

1 AGREEMENT FOR PROVISION OF  
2 DRUG MEDI-CAL NARCOTIC REPLACEMENT  
3 THERAPY TREATMENT SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 WESTERN PACIFIC MED-CORP  
8 JULY 1, 2018 THROUGH JUNE 30, 2020  
9

10 THIS AGREEMENT entered into this 1st day of July, 2018 (effective date), is by and between the  
11 COUNTY OF ORANGE, a political subdivision of the State of California (COUNTY), and  
12 WESTERN PACIFIC MED-CORP , a For-profit (CONTRACTOR). COUNTY and CONTRACTOR  
13 may sometimes be referred to herein individually as "Party" or collectively as "Parties." This  
14 Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).  
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16 **W I T N E S S E T H:**  
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18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of DRUG  
19 MEDI-CAL NARCOTIC REPLACEMENT THERAPY TREATMENT SERVICES described herein  
20 to the residents of Orange County; and

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

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

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2018 through June 30, 2020

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

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

Period Three means the period from July 1, 2020 through June 30, 2021

**Maximum Obligation:**

Period One Maximum Obligation: \$ 5,215,030

Period Two Maximum Obligation: \$ 5,215,030

Period Three Maximum Obligation: \$ 5,215,030

TOTAL MAXIMUM OBLIGATION: ~~\$10,430,060~~ \$15,645,090

**Basis for Reimbursement:** Negotiated Rate

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 04-690-7267

**CONTRACTOR TAX ID Number:** 95-3432680

**Notices to COUNTY and CONTRACTOR:**

**COUNTY:** County of Orange  
Health Care Agency  
Contract Services  
405 West 5th Street, Suite 600  
Santa Ana, CA 92701-4637

**CONTRACTOR:** Western Pacific Med-Corp  
4544 San Fernando Sr., Suite 202  
Glendale, CA 91204-5015  
Mark Hickman  
mark@westpacmed.com

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## I. ACRONYMS

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

4	A. ARRA	American Recovery and Reinvestment Act
5	B. ASRS	Alcohol and Drug Programs Reporting System
6	C. CalOMS	California Outcomes Measurement System
7	D. CAP	Corrective Action Plan
8	E. CCC	California Civil Code
9	F. CCR	California Code of Regulations
10	G. CEO	County Executive Office
11	H. CFDA	Catalog of Federal Domestic Assistance
12	I. CFR	Code of Federal Regulations
13	J. CHPP	COUNTY HIPAA Policies and Procedures
14	K. CHS	Correctional Health Services
15	L. COI	Certificate of Insurance
16	M. DATAR	Drug Abuse Treatment Access Report
17	N. D/MC	Drug/Medi-Cal
18	O. DHCS	Department of Health Care Services
19	P. DPFS	Drug Program Fiscal Systems
20	Q. DRS	Designated Record Set
21	R. EHR	Electronic Health Record
22	S. ePHI	Electronic Protected Health Information
23	T. GAAP	Generally Accepted Accounting Principles
24	U. HCA	Health Care Agency
25	V. HITECH Act	Health Information Technology for Economic and Clinical
26		Health Act, Public Law 111-005
27	W. HHS	Health and Human Services
28	X. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
29		Law 104-191
30	Y. HSC	California Health and Safety Code
31	Z. IRIS	Integrated Record and Information System
32	AA. ISO	Insurance Services Office
33	AB. MAT	Medication Assisted Treatment
34	AC. MHP	Mental Health Plan
35	AD. NIATx	Network Improvement of Addiction Treatment
36	AE. NIST	National Institute of Standards and Technology
37	AF. NTP	Narcotic Treatment Program

1	AG. OCJS	Orange County Jail System
2	AH. OCPD	Orange County Probation Department
3	AI. OCR	Office for Civil Rights
4	AJ. OCSD	Orange County Sheriff's Department
5	AK. OIG	Office of Inspector General
6	AL. OMB	Office of Management and Budget
7	AM. OPM	Federal Office of Personnel Management
8	AN. PA DSS	Payment Application Data Security Standard
9	AO. PC	State of California Penal Code
10	AP. PCI DSS	Payment Card Industry Data Security Standard
11	AQ. PHI	Protected Health Information
12	AR. PII	Personally Identifiable Information
13	AS. PRA	Public Record Act
14	AT. SIR	Self-Insured Retention
15	AU. UMDAP	Uniform method of Determining Ability to Pay
16	AV. USC	United States Code
17	AW. WIC	State of California Welfare and Institutions Code

## **II. ALTERATION OF TERMS**

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

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

## **III. ASSIGNMENT OF DEBTS**

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

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#### IV. COMPLIANCE

1  
2 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for  
3 the purpose of ensuring adherence to all rules and regulations related to federal and state health care  
4 programs.

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

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

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

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

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

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1 ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's  
2 Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

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

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

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

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

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

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

33 ~~3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.  
34 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this  
35 Agreement.~~

36 ~~4. CONTRACTOR shall screen all current Covered Individuals and subcontractors semi-  
37 annually to ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that~~



~~its subcontractors use their best efforts to verify that they are eligible to participate in all federal and State of California health programs and have not been excluded or debarred from participation in any federal or state health care programs, and to further represent to CONTRACTOR that they do not have any Ineligible Person in their employ or under contract.~~

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

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

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

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

1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or CONTRACTOR's own compliance program, code of conduct and related policies and procedures if CONTRACTOR has elected to use its own).

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

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

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

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

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

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

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

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

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

35 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR’s  
36 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;  
37 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated

1 representative to complete the General Compliance Training when offered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in

1 coding of claims and billing, if and when, any such problems or errors are identified.

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

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

7 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural  
8 Competence Plan submitted and approved by the State. ADMINISTRATOR shall update the Cultural  
9 Competence Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,  
10 §1810.410.subds. (c)-(d).)

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

## 17 **V. CONFIDENTIALITY**

18 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any  
19 audio and/or video recordings, in accordance with all applicable federal, state and county codes and  
20 regulations, including 42 USC §290dd-2 (Confidentiality of Records), as they now exist or may  
21 hereafter be amended or changed.

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

29 C. CONTRACTOR shall have in effect a system to protect patient records from inappropriate  
30 disclosure in connection with activity funded under this Agreement. This system shall include  
31 provisions for employee education on the confidentiality requirements, and the fact that disciplinary  
32 action may occur upon inappropriate disclosure. CONTRACTOR agrees to implement administrative,  
33 physical, and technical safeguards that reasonably and appropriately protect the confidentiality,  
34 integrity, and availability of all confidential information that it creates, receives, maintains or transmits.  
35 CONTRACTOR shall provide ADMINISTRATOR with information concerning such safeguards.

36 D. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known  
37

1 to CONTRACTOR, or its subcontractors or agents in violation of the applicable state and federal  
2 regulations regarding confidentiality.

3 E. CONTRACTOR shall monitor compliance with the above provisions on confidentiality and  
4 security, and shall include them in all subcontracts.

5 F. CONTRACTOR shall notify ADMINISTRATOR within twenty-four (24) hours during a work  
6 week, of any suspected or actual breach of its computer system.

#### 7 **“VI. CONFLICT OF INTEREST**

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

#### 17 **VII. COST REPORT**

18 A. CONTRACTOR shall submit separate Cost Reports for Period One, and Period Two, or for a  
19 portion thereof, to COUNTY no later than forty-five (45) calendar days following the period for which  
20 they are prepared or termination of this Agreement. CONTRACTOR shall prepare the Cost Report in  
21 accordance with all applicable federal, state and COUNTY requirements, GAAP and the Special  
22 Provisions Paragraph of this Agreement. CONTRACTOR shall allocate direct and indirect costs to and  
23 between programs, cost centers, services, and funding sources in accordance with such requirements and  
24 consistent with prudent business practice, which costs and allocations shall be supported by source  
25 documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon  
26 reasonable notice.

27 1. If CONTRACTOR fails to submit an accurate and complete Cost Report within the time  
28 period specified above, ADMINISTRATOR shall have sole discretion to impose one or both of the  
29 following:  
30

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

36 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR  
37 pursuant to any or all agreements between COUNTY and CONTRACTOR until such time that the

1 accurate and complete Cost Report is delivered to ADMINISTRATOR.

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

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

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

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

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

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

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

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

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

**VIII. DEBARMENT AND SUSPENSION CERTIFICATION**

A. CONTRACTOR certifies that it and its principals:

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

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

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

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

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

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

1 7. Shall not have a prohibited type of relationship by employing or contracting with providers  
 2 or other individuals and entities excluded from participation in federal health care programs (as defined  
 3 in section 1128B(f) of the Social Security Act), under either Section 1128, 1128A, 1156, or 1842(j)(2)  
 4 of the Social Security Act. (42 CFR §§438.214(d)(1), 438.610(b); 42USC §1320.c-5)).

