

**WITNESSETH:**

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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**I. ACRONYMS**

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

A. AES	Advanced Encryption Standard
B. AMHS	Adult Mental Health Services
C. ARRA	American Recovery and Reinvestment Act
D. ASIST	Applied Suicide Intervention Skills Training
E. BBS	Board of Behavioral Sciences
F. BCP	Business Continuity Plan
G. BHS	Behavioral Health Services
H. CAT	Centralized Assessment Team
I. CCC	California Civil Code
J. CCR	California Code of Regulations
K. CD/DVD	Compact Disc/Digital Video or Versatile Disc
L. CFR	Code of Federal Regulations
M. CHHS	California Health and Human Services Agency
N. CHPP	COUNTY HIPAA Policies and Procedures
O. CIPA	California Information Practices Act
P. CMPPA	Computer Matching and Privacy Protection Act
Q. CYS	Child Youth Services
R. D/MC	Drug/Medi-Cal
S. DCR	Data Collection and Reporting
T. DD	Dual Disorders
U. DHCS	Department of Health Care Services
V. DoD	US Department of Defense
W. DRP	Disaster Recovery Plan
X. DRS	Designated Record Set
Y. DSM	Diagnostic and Statistical Manual of Mental Disorders
Z. DSM-IV	Diagnostic and Statistical Manual of Mental Disorders. 4th Edition
AA. EBP	Evidence-Based Practice
AB. EHR	Electronic Health Record
AC. E-Mail	Electronic Mail
AD. FAX	Facsimile Machine
AE. FIPS	Federal Information Processing Standards
AF. FSP	Full Service Partnership
AG. FTE	Full Time Equivalent

1	AH. GAAP	Generally Accepted Accounting Principle
2	AI. HCA	Health Care Agency
3	AJ. HHS	Health and Human Services
4	AK. HIPAA	Health Insurance Portability and Accountability Act
5	AL. HSC	California Health and Safety Code
6	AM. ID	Identification
7	AN. IEA	Information Exchange Agreement
8	AO. LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
9	AP. MFT	Marriage and Family Therapist
10	AQ. MHP	Mental Health Plan
11	AR. MHS	Mental Health Specialist
12	AS. MHSA	Mental Health Services Act
13	AT. NIST	National Institute of Standards and Technology
14	AU. NOA-A	Notice of Action
15	AV. NPI	National Provider Identifier
16	AW. NPP	Notice of Privacy Practices
17	AX. OCR	Office for Civil Rights
18	AY. OIG	Office of Inspector General
19	AZ. OMB	Office of Management and Budget
20	BA. OPM	Federal Office of Personnel Management
21	BB. P&P	Policy and Procedure
22	BC. PC	State of California Penal Code
23	BD. PEI	Prevention and Early Intervention
24	BE. PHI	Protected Health Information
25	BF. PI	Personal Information
26	BG. PII	Personally Identifiable Information
27	BH. PRA	Public Record Act
28	BI. SRAS	Suicide Risk Assessment Standards
29	BJ. SSI	Social Security Income
30	BK. SSA	Social Services Agency
31	BL. The HITECH	The Health Information Technology for Economic and Clinical Health Act,
32	Act	Public Law 111-005
33	BM. TAY	Transitional Age Youth
34	BN. TTY	Teletypewriter
35	BO. USC	United States Code
36	BP. WIC	State of California Welfare and Institutions Code
37	//	

1 **II. ALTERATION OF TERMS**

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

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

9  
10 **III. ASSIGNMENT OF DEBTS**

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

18  
19 **IV. COMPLIANCE**

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

22 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the relevant HCA P&Ps  
23 relating to HCA's Compliance Program, HCA's Code of Conduct and General Compliance Trainings.

24 2. CONTRACTOR has the option to adhere to HCA's Compliance Program and Code of  
25 Conduct or establish its own, provided CONTRACTOR's Compliance Program and Code of Conduct  
26 have been verified to include all required elements by ADMINISTRATOR's Compliance Officer as  
27 described in Subparagraphs below.

28 3. If CONTRACTOR elects to adhere to HCA's Compliance Program and Code of Conduct;  
29 the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of award  
30 of this Agreement a signed acknowledgement that CONTRACTOR shall comply with HCA's  
31 Compliance Program and Code of Conduct.

