
20 CONTRACTOR’s administrative and program P&Ps. CONTRACTOR shall provide signature
21 confirmation of its P&P training for each staff member and place in their personnel files. These P&Ps
22 should reflect the CONTRACTOR’s commitment to trauma informed care.

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

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

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

30 5. CONTRACTOR shall agree to adopt and comply with the documentation standards as per
31 ADMINISTRATOR’s Standards of Care practices; P&P’s, Annual Provider Training; DHCS State
32 Contract; Title IX; the State EPSDT Documentation Manual; the State EPSDT TBS Documentation
33 Manual; Medi-Cal Manual for Intensive Care Coordination (ICC), Intensive Home Based Services
34 (IHBS) & Therapeutic Foster Care (TFC) for Medi-Cal Beneficiaries and the EPSDT TBS Coordination
35 of Care Best Practices Manual as provided by ADMINISTRATOR, which describe, but are not limited
36 to, the requirements for Medi-Cal and ADMINISTRATOR charting standards; and any state regulatory
37 requirements.

1 6. CONTRACTOR shall regularly review their charting, IRIS data input, and invoice systems
2 to ensure compliance with COUNTY and State P&Ps and establish mechanisms to prevent inaccurate
3 claim submissions.

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

8 8. CONTRACTOR shall attend:

9 a. CFT meetings to address treatment planning and transitions to other levels of care.
10 b. Case conferences, as requested by ADMINISTRATOR to address any aspect of clinical
11 care.

12 c. Monthly meetings with ADMINISTRATOR to discuss contractual and other issues
13 related to, but not limited to compliance with P&Ps, statistics and clinical services.

14 d. Clinical staff training for individuals by ADMINISTRATOR. Such training shall be
15 conducted by CONTRACTOR and/or ADMINISTRATOR.

16 e. Quarterly QIC meetings.

17 9. CONTRACTOR shall allow ADMINISTRATOR to attend, and if necessary conduct, QIC
18 and medication monitoring meetings.

19 10. CONTRACTOR will adopt and comply with all standards and requirements stipulated in
20 the DHCS STRTP Mental Health Program Approval Protocol.

21 11. GOOD NEIGHBOR POLICY - CONTRACTOR shall establish a Good Neighbor Policy,
22 which shall be reviewed and approved by ADMINISTRATOR. The policy shall include, but not be
23 limited to, staff training to deal with neighbor complaints, staff contact information available to
24 neighboring residents and complaint procedures. CONTRACTOR shall also contact city management in
25 each city where Client services are provided to inform them of the nature of the services provided under
26 this Agreement. CONTRACTOR shall work collaboratively with city management to resolve any
27 concerns regarding community relations.

28 D. PERFORMANCE OUTCOMES

29 1. CONTRACTOR shall complete Performance Outcome Measures as required by State
30 and/or COUNTY. This may include the OQ which is to be administered during the course of treatment.
31 CONTRACTOR will report results in a manner and format approved by the ADMINISTRATOR.

32 2. ADMINISTRATOR shall develop and provide CONTRACTOR with performance outcome
33 measure guidelines for the purpose of evaluating the impact and/or contribution of CONTRACTOR's
34 services on the well-being of COUNTY residents being served under the terms of the Agreement. The
35 expected outcomes for the Monitoring Plan are to enable Clients to adaptively function at a higher and
36 more appropriate level and to provide a quantifiable and repeatable measure to assess overall program
37 effectiveness.

1 3. CONTRACTOR shall cooperate in data collection in order to develop baseline figures for
2 future evaluation and report performance in terms of Client satisfaction, Client progress, treatment
3 effectiveness, length of stay, and duration of services.

4 E. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of
5 Tokens for appropriate individual staff to access IRIS at no cost to the CONTRACTOR.

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

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

10 3. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the
11 Token for each staff member assigned a Token.

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

- 14 a. Token of each staff member who no longer supports the Agreement;
- 15 b. Token of each staff member who no longer requires access to IRIS;
- 16 c. Token of each staff member who leaves employment of CONTRACTOR; or
- 17 d. Token is malfunctioning;
- 18 e. Termination of the Agreement.