5 B. An individual or entity who is an affiliate, as defined in the Federal Acquisition Regulation at  
 6 48 CFR 2.101, of a person described in this section, (42.CFR §438.610(a)(2)) .

7 C. The terms and definitions of this paragraph have the meanings set out in the Definitions and  
 8 Coverage sections of the rules implementing 51 F.R. 6370.

9 “D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand  
 10 dollars (\$50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of  
 11 CONTRACTOR’s current audited financial report. If CONTRACTOR’s SIR is approved,  
 12 CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this  
 13 Agreement, agrees to all of the following:

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

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

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

## 23 “IX. DISPUTE RESOLUTION

24 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the  
 25 dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a  
 26 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be  
 27 brought to the attention of the County Purchasing Agent by way of the following process:

28 1. CONTRACTOR shall submit to the County Purchasing Agent a written demand for a final  
 29 decision regarding the disposition of any dispute between the Parties arising under, related to, or  
 30 involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final  
 31 decision.

32 2. CONTRACTOR’s written demand shall be fully supported by factual information, and, if  
 33 such demand involves a cost adjustment to the Agreement, CONTRACTOR shall include with the  
 34 demand a written statement signed by an authorized representative indicating that the demand is made in  
 35 good faith, that the supporting data are accurate and complete, and that the amount requested accurately  
 36 reflects the Agreement adjustment for which CONTRACTOR believes COUNTY is liable.  
 37



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

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

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

#### 16 **X. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS**

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

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

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

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

37 3. If CONTRACTOR is a governmental organization, any change to another structure,

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

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

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

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

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

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

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

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

## 28 **XI. EMPLOYEE ELIGIBILITY VERIFICATION**

29 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and  
30 regulations regarding the employment of aliens and others and to ensure that employees, subcontractors,  
31 and forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,  
32 subcontractors, and consultants performing work hereunder, all verification and other documentation of  
33 employment eligibility status required by federal or state statutes and regulations including, but not  
34 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently  
35 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all  
36 covered employees, subcontractors, and consultants for the period prescribed by the law.  
37

## **XII. EQUIPMENT**

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

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

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

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

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

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

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

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

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

5 I. The total cost of all Equipment purchases shall not exceed \$50,000 annually.  
6

### 7 **XIII. FACILITIES, PAYMENTS AND SERVICES**

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

13 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or  
14 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation  
15 for the appropriate Period as well as the Total Maximum Obligation. The reduction to the Maximum  
16 Obligation for the appropriate Period as well as the Total Maximum Obligation shall be in an amount  
17 proportionate to the number of days in which CONTRACTOR was determined to be unable to provide  
18 services, staffing, facilities or supplies.  
19

### 20 **XIV. INDEMNIFICATION AND INSURANCE**

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

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

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 \$50,000 (\$5,000 for automobile liability) shall specifically be approved by the  
 13 CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report. If  
 14 CONTRACTOR's SIR is approved, CONTRACTOR, in addition to, and without limitation of, any  
 15 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) for the full term of this Agreement, such failure shall  
 27 constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate  
 28 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 preferred,  
 33 but not mandatory, that the insurer be licensed to do business in the state of California (California  
 34 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

#### 23 H. REQUIRED COVERAGE FORMS

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

26 2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01, CA  
27 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

#### 28 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

37           R. SUBMISSION OF INSURANCE DOCUMENTS

- 1           1. The COI and endorsements shall be provided to COUNTY as follows:
- 2           a. Prior to the start date of this Agreement.
- 3           b. No later than the expiration date for each policy.
- 4           c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
- 5 changes to any of the insurance types as set forth in Subparagraph G, above.
- 6           2. The COI and endorsements shall be provided to the COUNTY at the address as specified in
- 7 the Referenced Contract Provisions of this Agreement.
- 8           3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance
- 9 provisions stipulated in this Agreement by the above specified due dates, ADMINISTRATOR shall
- 10 have sole discretion to impose one or both of the following:
- 11           a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
- 12 pursuant to any and all Agreements between COUNTY and CONTRACTOR until such time that the
- 13 required COI and endorsements that meet the insurance provisions stipulated in this Agreement are
- 14 submitted to ADMINISTRATOR.
- 15           b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late
- 16 COI or endorsement for each business day, pursuant to any and all Agreements between COUNTY and
- 17 CONTRACTOR, until such time that the required COI and endorsements that meet the insurance
- 18 provisions stipulated in this Agreement are submitted to ADMINISTRATOR.
- 19           c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from
- 20 CONTRACTOR's monthly invoice.
- 21           4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
- 22 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
- 23 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.
- 24

## 25           **XV. INSPECTIONS AND AUDITS**

26           A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative

27 of the State of California, the Secretary of the United States Department of Health and Human Services,

28 the Comptroller General of the United States, or any other of their authorized representatives, shall have

29 access to any books, documents, and records, including but not limited to, financial statements, general

30 ledgers, relevant accounting systems, medical and Client records, of CONTRACTOR that are directly

31 pertinent to this Agreement, for the purpose of responding to a beneficiary complaint or conducting an

32 audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth

33 in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all

34 reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and the

35 premises in which they are provided.

36           B. ADMINISTRATOR shall inform providers and CONTRACTOR, at the time they enter into a

37 contract, of the following:



1 1. Beneficiary grievance, appeal, and fair hearing procedures and timeframes as specified in  
2 42 C.F.R. 438.400 through 42 C.F.R. 438.424.

3 2. The beneficiary's right to file grievances and appeals and the requirements and timeframes  
4 for filing.

5 3. The availability of assistance to the beneficiary with filing grievances and appeals.

6 4. The beneficiary's right to request continuation of benefits that the ADMINISTRATOR  
7 seeks to reduce or terminate during an appeal or state fair hearing filing, if filed within the allowable  
8 timeframes, although the beneficiary may be liable for the cost of any continued benefits while the  
9 appeal or state fair hearing is pending if the final decision is adverse to the beneficiary.

10 5. Random reviews to ensure beneficiaries are being notified in a timely manner.

11 C. CONTRACTOR shall make all of its premises, physical facilities, equipment, books, records,  
12 documents, contracts, computers, or other electronic systems pertaining to Medi-Cal/Drug Medi-Cal  
13 enrollees, Medi-Cal/Drug Medi-Cal-related activities, services and activities furnished under the terms  
14 of the Agreement or determinations of amounts payable available at any time for inspection,  
15 examination of copying by the State, CMS, HHS Inspector General, the United States Comptroller  
16 General, their designees, and other authorized federal and state agencies. (42 CFR §438.3(h)) This audit  
17 right will exist for ten (10) years from the final date of the contract period or from the date of  
18 completion of any audit, whichever is later. (42 CFR §438.230(c)(3)(iii).) The State, CMS, or the HHS  
19 Inspector General may inspect, evaluate, and audit the CONTRACTOR at any time if there is a  
20 reasonable possibility of fraud or similar risk, then. (42 CFR §438.230(c)(3)(iv).)

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

25 E. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of  
26 services.

## 27 28 **XVI. LICENSES AND LAWS**

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

1 Medi-Cal providers must be certified as such, and must meet any additional requirements established by  
2 COUNTY as part of this certification.

3 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

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

27 1. 21 CFR, Chapter 2, Part 1300 through 1399, Drug Enforcement Administration.

28 2. 21 USC §§355, and 505, Manufacture of Drugs.

29 3. 21 USC §§812, 823, and 958, Controlled Substances.

30 4. 21 USC 300x-27(a) and 300y-11.

31 5. 42 CFR, Public Health, Part 8 – Certification of Opioid Treatment Programs.

32 6. ARRA of 2009.

33 7. California Welfare and Institutions Code, §14100.2, Medicaid Confidentiality.

34 8. CCR Title 9, Division 4, Chapter 4, Subchapters 1 through 6, Narcotic Treatment Programs.

35 9. California Bridge to Health Reform DMC-ODS Waiver, Standard Terms and Conditions,  
36 August 2015.

37 10. D/MC Certification Standards for Substance Abuse Clinics, July 2004.

- 1 11. Federal Medicare Cost reimbursement principles and cost reporting standards.
- 2 12. HSC, §§11758.40 through 11758.47, Medi-Cal Drug Treatment Program.
- 3 13. HSC, §§11839 through 11839.22, Narcotic Treatment Programs.
- 4 14. HSC, §11876, Narcotic Treatment Programs (inspections).
- 5 15. Orange County Medi-Cal Mental Health Managed Care Plan.
- 6 16. California Department of Health Care Services, Drug Medi-Cal Billing Manual, June 2017.
- 7 17. Title 22, CCR, §51009, Confidentiality of Records.
- 8 18. US Department of Justice, Drug Enforcement Administration.
- 9 19. Trafficking Victims Protection Act of 2000, specifically section 106(g) of the Trafficking  
10 Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as amended by section 1702.
- 11 20. Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8.
- 12 21. Drug Medi-Cal Certification Standards for Substance Abuse Clinics (Document 2E).
- 13 22. Title 22, CCR, Sections 51341.1, 51490.1, and 51516.1, (Document 2C).
- 14 23. Standards for Drug Treatment Programs (October 21, 1981) (Document 2F).
- 15 24. Title 9, CCR, Division 4, Chapter 4, Subchapter 1, Sections 10000, et seq.
- 16 25. Title 22, CCR, Division 3, Chapter 3, sections 51000 et. seq.
- 17 26. Title 9, CCR, Section 1810.435.
- 18 27. Title 9, CCR, Section 1840.105.