32 4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then it  
33 shall submit a copy of its Compliance Program, Code of Conduct and relevant P&Ps to  
34 ADMINISTRATOR within thirty (30) calendar days of award of this Agreement. ADMINISTRATOR's  
35 Compliance Officer shall determine if CONTRACTOR Compliance Program and Code of Conduct  
36 contains all required elements. CONTRACTOR shall take necessary action to meet said standards or  
37 shall be asked to acknowledge and agree to the HCA's Compliance Program and Code of Conduct if the

1 CONTRACTOR's Compliance Program and Code of Conduct does not contain all required elements.

2 5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the  
3 ~~CONTRACTOR Compliance Program and Code of Conduct contains all required elements,~~  
4 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of  
5 CONTRACTOR's Compliance Program, Code of Conduct and related P&Ps.

6 6. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct and  
7 relevant P&Ps shall constitute a material breach of this Agreement. Failure to cure such breach within  
8 sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for  
9 termination of this Agreement as to the non-complying party.

10 B. SANCTION SCREENING – CONTRACTOR shall adhere to all screening P&Ps and screen all  
11 Covered Individuals employed or retained to provide services related to this Agreement to ensure that  
12 they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be  
13 conducted against the General Services Administration's Excluded Parties List System or System for  
14 Award Management, the HHS/OIG List of Excluded Individuals/Entities, and the California Medi-Cal  
15 Suspended and Ineligible Provider List and/or any other as identified by the ADMINISTRATOR.

16 1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who  
17 provide health care items or services or who perform billing or coding functions on behalf of  
18 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem  
19 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to  
20 work more than one hundred sixty (160) hours per year; except that any such individuals shall become  
21 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the  
22 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are  
23 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related P&Ps.

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

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

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

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

33 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors semi-  
34 annually to ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that  
35 its subcontractors use their best efforts to verify that they are eligible to participate in all federal and  
36 State of California health programs and have not been excluded or debarred from participation in any  
37 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 the ADMINISTRATOR.

C. COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance Training and Provider Compliance Training, where appropriate, available to Covered Individuals.

1. CONTRACTOR shall use its best efforts to encourage completion by Covered Individuals; provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated representative to complete all Compliance Trainings when offered.

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

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

4. Each Covered Individual attending training shall certify, in writing, attendance at compliance training. CONTRACTOR shall retain the certifications. Upon written request by ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

## **V. CONFIDENTIALITY**

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

1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this Agreement are clients of the Orange County Mental Health services system, and therefore it may be

necessary for authorized staff of ADMINISTRATOR to audit client files, or to exchange information regarding specific clients with COUNTY or other providers of related services contracting with COUNTY.

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

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

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

## **VI. COST REPORT**

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

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

a. CONTRACTOR may be assessed a late penalty of five hundred dollars (\$500) for each business day after the above specified due date that the accurate and complete individual and/ or consolidated Cost Report is not submitted. Imposition of the late penalty shall be at the sole discretion

1 of the ADMINISTRATOR. The late penalty shall be assessed separately on each outstanding Cost  
2 Report due COUNTY by CONTRACTOR.

3 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR  
4 pursuant to any or all agreements between COUNTY and CONTRACTOR until such time that the  
5 individual and/ or consolidated Cost Report is delivered to ADMINISTRATOR.

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

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

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

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

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

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

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

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

Signed \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_"

## **VII. DELEGATION ASSIGNMENT, AND SUBCONTRACTS**

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

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

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

2. If CONTRACTOR is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a

change in fifty percent (50%) or more of Board of Directors of CONTRACTOR at one time shall be deemed an assignment pursuant to this Paragraph. Any attempted assignment or delegation in derogation of this Subparagraph shall be void.

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

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

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

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

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

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

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

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

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# **VIII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

## **IX. EQUIPMENT**

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

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

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

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

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

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

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

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

#### **X. FACILITIES, PAYMENTS AND SERVICES**

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

#### **XI. INDEMNIFICATION AND INSURANCE**

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

B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all required insurance at CONTRACTOR's expense and to submit to COUNTY the COI, including all endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this Agreement have been complied with and to maintain such insurance coverage with COUNTY during the entire term of this Agreement. In addition, all subcontractors performing work on behalf of

CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR.

C. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply, indicate this on the COI with a 0 by the appropriate line of coverage. Any SIR or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the CEO/Office of Risk Management.

D. If CONTRACTOR fails to maintain insurance acceptable to COUNTY for the full term of this Agreement, COUNTY may terminate this Agreement.

#### E. QUALIFIED INSURER

1. The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier) or have a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com).

2. If the insurance carrier is not an admitted carrier in the state of California and does not have an A.M. Best rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

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

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

#### G. REQUIRED COVERAGE FORMS

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

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

H. REQUIRED ENDORSEMENTS – The Commercial General Liability policy shall contain the following endorsements, which shall accompany the COI:

1. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.

2. A primary non-contributing endorsement evidencing that the CONTRACTOR's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

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

J. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

K. All insurance policies required by this Agreement shall give COUNTY thirty (30) calendar day notice in the event of cancellation and ten (10) calendar day notice for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the COI.

L. If CONTRACTOR's Professional Liability policy is a "claims made" policy, CONTRACTOR shall agree to maintain professional liability coverage for two years following completion of this Agreement.

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

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

O. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not deposit copies of acceptable COI's and endorsements with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, this Agreement may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to all legal remedies.

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

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Q. SUBMISSION OF INSURANCE DOCUMENTS

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

a. Prior to the start date of this Agreement.

b. No later than the expiration date for each policy.

c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance types as set forth in Subparagraph F. of the Indemnification and Insurance Paragraph of this Agreement.

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

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

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

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

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

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

**XII. INSPECTIONS AND AUDITS**

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

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

5 C. AUDIT RESPONSE

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

11 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement  
12 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said  
13 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of  
14 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement  
15 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies  
16 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the  
17 reimbursement due COUNTY.

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

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

25  
26 **XIII. LICENSES AND LAWS**

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

35 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

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

- 22 1. ARRA of 2009.
- 23 2. WIC, Divisions 5, 6 and 9.
- 24 3. State of HSC, §§1250 et seq.
- 25 4. PC, Part 4, Title 1, Chapter 2, Article 2.5 relating to Child Abuse Reporting.
- 26 5. CCR, Title 9, Title 17, and Title 22.
- 27 6. CFR, Title 42 and Title 45.
- 28 7. USC Title 42.
- 29 8. Federal Social Security Act, Title XVIII and Title XIX.
- 30 9. 42 USC, Chapter 126, 12101, et seq., the Americans with Disabilities Act of 1990.
- 31 10. 42 USC, §114 and §§1857, et seq., the Clean Air Act.
- 32 11. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 33 12. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 34 13. P&Ps set forth in MHSA.
- 35 14. P&Ps set forth in DHCS Letters.
- 36 15. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 37 16. OMB Circulars A-87, A-89, A-110, A-122.

**XIV. LITERATURE AND ADVERTISEMENTS**

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

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

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

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

**XV. MAXIMUM OBLIGATION**

The Maximum Obligation of COUNTY for services provided in accordance with this Agreement as specified in the Referenced Contract Provisions of this Agreement.

**XVI. NONDISCRIMINATION**

**A. EMPLOYMENT**

1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not unlawfully discriminate against any employee or applicant for employment because of his/her ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability. Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability.

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

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

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

5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration for employment without regard to ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability. Such requirements shall be deemed fulfilled by use of the term EOE.

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

B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability in accordance with Title IX of the Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); and Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations,) as applicable, and all other pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination Paragraph, Discrimination includes, but is not limited to the following based on one or more of the factors identified above:

1. Denying a client or potential client any service, benefit, or accommodation.
2. Providing any service or benefit to a client which is different or is provided in a different manner or at a different time from that provided to other clients.
3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit.

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4. Treating a client differently from others in satisfying any admission requirement or condition, or eligibility requirement or condition, which individuals must meet in order to be provided any service or benefit.

5. Assignment of times or places for the provision of services.

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

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

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

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

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

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

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

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

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**XVII. NOTICES**

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

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

2. When faxed, transmission confirmed;

3. When sent by E-Mail; or

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

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

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

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

**XVIII. NOTIFICATION OF DEATH**

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

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

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

2. WRITTEN NOTIFICATION

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

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

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

### **XIX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

### **XX. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

C. CONTRACTOR shall ensure all appropriate state and federal standards of documentation, preparation, and confidentiality of records related to Participant, client and/or patient records are met at all times.