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

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

23 7. CONTRACTOR shall input all IRIS data following COUNTY procedure and practice. All
24 statistical data used to monitor CONTRACTOR shall be compiled using only COUNTY IRIS reports, if
25 available, and if applicable.

26 F. CONTRACTOR shall obtain a NPI.

27 1. All HIPAA covered healthcare providers, individuals and organizations must obtain a NPI
28 for use to identify themselves in HIPAA standard transactions.

29 2. CONTRACTOR, including each employee that provides services under the Agreement, will
30 obtain a NPI upon commencement of the Agreement or prior to providing services under the Agreement.
31 CONTRACTOR shall report to ADMINISTRATOR, on a form approved or supplied by
32 ADMINISTRATOR, all NPI as soon as they are available.

33 G. CONTRACTOR shall provide the NPP for the COUNTY, as the MHP, at the time of the first
34 service provided under the Agreement to individuals who are covered by Medi-Cal and have not
35 previously received services at a COUNTY operated clinic. CONTRACTOR shall also provide, upon
36 request, the NPP for the COUNTY, as the MHP, to any individual who received services under the
37 Agreement.

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

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

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

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

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

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

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

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VI. STAFFING

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

<u>PROGRAM</u>	<u>FTEs</u>
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
« POSITION TITLE »	« POSITION FTE »
TOTAL PROGRAM FTEs	«TOT_FTEs»

B. CONTRACTOR shall have as Head of Service a licensed mental health professional, in conformance to one of the following staff categories: Psychiatrist, Licensed Psychologist, LCSW, LPCC, Licensed MFT, RN, LVN, or LPT.

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

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

E. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of any staffing vacancies or filling of vacant positions that occur during the term of the Agreement.

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

1 G. CONTRACTOR shall recruit, hire, train, and maintain staff that is persons in recovery, and/or
 2 family members of persons in recovery. These individuals shall not be currently receiving services
 3 directly from CONTRACTOR. Documentation may include, but not be limited to, the following:
 4 records attesting to efforts made in recruitment and hiring practices and identification of measures taken
 5 to enhance accessibility for potential staff in these categories.

6 H. CONTRACTOR shall provide training to service staff covering suicide assessment and crisis
 7 intervention or indications of suicidal risk (depending on scope of practice), developing safety plans,
 8 maintaining healthy boundaries, reporting child abuse, dealing with difficult Clients, meeting facilitation
 9 and medication, confidentiality, identification of strengths, promoting life skills, and such other topics
 10 identified by the ADMINISTRATOR. Formal training sessions may also be used to cover these topics
 11 but cannot substitute for weekly supervision hours.

12 I. CONTRACTOR shall maintain a current signature-list including each supervisor and provider
 13 of direct services who signs chart documentation. The list shall include the printed/type staff name and
 14 title, followed by the legal signature with title as it appear on all chart documents. For licensed or
 15 registered clinical staff, the name must match the name on the license or registration.

16 J. WORKLOAD STANDARDS

17 1. One (1) DSH shall be equal to sixty (60) minutes of direct Client service.

18 2. CONTRACTOR shall provide a minimum of «ANNUAL_DSH MHS SPELLED OUT»
 19 («ANNUAL_DSH MHS ») billable hours of mental health, targeted case management, and/or crisis
 20 intervention services as identified in the Services Paragraph of this Exhibit A to the Agreement.

21 3. CONTRACTOR shall have the option to make arrangements to use COUNTY psychiatry
 22 for medication support services based upon approval by ADMINISTRATOR. CONTRACTOR may
 23 also have the option to provide medication support services through subcontracted psychiatry.

24 4. CONTRACTOR shall provide, at a minimum, an average of one hundred (100) DSH per
 25 month per FTE, or agreed upon productivity levels which shall include mental health, case
 26 management, crisis intervention, and other support services and is inclusive of both billable and non-
 27 billable services.