19 D. CONTRACTOR shall be required that the Agreement be governed by, and construed in  
20 accordance with, all laws and regulations, and all contractual obligations under this Agreement.

## 21 **XVII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

22 A. Any written information or literature, including educational or promotional materials,  
23 distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related  
24 to this Agreement must be approved at least thirty (30) days in advance and in writing by  
25 ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution of written  
26 //

27 materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads,  
28 and electronic media such as the Internet.

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

32 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly  
33 available social media sites) in support of the services described within this Agreement,  
34 CONTRACTOR shall develop social media policies and procedures and have them available to  
35 ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all  
36 forms of social media used to either directly or indirectly support the services described within this  
37

1 Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as  
2 they pertain to any social media developed in support of the services described within this Agreement.  
3 CONTRACTOR shall also include any required funding statement information on social media when  
4 required by ADMINISTRATOR.

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

7 E. CONTRACTOR shall also clearly explain through these materials that there shall be no  
8 unlawful use of drugs or alcohol associated with the services provided pursuant to this Agreement, as  
9 specified in HSC, §11999-11999.3.

10  
11 **XVIII. MAXIMUM OBLIGATION**

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

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

18  
19 **XIX. MINIMUM WAGE LAWS**

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

27  
28 B. CONTRACTOR shall comply and verify that its contractors comply with all other federal and  
29 State of California laws for minimum wage, overtime pay, record keeping, and child labor standards  
30 pursuant to providing services pursuant to this Agreement.

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

35  
36 **XX. NONDISCRIMINATION**

37 A. EMPLOYMENT

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

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

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

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

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

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

32           B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not  
33 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities  
34 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental  
35 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
36 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the  
37 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights

1 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division  
 2 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the  
 3 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other  
 4 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and  
 5 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this  
 6 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one  
 7 or more of the factors identified above:

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

17 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all Clients  
 18 through a written statement that CONTRACTOR’s and/or subcontractor’s Clients may file all  
 19 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and  
 20 ADMINISTRATOR or the U.S. Department of Health and Human Services’ OCR.

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

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

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

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

1 enforce rights secured by federal or state law.

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

## 6 **XXI. NOTICES**

7  
8 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements  
9 authorized or required by this Agreement shall be effective:

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

13 2. When faxed, transmission confirmed;

14 3. When sent by Email; or

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

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

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

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

## 27 **XXII. NOTIFICATION OF DEATH**

28  
29 A. Upon becoming aware of the death of any person served pursuant to this Agreement,  
30 CONTRACTOR shall immediately notify ADMINISTRATOR.

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

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

1 limit herein specified, notice need only be given during normal business hours.

2 2. WRITTEN NOTIFICATION

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

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

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

14  
15 **XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

23  
24 **“XXIV. PATIENT’S RIGHTS**

25 A. CONTRACTOR shall post the current California Department of Mental Health Patients’ Rights  
26 poster as well as the Orange County HCA Mental Health Plan Grievance and Appeals poster in  
27 locations readily available to Clients and staff and have Grievance and Appeal forms in the threshold  
28 languages and envelopes readily accessible to Clients to take without having to request it on the unit.

29 B. In addition to those process provided by ADMINISTRATOR, CONTRACTOR shall have an  
30 internal grievance processes approved by ADMINISTRATOR, to which the beneficiary shall have  
31 access.

32 1. CONTRACTOR's grievance process shall incorporate COUNTY's grievance, patients'  
33 rights, and/or utilization management guidelines and procedures. The patient has the right to utilize  
34 either or both grievance process simultaneously in order to resolve their dissatisfaction.

35 2. Title IX Rights Advocacy. This process may be initiated by a Client who registers a  
36 statutory rights violation or a denial or abuse complaint with the County Patients’ Rights Office. The  
37 Patients’ Rights office shall investigate the complaint, and Title IX grievance procedures shall apply.



1 which involve ADMINISTRATOR'S Director of Behavioral Health Care and the State Patients' Rights  
 2 Office.

3 C. The Parties agree that Clients have recourse to initiate an expression of dissatisfaction to  
 4 CONTRACTOR, appeal to the County Patients' Rights Office, file a grievance, and file a Title IX  
 5 complaint. The Patients' Advocate shall advise and assist the Client, investigate the cause of the  
 6 grievance, and attempt to resolve the matter

7 D. No provision of this Agreement shall be construed as to replacing or conflicting with the duties  
 8 of County Patients' Rights Office pursuant to Welfare and Institutions Code Section 5500."

9  
 10 **XXV. RECORDS MANAGEMENT AND MAINTENANCE**

11 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term  
 12 of this Agreement, prepare, maintain and manage records appropriate to the services provided and in  
 13 accordance with this Agreement and all applicable requirements, which include but are not limited to:

14 1. California Code of Regulations Title 22, §§70751(c), 71551(c), 73543(a), 74731(d),  
 15 75055(a), 75343(a), and 77143(a).

16 2. State of California, Department of Health Care Services ASRS Manual.

17 3. State of California, Department of Health Care Services DPFS Manual.

18 4. California Health and Safety Code §123145.

19 5. Title 45 CFR, §164.501; §164.524; §164.526; §164.530(c) and (j).

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

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

28 D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the  
 29 commencement of the contract, unless a longer period is required due to legal proceedings such as  
 30 litigations and/or settlement of claims.

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

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

37 1. The medical records and billing records about individuals maintained by or for a covered

1 health care provider;

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

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

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

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

10 2. Provide auditor or other authorized individuals access to documents via a computer  
11 terminal.

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

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

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

20 J. CONTRACTOR shall retain all Client and/or patient medical records for ten (10) years  
21 following discharge of the Client and/or patient, with the exception of non-emancipated minors for  
22 whom records must be kept for at least one (1) year after such minors have reached the age of eighteen  
23 (18) years, or for ten (10) years after the last date of service, whichever is longer.

24 K. CONTRACTOR shall obtain an NPI for each site identified as a location for providing  
25 contractual services. Provider's site NPIs must be submitted to the ADMINISTRATOR prior to  
26 rendering services to clients. Contractors providing direct or indirect services for State reporting must  
27 also submit rendering (individual) provider NPIs to ADMINISTRATOR for each staff member  
28 providing Medi-Cal billable services. Contractor reimbursement will not be processed unless NPIs are  
29 on file with ADMINISTRATOR in advance of providing services to clients. It is the responsibility of  
30 each contract provider site and individual staff member that bills Medi-Cal to obtain an NPI from the  
31 NPES. Each contract site, as well as every staff member that provides billable services, is responsible  
32 for notifying the NPES within thirty (30) calendar days of any updates to personal information, which  
33 may include, but is not limited to, worksite address, name changes, taxonomy code changes, etc.

34  
35 **XXVI. RESEARCH AND PUBLICATION**

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

1 for publication.

## 3 **XXVII. REVENUE**

4 A. CLIENT FEES – CONTRACTOR shall not charge a fee to DMC beneficiaries to whom  
5 services are provided pursuant to this Agreement, their estates and/or responsible relatives, unless a  
6 Share of Cost is determined per Medi-Cal eligibility.

7 B. THIRD-PARTY REVENUE – CONTRACTOR shall make every reasonable effort to obtain all  
8 available third-party reimbursement for which persons served pursuant to this Agreement may be  
9 eligible. Charges to insurance carriers shall be on the basis of CONTRACTOR’s usual and customary  
10 charges. An Assignment of Benefits must be present in a Participant’s file when applicable.

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

## 18 **XXVIII. SEVERABILITY**

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

## 24 **XXIX. SPECIAL PROVISIONS**

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

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

1 agent, or making salary advances or giving bonuses to CONTRACTOR's staff.

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

5 8. Severance pay for separating employees.

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

8 10. Purchasing or improving land, including constructing or permanently improving any  
9 building or facility, except for tenant improvements.

10 11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal  
11 funds (matching).

12 12. Contracting or subcontracting with any entity other than an individual or nonprofit entity.

13 13. Producing any information that promotes responsible use, if the use is unlawful, of drugs or  
14 alcohol.

15 14. Promoting the legalization of any drug or other substance included in Schedule 1 of the  
16 Controlled Substance Act (21 USC 812).