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

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

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

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

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

## **XXI. RESEARCH AND PUBLICATION**

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

## **XXII. RIGHT TO WORK AND MINIMUM WAGE LAWS**

A. In accordance with the United States Immigration Reform and Control Act of 1986, CONTRACTOR shall require its employees directly or indirectly providing service pursuant to this Agreement, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. CONTRACTOR shall also require and verify that its contractors, subcontractors, or any other persons providing services pursuant to this Agreement, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

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

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

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

## **XXIII. SEVERABILITY**

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

**XXIV. SPECIAL PROVISIONS**

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

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

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

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

**XXV. STATUS OF CONTRACTOR**

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

**XXVI. TERM**

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

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

**XXVII. TERMINATION**

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

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

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

1. The loss by CONTRACTOR of legal capacity.
2. Cessation of services.
3. The delegation or assignment of CONTRACTOR's services, operation or administration to another entity without the prior written consent of COUNTY.

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1           4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
2 required pursuant to this Agreement.

3           5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this  
4 Agreement.

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

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

11           D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **XXVIII. THIRD PARTY BENEFICIARY**

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

#### **XXIX. WAIVER OF DEFAULT OR BREACH**

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

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

3  
4 NAMI ORANGE COUNTY

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

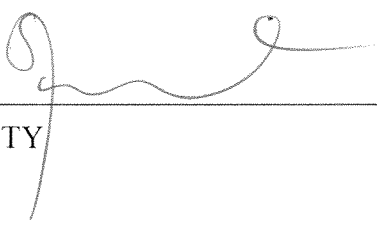
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9 TITLE: \_\_\_\_\_

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16 COUNTY OF ORANGE

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19 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

20 HEALTH CARE AGENCY

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

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30 BY:  \_\_\_\_\_ DATED: 3/27/14

31 DEPUTY

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

EXHIBIT A  
TO AGREEMENT FOR PROVISION OF  
CRISIS PREVENTION HOTLINE SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
DIDI HIRSCH PSYCHIATRIC SERVICE  
DBA DIDI HIRSCH MENTAL HEALTH SERVICES  
JULY 1, 2014 THROUGH JUNE 30, 2015

**I. COMMON TERMS AND DEFINITIONS**

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

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

2. Assessment means a professional review and evaluation of an individual's behavioral health needs and conditions in order to determine the most appropriate course of services.

3. At Risk means a state of high stressor and low protective factor that would increase likelihood of development of a mental illness.

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

5. CAT means a program within the Behavioral Health Services branch of the Orange County Health Care Agency comprised of licensed clinical social workers, marriage and family therapists, and behavioral health specialists, whose functions include

a. Crisis intervention for hospital diversions;

b. Evaluation for involuntary hospitalization (5150 WIC); assistance to police, fire, and social service agencies in response to psychiatric emergencies;

6. Early Intervention means the act of intervening, interfering or interceding at the manifestation of a Behavioral Health Condition, with the intent of measurably improving the condition or to prevent a Behavioral Health Condition from getting worse.

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

8. Enrollment means the data entry of a Participant's program information into program's Prevention and Intervention database for purposes of recording and tracking a Participant's involvement in the program.

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9. Evaluation means the systematic investigation of the value and impact of an intervention or program.

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

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

12. Follow-up means ensuring that the Participant has linked to the referred service and/or successfully transitioned from one service to another.

13. Involuntary Rescues means interventions crisis counselors use to assist a suicidal caller in getting to a hospital or any other emergency medical or psychiatric service against his/her wishes when every reasonable attempt to de-escalate the situation has failed and the caller could not be persuaded to obtain help voluntarily. Involuntary rescues are initiated after a complete lethality assessment has been completed and :

a. The caller is currently attempting suicide; OR

b. An attempt is judged to be imminent. Involuntary rescue involves tracing the call and contacting the appropriate law enforcement agency for assistance.

14. Lethality Assessment Scale/Suicide Risk Assessment Scale means an instrument or tool developed based on Suicide Risk Assessment standards typically used by crisis counselors to determine the level of risk a caller poses and to then render appropriate care accordingly. The scale has a rating from zero (0) to five (5). The higher the score, the higher the level of risk.