28 K. STUDENT INTERNS

29 1. CONTRACTOR may augment the above paid staff with volunteers or interns only upon
 30 written approval of ADMINISTRATOR. Any proposal to utilize volunteers or interns must clearly
 31 define the limited roles each will assume in providing direct client care, since the population being
 32 served will require a level of clinical experience that typically exceeds that of most volunteers and
 33 interns.

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

36 b. Student intern services shall not comprise more than ten percent (10%) of total services
 37 provided if approved by ADMINISTRATOR.

1 EXHIBIT B
 2 AGREEMENT FOR PROVISION OF
 3 BEHAVIORAL HEALTH SERVICES IN
 4 SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS
 5 BETWEEN
 6 COUNTY OF ORANGE
 7 AND
 8 «NAME1»
 9 JANUARY 1, 2018 THROUGH JUNE 30, 2020

10
11 **I. BUSINESS ASSOCIATE CONTRACT**

12 A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

33 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
34 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the
35 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
36 terms of this Business Associate Contract and the applicable standards, implementation specifications,
37 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,

1 with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed
2 pursuant to the Agreement.

3 B. DEFINITIONS

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

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

9 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

1 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in
2 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
3 with 45 CFR § 164.502(g).

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

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

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

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

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

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

19 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of ePHI at
20 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

21 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in
22 45 CFR § 160.103.

23 16. "Technical safeguards" means the technology and the P&Ps for its use that protect
24 electronic PHI and control access to it.

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

28 18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §
29 160.103.

30 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

4 D. SECURITY RULE

5 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish
6 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR
7 § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to
8 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.
9 CONTRACTOR shall develop and maintain a written information privacy and security program that
10 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of
11 CONTRACTOR's operations and the nature and scope of its activities.

12 2. CONTRACTOR shall implement reasonable and appropriate P&Ps to comply with the
13 standards, implementation specifications and other requirements of 45 CFR Part 164, Subpart C, in
14 compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its current and
15 updated policies upon request.

16 3. CONTRACTOR shall ensure the continuous security of all computerized data systems
17 containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
18 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents
19 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
20 or transmits on behalf of COUNTY. These steps shall include, at a minimum:

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

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

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

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

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

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

1 E. DATA SECURITY REQUIREMENTS

2 1. Personal Controls

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

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

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

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

28 2. Technical Security Controls

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

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

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

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

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

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

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

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

36 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to
37 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY

1 must be wiped using the Gutmann or US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media
2 may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods
3 require prior written permission by COUNTY.

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

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

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

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

23 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
24 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
25 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
26 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
27 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
28 website access, file transfer, and E-Mail.

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

33 3. Audit Controls

34 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that
35 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY
36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
37 COUNTY must have at least an annual system risk assessment/security review which provides

1 assurance that administrative, physical, and technical controls are functioning effectively and providing
2 adequate levels of protection. Reviews should include vulnerability scanning tools.

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

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

10 4. Business Continuity/Disaster Recovery Control

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

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

23 5. Paper Document Controls

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

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

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

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

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

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

16 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

10 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
11 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
12 COUNTY.

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

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

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

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

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

34 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

8 1) The Disclosure is required by law; or

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

14 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to
15 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of
16 CONTRACTOR.

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

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

21 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
22 required by law.

23 H. PROHIBITED USES AND DISCLOSURES

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

29 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
30 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
31 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §
32 17935(d)(2).

33 I. OBLIGATIONS OF COUNTY

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

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

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

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

9 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

29 3. The obligations of this Business Associate Contract shall survive the termination of the
30 Agreement.

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EXHIBIT C
 AGREEMENT FOR PROVISION OF
 BEHAVIORAL HEALTH SERVICES IN
 SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS
 BETWEEN
 COUNTY OF ORANGE
 AND
 «NAME1»
 JANUARY 1, 2018 THROUGH JUNE 30, 2020

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

6 B. TERMS OF AGREEMENT

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

11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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