17 15. Distributing or aiding in the distribution of sterile needles or syringes for the hypodermic  
18 injection of any illegal drug.

19 16. Assisting, promoting, or deterring union organizing.

20 17. Providing inpatient hospital services or purchasing major medical equipment.

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

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

24 2. Making phone calls outside of the local area unless documented to be directly for the  
25 purpose of Client care.

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

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

29 5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
30 CONTRACTOR's Clients.

31 C. Neither party shall be responsible for delays or failures in performance resulting from acts  
32 beyond the control of the affected party. Such acts shall include, but not be limited to, acts of God, fire,  
33 flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public  
34 related utility, or governmental statutes or regulations imposed after the fact.

### 35 36 **XXX. STATUS OF CONTRACTOR**

37 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be

1 wholly responsible for the manner in which it performs the services required of it by the terms of this  
 2 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
 3 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the  
 4 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
 5 or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR  
 6 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or  
 7 subcontractors as they relate to the services to be provided during the course and scope of their  
 8 employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be  
 9 entitled to any rights or privileges of COUNTY's employees and shall not be considered in any manner  
 10 to be COUNTY's employees.

### 11 **XXXI. TERM**

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

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

### 21 **XXXII. TERMINATION**

22  
 23 A. Either party may terminate this Agreement, without cause, upon ninety (90) calendar days'  
 24 written notice given the other party.

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

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

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

1 this Agreement.

2 6. The continued incapacity of any physician or licensed person to perform duties required  
3 pursuant to this Agreement.

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

8 D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

30 4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR,  
31 upon request, all Client information and records deemed necessary by ADMINISTRATOR to effect an  
32 orderly transfer.

33 5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with  
34 Client's best interests.

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

37 7. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment and

1 supplies purchased with funds provided by COUNTY.

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

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

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

14  
15 **XXXIII. THIRD PARTY BENEFICIARY**

16 Neither party hereto intends that this Agreement shall create rights hereunder in third parties  
17 including, but not limited to, any subcontractors or any Clients provided services pursuant to this  
18 Agreement.

19  
20 **XXXIV. WAIVER OF DEFAULT OR BREACH**

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

26 //  
27 //  
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1 IN WITNESS WHEREOF, the parties have executed this Agreement, in the County of Orange,  
2 State of California.

3  
4 WESTERN PACIFIC MED-CORP

5  
6  
7 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

8  
9  
10 TITLE: \_\_\_\_\_

11  
12  
13  
14  
15 COUNTY OF ORANGE

16  
17  
18 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

19 HEALTH CARE AGENCY

20  
21  
22  
23  
24 APPROVED AS TO FORM  
25 OFFICE OF THE COUNTY COUNSEL  
26 ORANGE COUNTY, CALIFORNIA

27  
28 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

29 DEPUTY

30  
31  
32  
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 TO AGREEMENT FOR PROVISION OF  
 3 DRUG MEDI-CAL NARCOTIC REPLACEMENT  
 4 THERAPY TREATMENT SERVICES  
 5 WITH  
 6 WESTERN PACIFIC MED-CORP  
 7 JULY 1, 2018 THROUGH JUNE 30, 2020

8  
 9 **I. COMMON TERMS AND DEFINITIONS**

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

12 1. AB109 Services are for those DMC covered Clients deemed eligible by California  
 13 Department of Corrections and Rehabilitation and/or OCPD. Clients in AB 109 Services are those who  
 14 have received sentencing for a felony or misdemeanor that is non-violent, non-sexual, and non-serious.

15 2. CalOMS is a statewide Client based data collection and outcomes measurement system as  
 16 required by the state to effectively manage and improve the provision of alcohol and other drug services  
 17 at the state, COUNTY, and provider levels.

18 3. Case Management means services which include, but are not limited to, referral and linkage  
 19 to ancillary services not provided by the Contractor such as contacting outside agencies and making  
 20 referrals for services, including academic education, vocational training, medical and dental treatment,  
 21 pre-and-post counseling and testing for infectious diseases, legal assistance, job search assistance,  
 22 financial assistance, childcare, and self-help programs such as 12-step programs. Additionally, Case  
 23 Management includes helping Clients build support in the community and helping Clients deal with  
 24 impairments in life skills due to their substance use problems. Case management service include  
 25 periodic reassessment of the Client’s need for continued case management services and assistance to  
 26 successfully transition to lower or higher levels of care, as determined by review of the treatment plans.

27 4. Client means a male or female aged 18 and over residing in the COUNTY who has a  
 28 primary problem of opiate addiction and/or other MAT allowable by the DMC-ODS formulary that also  
 29 qualifies for admission as per Title 9 and contractual eligibility requirements.

30 5. Counselor means a staff member who is registered or certified by one of the state approved  
 31 Counseling Certification programs or who is a registered intern or licensed by the Board of Behavioral  
 32 Sciences. A Counselor must remain in good standing with the certification or licensing process.

33 6. Crisis Intervention means providing emergency assessment and counseling with the Client  
 34 in a crisis situation. This shall include an actual relapse or an unforeseen event or circumstance which  
 35 presents an imminent threat of relapse to stabilize the emergency situation. Crisis sessions shall be  
 36 limited to the stabilization of the Client’s emergency situation.

37 //

1           7. Diagnosis means the identification of the nature of the Client's substance use disorder.  
 2 When formulating the diagnosis of a Client, the CONTRACTOR shall use the diagnosis codes as  
 3 specified in the most current edition of the DSM published by the American Psychiatric Association.  
 4 The Contractor shall record all DSM diagnoses as the basis for services, on all IRIS documents and in  
 5 the Client files as appropriate (i.e. treatment plan).

6           8. Discharge/Referral and Linkage means providing the needed resources upon discharge from  
 7 program through Discharge Planning services via an Exit Plan for those completing their individualized  
 8 course of maintenance services so that Client has the knowledge and resources to seek treatment again  
 9 as needed or outside supportive services. As part of the Discharge/Referral and Linkage process,  
 10 CONTRACTOR must perform a discharge summary for clients within thirty (30) days of discharge.

11           9. Dose means the administration of a specific amount of methadone and/or other MAT  
 12 prescribed by a physician for the Maintenance Client's care along with medical care and individual  
 13 and/or group counseling.

14           10. Drug/Alcohol Screening means providing drug/alcohol screening/testing once a month or as  
 15 delineated by HCA.

16           11. Dual Diagnosed Client means a Client having co-occurring mental illness and substance  
 17 abuse diagnosis, of which SUD is the primary diagnosis.

18           12. Family Counseling/Collateral Counseling means a face-to-face contact between a  
 19 Counselor and members of a Client's family or significant other. The Client may or may not be present.

20           13. Follow-Up/After Care means protocol to be followed by CONTRACTOR to follow-up with  
 21 Clients ninety (90) days post discharge from treatment to review progress and offer drop-in counseling  
 22 or other services on an as needed basis.

23           14. Group Counseling means sessions based on Client need for ninety (90) minutes each with a  
 24 minimum of two (2) Clients and a maximum of twelve (12) Clients with at least one DMC beneficiary  
 25 per group billed in fifteen (15) minute increments. Group counseling sessions need to be set up in a  
 26 developmentally appropriate environment (i.e., age, culture, etc.) and utilize Evidence-Based Practices.

27           15. Individual Counseling means counseling provided to an individual as needed and identified  
 28 on the treatment plan as appropriate for Clients. Individual Counseling shall be performed at a minimum  
 29 of one (1) fifty (50) minute session per month. Utilization of EBPs in these sessions is required by the  
 30 County DMC-ODS implementation plan. Outpatient Drug Free individual counseling sessions are  
 31 limited to intake, crisis intervention, collateral services, treatment planning and discharge planning  
 32 billed in fifteen (15) minute increments up to fifty (50) minutes for each session.

33           16. Intake/Assessment means utilizing the Full County ASAM-based Assessment and  
 34 Placement Tool, or any other tools as designated by County HCA, to provide a standardized,  
 35 comprehensive risk and needs assessment to each client to assess substance use history, family history,  
 36 mental and emotional status, education needs, legal status and vocational background as well as daily

37 //

1 living skills, stress management, literacy, employment, and money management. Assessment tools will  
2 be co-occurring capable, and meet best practice standards.

3 17. Intake/Screening means that CONTRACTOR will screen the individual for placement into  
4 outpatient treatment using Brief County ASAM Screening and Placement Tool or any other tools as  
5 designated by County HCA including an SBIRT, prior to admission. Individuals needing a higher level  
6 of care shall be provided appropriate services until linkage to a higher level of care is made.  
7 Information will be shared between programs in compliance with 42 CFR Part 2 requirements.

8 18. IRIS means a collection of applications and data bases that serve the needs of programs  
9 within HCA and includes functionality such as registration and scheduling, laboratory information  
10 system, billing and reporting capabilities, compliance with regulatory requirements, electronic medical  
11 records and other relevant information.

12 19. Maintenance Therapy means the treatment modality whereby replacement narcotic therapy  
13 is used in sustained, stable, medically determined dosage levels for a period in excess of twenty-one (21)  
14 days, to reduce or eliminate chronic opiate addiction, while the patient is provided a comprehensive  
15 range of treatment services.

16 20. Medical Director means the physician licensed to practice medicine in California who is  
17 responsible for medical services provided by CONTRACTOR. The Medical Director shall be enrolled  
18 with DHCS under applicable state regulations. The Medical Director duties encompass signing of notes,  
19 placing clients in treatment, initiating, altering and terminating therapy medications and dosage  
20 amounts, supervising the administration and dispensing of medications, and planning and supervising  
21 provision of treatment including regular review and notes in the clients' records.

22 21. Medical Necessity means the decision by Contractor's Medical Director that a Client meets  
23 admission criteria and continuing care justification pursuant to CCR, Title 22 and Title 9, Section  
24 10270. Medically Necessary services are provided in accordance with an individualized treatment plan  
25 determined by a licensed physician or licensed prescriber and approved and authorized according to  
26 State requirements.

27 22. Medication Psychotherapy means a type of counseling service consisting of a face-to-face  
28 discussion conducted by the Medical Director of the NTP on a one-on-one basis with the Client on  
29 issues identified in the treatment plan.

30 23. Medication Services means the physician prescribed medications related to a Client's SUD  
31 treatment services covered under the DMC-ODS formulary including methadone, buprenorphine,  
32 naloxone, and disulfiram. CONTRACTOR staff will regularly communicate with physicians unless the  
33 client refuses to consent to sign a 42 CFR Part 2 compliant Authorization to Disclose form.

34 24. Physician Extender means a registered nurse practitioner and physicians' assistants only.

35 25. Program Protocol means the written program description, goals, objectives, and policies  
36 established by CONTRACTOR for the methadone therapy program provided pursuant to the  
37 Agreement.

1 26. Token means the security device which allows an individual user to access the HCA  
2 computer based IRIS.

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

## 5 6 **II. PAYMENTS**

7 A. BASIS FOR REIMBURSEMENT – As compensation to CONTRACTOR for services provided  
8 pursuant to the Agreement, COUNTY shall pay CONTRACTOR monthly in arrears at the State  
9 Mandated NTP DMC ODS rates of reimbursement, as listed below, or as amended by State mandate:

10 <u>Service</u>	11 <u>Unit of Service</u>	12 <u>Fee Determination</u>	13 <u>Regular DMC Rate per unit</u>	14 <u>Perinatal DMC Rate per unit</u>
15 Physician Consultation	16 15 minute increments	17 County Determined	18 \$89.30	19 \$89.30
20 NTP – Buprenorphine – Mono	21 Daily	22 State Mandated	23 \$19.12	24 \$24.04
25 NTP – Buprenorphine-Naloxone Combination	26 Daily	27 State Mandated	28 \$21.65	29 \$26.57
30 NTP - Disulfiram	31 Daily	32 State Mandated	33 \$9.50	34 \$9.49
35 NTP – Naloxone: 2-pack nasal spray	36 Dispensed according to need	37 State Mandated	\$144.66	\$144.66
NTP - Methadone	Daily	State Mandated	\$13.93	\$15.00
NTP – Individual Counseling	10 minute increments	State Mandated	\$15.74	\$23.39
NTP – Individual Group	10 minute increments	State Mandated	\$3.36	\$5.37
Case Management	15 minute increments	State Mandated	\$26.21	\$26.21

34 MAT will be reimbursed for onsite administration and dispensing at NTP programs; additionally,  
35 physicians and licensed prescribers in DMC programs will be reimbursed for the ordering, prescribing,  
36 administering, and monitoring of MAT as per DMC-ODS Waiver STC's. However, the total of  
37 monthly payments to CONTRACTOR shall not exceed COUNTY's Maximum Obligation set forth in

1 the Referenced Contract Provisions of the Agreement and provided further, that CONTRACTOR's costs  
 2 are allowable pursuant to applicable COUNTY, federal and state regulations. Non-compliance will  
 3 require the completion of a CAP by CONTRACTOR. If CAPs are not completed within timeframes  
 4 approved by ADMINISTRATOR, payments may be reduced accordingly.

5 B. COUNTY shall pay CONTRACTOR monthly, in arrears. CONTRACTOR's invoice shall be  
 6 on an approved invoice form, approved or supplied by ADMINISTRATOR, and provide such  
 7 information as is required by ADMINISTRATOR.

8 C. Invoices are due by the twentieth (20th) calendar day of each month, and payments to  
 9 CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days after receipt of  
 10 the correctly completed invoice form.

11 D. All billings to COUNTY shall be supported by supporting documentation that clearly show  
 12 CONTRACTOR is entitled to compensation as a result of and in the performance of duties for  
 13 COUNTY.

14 E. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply  
 15 with any provision of the Agreement or is not in compliance with federal, state or COUNTY regulations  
 16 governing the provision of contracted services.

17 F. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration  
 18 and/or termination of the Agreement, except as may otherwise be provided for under the Agreement.

19 G. In conjunction with Payments Paragraph, Subparagraph A, Units of Service shall not be entered  
 20 in the IRIS system for services not rendered. If information has been entered, corrections will be made  
 21 within ten (10) business days from notification of ADMINISTRATOR. Additionally, to assist in the  
 22 protection of data integrity, CONTRACTOR shall create a procedure to ensure separation of duties  
 23 between the individual performing direct services (LPHA, clinicians, counselors, etc.), and the clerical  
 24 staff who enter information into the IRIS system. Clerical staff shall enter data into IRIS using the chart  
 25 information provided by the direct service staff.

26 H. CONTRACTOR shall ensure compliance with all DMC billing and documentation  
 27 requirements when entering Units of Service into COUNTY IRIS system. ADMINISTRATOR shall  
 28 withhold payment for non-compliant Units of Service, and may reduce, withhold or delay any payment  
 29 associated with non-compliant billing practices.

30 I. CONTRACTOR may be required to have an audit conducted in accordance with federal OMB  
 31 Circular A-133. CONTRACTOR shall be responsible for complying with any federal audit  
 32 requirements within the reporting period specified by OMB Circular A-133.

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

### 35 **III. RECORDS**

36 A. CLIENT RECORDS – CONTRACTOR shall maintain adequate records in accordance with the  
 37

1 ADMINISTRATOR's ODS-DMC Waiver STC's, Title 22, and Title 9 on each individual Client in  
 2 sufficient detail to permit an evaluation of services, which shall include, but need not be limited to  
 3 unless otherwise approved by ADMINISTRATOR:

- 4 1. SUD Diagnosis;
- 5 2. ASAM based screening tool (psycho/social);
- 6 3. Medical Questionnaire and Physical;
- 7 4. Tuberculosis clearance and other lab results as required by Title 9 and HCA Contract;
- 8 5. Emergency notification information and authorization to disclose to client's emergency  
 9 contact;
- 10 6. Treatment Plan;
- 11 7. Discharge Plan if applicable and Discharge Summary; and
- 12 8. Quality Review Check Sheet.

13 B. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete  
 14 financial records of its costs and operating expenses. Such records shall reflect the actual costs of the  
 15 type of service for which payment is claimed in accordance with generally accepted accounting  
 16 principles, the ASRS Manual.

17 1. Any apportionment of or distribution of costs, including indirect costs, to or between  
 18 programs or cost centers of CONTRACTOR shall be documented, and shall be made in accordance with  
 19 generally accepted principles, the ASRS Manual, and the DPFS Manual.

20 2. CONTRACTOR shall account for funds provided through the Agreement separately from  
 21 other funds, and maintain a clear audit trail for the expenditure of funds.

22 3. The Client eligibility determination and fee charged to and collected from Clients, together  
 23 with a record of all billings rendered and revenues received from any source, on behalf of Clients treated  
 24 pursuant to the Agreement, must be reflected in CONTRACTOR's financial records.

25 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
 26 Records Paragraph of this Exhibit A to the Agreement.

#### 27 28 **IV. REPORTS**

##### 29 **A. MONTHLY PROGRAMMATIC**

30 1. CONTRACTOR shall submit a monthly programmatic report to ADMINISTRATOR,  
 31 including information required and on a form approved or provided by ADMINISTRATOR, in  
 32 conjunction with the billing described in the Payments paragraph of this Exhibit A of the Agreement.  
 33 These monthly programmatic reports should be received by ADMINISTRATOR no later than the  
 34 twentieth (20th) business day of the month following the report month.

35 2. CONTRACTOR shall be responsible to include in the monthly programmatic report any  
 36 problems in implementing the provisions of the Agreement, pertinent facts or interim findings, staff  
 37 changes, status of license(s) and/or certification(s), changes in population served, and reasons for any

1 changes. Additionally, a statement that the CONTRACTOR is or is not progressing satisfactorily in  
2 achieving all the terms of the Agreement shall be included.

3 B. MONTHLY IRIS – CONTRACTOR shall input all CalOMS data for the preceding month no  
4 later than the fifth (5th) calendar day of the month following the report month. CONTRACTOR shall  
5 correct and submit all errors from the CalOMS Feedback and Error Report within seven (7) calendar  
6 days of receipt of the report. CalOMS discharges shall be entered no later than seven (7) calendar days  
7 after Client’s discharge.

8 C. MONTHLY DATAR – CONTRACTOR shall provide reports under the DATAR and/or any  
9 other State Department of Alcohol and Drug Programs Reporting System no later than the fifth (5th)  
10 business day of the month following the report month.

11 D. ADDITIONAL REPORTS – CONTRACTOR shall make additional reports, as required by  
12 ADMINISTRATOR, concerning CONTRACTOR’s activities as they affect the services hereunder.  
13 ADMINISTRATOR will be specific as to the nature of information requested.

14 E. CONTRACTOR agrees to enter psychometrics into COUNTY’s EHR system as requested by  
15 ADMINISTRATOR. Said psychometrics are for the COUNTY’s analytical uses only, and shall not be  
16 relied upon by CONTRACTOR to make clinical decisions. CONTRACTOR agrees to hold COUNTY  
17 harmless, and indemnify pursuant to Section XI, from any claims that arise from non-COUNTY use of  
18 said psychometrics.

19 F. CONTRACTOR agrees to submit reports as required by the ADMINISTRATOR and/or the  
20 State.

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

## 23 24 **V. SERVICES**

25 ~~—A. The CONTRACTOR shall order, prescribe, administer and monitor methadone as a substitute~~  
26 ~~narcotic analgesic drug. Under the DMC-ODS demonstration project, NTP’s will also prescribe,~~  
27 ~~monitor and administer naloxone, buprenorphine and disulfiram. CONTRACTOR shall operate a~~  
28 ~~licensed accredited and certified alcohol and drug abuse NRT program, in accordance with the standards~~  
29 ~~established by COUNTY and under Title 9, Division 4, Chapter 4 of the CCR by the State of California,~~  
30 ~~DHCS at the following location(s) or any other location as approved by ADMINISTRATOR.~~

31  
32 ~~218 E. Commonwealth Ave. 10751 Dale Ave. 275 Victoria Street, Suite 1H~~  
33 ~~Fullerton, CA 92832 Stanton, CA 90680-2604 Costa Mesa, CA 92627~~

34  
35  
36 ~~“A. The CONTRACTOR shall order, prescribe, administer and monitor methadone as a substitute~~  
37 ~~narcotic analgesic drug. Under the DMC-ODS demonstration project, NTPs will also prescribe, monitor~~

1 and administer naloxone, buprenorphine and disulfiram. CONTRACTOR shall operate a licensed  
 2 accredited and certified alcohol and drug abuse NRT program, in accordance with the standards  
 3 established by COUNTY and under Title 9, Division 4, Chapter 4 of the CCR by the State of California,  
 4 DHCS at the following location(s) or any other location as approved by ADMINISTRATOR.

6 <u>218 E. Commonwealth Ave.</u>	6 <u>10751 Dale Ave.</u>
7 <u>Fullerton, CA 92832</u>	7 <u>Stanton, CA 90680-2604</u>
8 <u>275 Victoria Street, Suite 1H</u>	8 <u>26921 Crown Valley, Suite 200</u>
9 <u>Costa Mesa, CA 92627</u>	9 <u>Mission Viejo, CA 92691”</u>

11 B. PERSONS TO BE SERVED – CONTRACTOR shall provide NRT services for Drug Medi-Cal  
 12 beneficiaries in the form on ongoing maintenance services which shall be provided to Orange County  
 13 residents, aged 18 and over, who meet Medical Necessity for dependence on heroin or other morphine-  
 14 like opioids and/or alcohol to provide methadone and other medication assisted treatment as described in  
 15 the DMC-ODS Waiver and HCA Contract. Services shall be available 365 days per year.

16 1. CONTRACTOR shall provide individual case management, treatment planning, individual  
 17 and/or group counseling, client education, crisis intervention, medication services, collateral services,  
 18 medical psychotherapy and discharge services, as required by federal, state, and COUNTY rules and  
 19 regulations. No persons eligible for DMC-ODS services, including Medi-Cal funded NTP treatment  
 20 services, will be placed on waiting lists for such services due to budgetary constraints.

21 2. CONTRACTOR’s program must include an introduction to appropriate self-help structured  
 22 support programs as approved by ADMINISTRATOR.

23 C. CONTENT OF CLIENT RECORDS – Each program shall document the following information  
 24 in the individual Client record:

- 25 1. Date of Birth
- 26 2. Physical examination data, including laboratory results for required tests and analyses.
- 27 3. Evidence of current use of heroin, other opiates, and/or alcohol.
- 28 4. Date of admission, plan of treatment, and medication orders signed by the physician.
- 29 5. Program’s response to a test or analysis for illicit drug use which discloses the absence of  
 30 both methadone and its primary metabolite, the presence of any illicit drugs, or abuse of other  
 31 substances, including alcohol.
- 32 6. Incidence of arrest and conviction or any other signs of retrogression.
- 33 7. Any other client information which the program finds useful in treating the client or as  
 34 ADMINISTRATOR deems necessary.

35 D. INTAKE/ASSESSMENT – Before admitting an applicant to Maintenance Therapy, the Medical  
 36 Director shall determine Medical Necessity by either conducting a medical evaluation or documenting  
 37 the review in agreement with a medical evaluation conducted by the physician’s designee.



1           1. Within three (3) calendar days of admission, CONTRACTOR shall provide a standardized,  
 2 comprehensive risk and needs assessment developed by COUNTY on each DMC funded Maintenance  
 3 Client to assess alcohol and drug abuse history, family history, mental and emotional status, educational  
 4 and vocational background, as well as daily living skills, stress management, literacy, employment,  
 5 coping skills, educational needs and money management. The content of Client records shall follow  
 6 Title 9, Section 10165, County of Orange DMC-ODS implementation plan and all requirements  
 7 specified by this Agreement.

8           2. In the event of non-compliance with timely access to care requirements,  
 9 ADMINISTRATOR shall provide the CONTRACTOR assistance to adhere to the requirements.  
 10 ADMINISTRATOR shall also issue a written report documenting the non-compliance and require the  
 11 CONTRACTOR to submit a CAP within thirty (30) days of the report. ADMINISTRATOR is  
 12 responsible for approving the CAP and verifying that corrections have been made to resolve timely  
 13 access.

14           E. PROGRAM ORIENTATION – CONTRACTOR shall, within seventy-two (72) hours of  
 15 Client's admission into the program, provide an overview of the program. The program orientation  
 16 shall be documented in the Client's file, and shall include, but not be limited to:

- 17           1. Overview of program structure and schedules;
- 18           2. Program rules and regulations;
- 19           3. Effects of medication used in Narcotic Replacement Therapy and adverse effects of abrupt  
 20 withdrawal;
- 21           4. Policies regarding Client fees;
- 22           5. Client rights and responsibilities;
- 23           6. Assignment of a counselor;
- 24           7. Staff code of conduct;
- 25           8. Confidentiality Statement, and how release of information is permitted in accordance with  
 26 42 CFR Part 2 and 45 CFR (HIPAA);
- 27           9. Agreements needed to exchange appropriate information within the network of consultants  
 28 and linkage agencies in accordance with HIPAA regulations and 42 CFR Part 2; and Title 9, Division 4,  
 29 Chapter 4, Section 10290; and
- 30           10. Continuing care services.

31           F. TREATMENT PLAN

32           1. CONTRACTOR shall, within twenty-eight (28) calendar days of initiation of Narcotic  
 33 Replacement Therapy for a Maintenance Client, have a registered, certified, and/or licensed Counselor/  
 34 LPHA develop an individualized treatment plan with each Client per Title 9, Section 10305 which shall  
 35 be based on the multi-dimensional assessment and health assessment and shall include:

- 36           a. Goals, based on identified needs, to be achieved by the Client with estimated target  
 37 dates for attainment in accordance with the following:

1                   1) Short-term goals which are estimated to require eighty-nine (89) calendar days or  
2 less for Client to achieve;

3                   2) Long-term goals which are estimated to require a specified time exceeding ninety  
4 (90) calendar days for Client to achieve;

5                   b. Specific behavioral tasks the Client must accomplish to complete each short-term and  
6 long-term goal;

7                   c. A description of the type and frequency of counseling services to be provided to the  
8 Client;

9                   d. An effective date based on the day the Counselor signed the initial treatment plan;

10                  e. The SUD diagnosis shall appear on the treatment plan utilizing DSM-5 CPT 10 codes;

11                  f. The Supervising Counselor shall review the initial maintenance services plan, along  
12 with the needs assessment, and all updated maintenance services plans within fourteen (14) calendar  
13 days from the effective dates and shall countersign these documents to signify concurrence with the  
14 findings; and

15                  g. Medical Director or Designee will review the needs assessment, and sign the initial and  
16 all updated treatment plans within fourteen (14) days of Counselor's signature.

17                  2. CONTRACTOR's registered, certified, and/or licensed Counselor/LPHA shall evaluate and  
18 update the Client's treatment plan whenever necessary, or at a minimum once every three (3) months  
19 from the date of admission. The updated treatment plan shall include:

20                  a. A summary of the Client's progress or lack of progress toward each goal identified in  
21 the initial treatment plan;

22                  b. New goals and behavioral tasks for any newly identified needs, and related changes in  
23 the type and frequency of counseling services.

24                  G. COUNSELING – Upon completion of the initial treatment plan, CONTRACTOR shall arrange  
25 for Client to receive a minimum of fifty (50) minutes to a maximum of two hundred (200) minutes of  
26 counseling services per calendar month for Maintenance, in accordance with the following  
27 requirements:

28                  1. Program staff member conducting the session must be a Counselor or LPHA;

29                  2. The session must be conducted in a private setting in accordance with all applicable federal,  
30 state, and COUNTY regulations regarding confidentiality; and

31                  3. The format of the counseling session shall be in an Individual or Group session, with face-  
32 to-face discussion with the Client on issues identified in the Client's treatment plan. Counselor shall  
33 document this session in Client's file.

34                  H. ADDITIONAL REQUIREMENTS FOR PREGNANT CLIENTS

35                  Within fourteen (14) calendar days from the date the primary counselor becomes aware the  
36 client may be pregnant, as documented in the client's file, the medical director shall review, sign, and  
37 date a confirmation of pregnancy, documents acceptance of medical responsibility of the Client's

1 prenatal care or verify and document the client is under the care of a physician licensed by the State of  
2 California and trained in obstetrics and/or gynecology.

3 1. Within fourteen (14) calendar days from the date the medical director confirmed the  
4 pregnancy, the primary counselor shall update the client's treatment plan in accordance with Title 9,  
5 Section 10305. The nature of prenatal support reflected in subsequent updated treatment plans shall  
6 include at least the following services:

7 a. periodic face-to-face consultation at least monthly with the medical director or  
8 physician extender designated by the medical director;

9 b. drug/alcohol screens at least once each calendar week in accordance with collection  
10 procedures in Title 9, Section 10310.

11 c. prenatal instruction conducted by the medical director or licensed health personnel  
12 designated by the medical director, including topics as listed in Title 9, Section 10360.

13 2. Any refusals to access on-site prenatal care or referrals for such, shall be documented in the  
14 Client's file and have the client acknowledge in writing said refusals for these treatment services.

15 3. Within fourteen (14) calendar days after the date of birth and/or termination of the  
16 pregnancy, the medical director shall document in the Client's file the following:

17 a. the hospital's or attending physician's summary of the delivery and treatment outcome  
18 for the client and child; or

19 b. Evidence that a request for information was made, but no response was received.

20 4. Within fourteen (14) calendar days of the date of birth and/or termination of the pregnancy,  
21 the primary counselor shall update the Client's treatment plan. The nature of pediatric care and child  
22 immunization shall be reflected in subsequent updated treatment plans until the child is at least three (3)  
23 years of age, should the client remain enrolled.

24 I. CONTINUATION OF TREATMENT – CONTRACTOR shall provide justification for  
25 treatment to Clients who have been on methadone maintenance for a period of two (2) years, and  
26 annually thereafter as per Title 9, Section 10410. Justification shall be provided by the Medical Director  
27 or program physician and noted in Clients files. Without said justification the medical director or  
28 program physician shall discontinue a Client's maintenance services.

29 J. DISCHARGE PLAN/EXIT PLANNING/TERMINATION – CONTRACTOR shall begin  
30 discharge planning immediately after enrollment. CONTRACTOR shall develop a formal exit plan  
31 within thirty (30) calendar days of the last face-to-face Client's successful completion of the program  
32 for a Maintenance Client. The transition/exit plan shall be completed and signed by CONTRACTOR  
33 and Client. CONTRACTOR shall establish a protocol for scheduled termination of services and  
34 document any discharge via a discharge summary.

35 1. The transition/exit plan shall include:

36 a. A strategy or strategies to assist the Client in maintaining an alcohol and drug free  
37 lifestyle;

1 b. A continuing treatment exit plan that includes linkage and referral of the Client to  
 2 appropriate services, such as outpatient treatment, other support services such as self-help groups, social  
 3 services, vocational rehabilitation, job training and other services, if needed, and document this in  
 4 Client's chart. The continuing treatment exit plan shall also include the goals identified in the Client's  
 5 treatment plan; and

6 c. Referrals to appropriate non-substance abuse resources such as continuing education  
 7 and vocational rehabilitation.

8 2. Written criteria for the discharge summary shall include:

9 a. Reason for discharge;

10 b. Client's achievements while in the Treatment Program such as meeting or progressing  
 11 towards educational or vocational goals;

12 c. Description of maintenance services and Client progress;

13 d. Current alcohol and/or drug usage at discharge;

14 e. Vocational and educational achievements;

15 f. Any outstanding legal concerns;

16 g. Linkages and referrals made;

17 h. Client's comments; and

18 i. Prognosis.

19 K. PERFORMANCE OBJECTIVES AND OUTCOMES – CONTRACTOR shall be required to  
 20 meet the following performance Objectives and Outcomes:

21 1. Achieve a goal of twenty percent (20%) or fewer of all unduplicated Clients who test  
 22 positive for illicit drugs after an enrollment of ninety (90) days.

23 2. Achieve a goal of seventy percent (70%) or above unduplicated Clients who after an  
 24 enrollment of ninety (90) days self-report being able to lead a productive lifestyle. A productive lifestyle  
 25 includes employment, being enrolled in school, becoming a caretaker, or community volunteer.

26 3. Submit monthly Performance Outcome Reports to evaluate the impact or contribution of  
 27 contractor's services on the well-being of HCA client being served.

28 4. Implement a process improvement project as outlined in the NIATx model, targeting at  
 29 least one (1) of the following four (4) NIATx aims:

30 a. Reduce waiting times;

31 b. Reduce no-shows;

32 c. Increase admissions;

33 d. Increase continuation in treatment.

34 5. Adhere to the National Standards for Culturally and Linguistically Appropriate Services in  
 35 Health and Health Care and respond to each standard as directed by HCA.

36 L. ADDITIONAL REPORTING – CONTRACTOR shall submit written report to  
 37 ADMINISTRATOR on a weekly basis, or as arranged by ADMINISTRATOR, for all Clients

1 participating in treatment as part of the Agreement. Report will note all current Clients.  
 2 ADMINISTRATOR will approve CONTRACTOR's form for report, and determine mode of  
 3 transmission of said report from the CONTRACTOR to the ADMINISTRATOR.

4 M. CASE MANAGEMENT – CONTRACTOR shall provide Case Management services which  
 5 include the process of identification, assessment of need, planning, coordination and linking, monitoring  
 6 and continuous evaluation of Clients and of available resources, and advocacy through a process of  
 7 casework activities in order to achieve the best possible resolution of individual needs in the most  
 8 effective way possible.

9 N. REFERRAL AND LINKAGE – As a function of Case Management, CONTRACTOR shall  
 10 provide effective linkage of a Client to other ancillary services to include literacy training, vocational  
 11 counseling, and other Client services, with follow-up to be provided and documented in the Client file to  
 12 ensure that the Client has contacted the referred service provider. Referrals shall also be made for  
 13 individuals having special needs, such as persons living with chronic diseases. Referrals shall be  
 14 sensitive to the Client's cultural needs.

15 O. ALCOHOL AND/OR DRUG SCREENING – CONTRACTOR shall have a written policy and  
 16 procedure regarding alcohol and/or drug testing at a minimum of one (1) time per month for all  
 17 Maintenance Clients approved by ADMINISTRATOR Urine specimen collection shall be observed by  
 18 same sex staff and policy shall include procedures to ensure falsification of the sample does not occur.  
 19 Results of these screenings shall be documented in the Client's file. If any Maintenance Client's drug  
 20 screen results indicate a negative pattern of testing positive for non-opioid illegal substances, or  
 21 methadone diversion, CONTRACTOR shall list on the Monthly Report, the corrective action taken to  
 22 refocus the Client. The CONTRACTOR shall document this in the Client's file. All counseling session  
 23 discussions and referrals/linkages shall be documented in the Client's file.

24 P. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of  
 25 Tokens for appropriate individual staff to access the HCA IRIS at no cost to the CONTRACTOR.

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

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

30 3. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following  
 31 conditions:

- 32 a. Token of each staff member who no longer supports the Agreement;
- 33 b. Token of each staff member who no longer requires access to the IRIS;
- 34 c. Token of each staff member who leaves employment of CONTRACTOR; or
- 35 d. Token is malfunctioning.

36 4. ADMINISTRATOR shall issue Tokens for CONTRACTOR's staff members who require  
 37 access to the IRIS upon initial training or as a replacement for malfunctioning Tokens.

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

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

5 “Q. CONTRACTOR shall establish a good neighbor policy, which shall be reviewed and approved  
6 by ADMINISTRATOR on an annual basis. The policy shall include, but not limited to, staff training to  
7 deal with neighbor complaints and staff contact information available to neighboring residents.

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

## 10 **VI. STAFFING**

11  
12 A. CONTRACTOR shall ensure that all clinical staffing, including those providing direct Client  
13 services, meet the requirements of Title 22, Title 9 of the CCR and DMC 2020 Waiver as it exists now  
14 or may hereafter be amended or changed and all standards of the Department of Health Care Services.

15 B. CONTRACTOR shall include bilingual/bicultural services to meet the needs of the population  
16 to be served under the Agreement. Whenever possible, bilingual/bicultural staff should be retained.

17 C. CONTRACTOR shall make its best effort to provide services pursuant to the Agreement in a  
18 manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR  
19 shall maintain documents of such efforts which may include; but not be limited to: records of  
20 participation in COUNTY-sponsored or other applicable training; recruitment and hiring policies and  
21 procedures; copies of literature in multiple languages and formats, as appropriate; and descriptions of  
22 measures taken to enhance accessibility for, and sensitivity to, individuals who are physically  
23 challenged.

24 D. CONTRACTOR shall ensure that administrative staffing is sufficient to support the  
25 performance of services pursuant to the Agreement.

26 E. CONTRACTOR shall ensure staffing includes a Compliance Officer and Quality Management  
27 personnel.

28 F. STAFF CONDUCT – CONTRACTOR shall establish a written policies and procedures for  
29 employees, volunteers, interns, and members of the Board of Directors which shall include, but not be  
30 limited to, standards related to the use of drugs and/or alcohol; staff-Client relationships; prohibition of  
31 sexual conduct with Clients; prohibition of forging or falsifying documents or drug tests; and real or  
32 perceived conflict of interest. Situations that may be perceived as a conflict of interest shall be brought  
33 to the ADMINISTRATOR’s attention prior to the occurrence. Prior to providing any services pursuant  
34 to the Agreement all employees, volunteers, and interns shall agree in writing to maintain the standards  
35 set forth in the said policies and procedures. A copy of said policies and procedures shall be provided to  
36 each Client upon admission and shall be posted in writing in a prominent place in the treatment facility.

37 G. CONTRACTOR shall provide pre-employment screening of any staff person providing any

1 service pursuant to the Agreement. All new staff, volunteers, and interns shall pass a one-time “live  
2 scan” fingerprinting background check. ADMINISTRATOR may change this approval mechanism at  
3 their discretion.

4 1. All staff, prior to hiring, shall meet the following requirements:

5 a. No person shall have been convicted of a sex offense for which the person is required  
6 to register as a sex offender under California Penal Code section 290;

7 b. No person shall have been convicted of an arson offense – Violation of Penal Code  
8 sections 451, 451.1, 451.5, 452, 452.1, 453, 454, or 455;

9 c. No person shall have been convicted of any violent felony as defined in Penal Code  
10 section 667.5, which involve doing bodily harm to another person, for which the staff member was  
11 convicted within five years prior to employment;

12 d. No person shall be on parole or probation, unless approved in advance by  
13 ADMINISTRATOR; and

14 e. No prior employment history of improper conduct, including but not limited to, forging  
15 or falsifying documents or drug tests, sexual assault or sexual harassment, or inappropriate behavior  
16 with staff at another treatment facility.

17 f. No person shall participate in the criminal activities of a criminal street gang and/or  
18 prison gang.

19 2. Exceptions to staffing requirements set forth above, may be requested if CONTRACTOR  
20 deems the decision will benefit the program. Requests for exceptions shall be submitted in writing and  
21 approved in advance by ADMINISTRATOR.

22 H. CONTRACTOR shall provide or ensure staff obtain ongoing training in topics related to  
23 alcohol and drug use on an annual basis including:

24 1. Analysis of illicit drug use, the meaning of the analysis results, and procedures to be  
25 followed by CONTRACTOR to alleviate continued use;

26 2. Confidentiality requirements;

27 3. Compliance training;

28 4. DMC NTP documentation training;

29 5. Law and ethics;

30 6. Evidence based practices (e.g. Motivational Interviewing, CBT, MRT or others);

31 7. Co-occurring Mental Health/SUD diagnoses;

32 8. Suicide prevention training; and

33 9. Any other training required to maintain staff certification/licensure.

34 I. All staff providing services shall be licensed and/or certified in accordance with the  
35 requirements and professional guidelines as applicable.

36 J. All personnel files shall be complete and made readily accessible to ADMINISTRATOR for  
37 purposes of audits and investigation or any other reason deemed necessary by ADMINISTRATOR.

1 K. CONTRACTOR’s Executive Director or designee shall participate, when requested, in  
2 meetings facilitated by ADMINISTRATOR related to the provision of services pursuant to the  
3 Agreement.

4 L. Any CONTRACTOR staff participating in the delivery of services to Clients shall complete the  
5 Annual Provider Training made available by ADMINISTRATOR. Completion certificates shall be  
6 placed in each personnel file as applicable.

7 M. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,  
8 with respect to any person who has been referred to CONTRACTOR by COUNTY under the terms of  
9 the Agreement. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to  
10 promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian  
11 institution, or religious belief.

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

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1 EXHIBIT B  
2 TO AGREEMENT FOR PROVISION OF  
3 DRUG MEDI-CAL NARCOTIC REPLACEMENT THERAPY TREATMENT SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 WESTERN PACIFIC MED-CORP  
8 JULY 1, 2018 THROUGH JUNE 30, 2020

9  
10 **I. BUSINESS ASSOCIATE CONTRACT**

11 **A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

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

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

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

32 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to  
33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
34 and to make information related to such Disclosures available as would be required for COUNTY to  
35 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with  
36 45 CFR § 164.528.

37 //

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

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

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

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

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

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

37 //

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

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

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

9 D. SECURITY RULE

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

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

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

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

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

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

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

37 //

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

34 2. Technical Security Controls

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

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

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

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

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

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

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

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



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

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

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

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

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

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

29 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to  
30 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
31 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is  
32 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files  
33 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as  
34 website access, file transfer, and E-Mail.

35 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and  
36 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,

37 //

1 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a  
2 comprehensive intrusion detection and prevention solution.

3 3. Audit Controls

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

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

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

17 4. Business Continuity/Disaster Recovery Control

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

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

30 5. Paper Document Controls

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

37 //

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

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

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

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

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

## 22 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 3 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

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

### 28 H. PROHIBITED USES AND DISCLOSURES

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

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

1 I. OBLIGATIONS OF COUNTY

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

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

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

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

13 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

35 //

36 //

37 //

1 EXHIBIT C  
 2 TO AGREEMENT FOR PROVISION OF  
 3 DRUG MEDI-CAL NARCOTIC REPLACEMENT THERAPY TREATMENT SERVICES  
 4 BETWEEN  
 5 COUNTY OF ORANGE  
 6 AND  
 7 WESTERN PACIFIC MED-CORP  
 8 JULY 1, 2018 THROUGH JUNE 30, 2020  
 9

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

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

13 A. DEFINITIONS

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

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

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

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

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

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

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

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

31 9. "Required by law" means a mandate contained in law that compels an entity to make a use  
 32 or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court  
 33 orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental  
 34 or tribal inspector general, or an administrative body authorized to require the production of information,  
 35 and a civil or an authorized investigative demand. It also includes Medicare conditions of participation  
 36 with respect to health care providers participating in the program, and statutes or regulations that require  
 37 //

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  
10 Agreement provided that such use or disclosure would not violate the CIPA if done by the COUNTY.

### 11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

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

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

25 c. Security. CONTRACTOR shall ensure the continuous security of all computerized 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 B of the Business Associate Contract, Exhibit C 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 Office of Management and Budget in OMB Circular No. A-130,  
32 Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for  
33 automated information systems in Federal agencies.

34 3) If the data obtained by CONTRACTOR from COUNTY includes PII,  
35 CONTRACTOR shall also comply with the substantive privacy and security requirements in the  
36 CMPPA Agreement between 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 beach of unsecured DHCS PI  
28 and PII or security incident in accordance with Subparagraph F, of the Business Associate Contract,  
29 Exhibit C 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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