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

16. Lifeline is the National Suicide Prevention Lifeline which is a twenty-four (24)-hour, national, toll-free, confidential suicide prevention hotline available to anyone in suicidal crisis or emotional distress. By dialing 1-800-273-TALK, the call is routed to the nearest crisis center in the national network of more than one hundred forty (140) crisis centers. Membership with Lifeline provides call back-up support along with sharing of most advanced research and practice information.

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

18. LiveChat means a web service that allows consumers of mental health services and their families to communicate with mentors in real time, via a provider's website, to receive support, share concerns, and connect to resources available in the community.

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

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

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

22. Outreach means contact with potential Participants to link them to appropriate mental health and supportive services; which may include activities that educate the community about services offered and requirements for participation in the program.

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

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

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

26. PEI means the most recent County of Orange MHSA Prevention and Early Intervention Plan approved by the Orange County MHSA Steering Committee and Board of Supervisors.

27. PHI means individually identifiable health information usually transmitted by electronic media maintained in any medium as defined in the regulations or for an entity, such as a health plan, transmitted or maintained in any other medium. It is created or received by a covered entity and relates to the past, present, or future physical or Behavioral Health Condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual.

28. Referral means an individual receives information or contacts for services or programs, or an unsuccessful Linkage attempt.

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

30. Self-Rated Intent means a risk score used by a caller to connote his or her intention to harm himself or herself when asked by a crisis counselor using a scale of one to five (1 to 5) where one (1) means "suicide is just a thought" and five (5) means "when we get off the phone I am going to try to kill myself."

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1           31. Suicide Risk Assessment Standards (SRAS) means nationally-recognized practice  
2 guidelines, which contain incorporation of the four (4) core principles--Suicidal Desire, Suicidal  
3 Capability, Suicidal Intent and Buffers along with the subcomponents in the development of a suicide  
4 risk assessment instrument.

5           32. Training means the action or method used to transfer skills and/or knowledge to a target  
6 audience.

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

10          34. Unduplicated Participant means an individual who is counted only once, despite how many  
11 programs the individual is enrolled in during a contractual agreement period. For example; if a  
12 Participant receives individual and group services, they can only be counted once.

13          35. Units of Service means the number and/or type of activities the CONTRACTOR will fulfill  
14 during a contractual agreement period.

15          36. WarmLine means a phone support line, through which consumers of mental health  
16 services and their families receive support, share concerns and get connected to resources available in  
17 the community. The WarmLine is a diversion from 'hotlines' or crisis line/emergency services. Callers  
18 speak with trained consumers and/or family members who provide empathetic listening and  
19 conversation via the telephone and LiveChat.

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

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**II. BUDGET**

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

	<u>BUDGET</u>
ADMINISTRATIVE COST	
Indirect Costs	\$ 32,679
SUBTOTAL ADMINISTRATIVE COST	\$ 32,679
PROGRAM COST	
Salaries	\$163,656
Benefits	35,513
Services and Supplies	40,685
SUBTOTAL PROGRAM COST	\$239,854
TOTAL GROSS COST	\$272,533
REVENUE	
MHSA	\$272,533
TOTAL REVENUE	\$272,533
TOTAL MAXIMUM OBLIGATION	\$272,533

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

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C. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete financial records of its cost and operating expenses. Such records will reflect the actual cost of the type of service for which payment is claimed. Any apportionment of or distribution of costs, including indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will be made in accordance with GAAP.

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

### III. PAYMENTS

A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amount of \$22,712 per month. All payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided, however, the total of such payments does not exceed COUNTY's Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the provisional amount specified above has not been fully paid.

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

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

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

B. CONTRACTOR's invoices shall be on a form approved or supplied by COUNTY and provide such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th) calendar day of each month. Invoices received after the due date may not be paid within the same month. Payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed invoice.

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

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

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

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

#### 11 12 **IV. REPORTS**

##### 13 **A. FISCAL**

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

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

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

33 C. PROGRAMMATIC – CONTRACTOR shall submit monthly Programmatic reports to  
34 ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall  
35 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings  
36 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the  
37 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not

CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth (20th) calendar day following the end of the month being reported.

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

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

## **V. SERVICES**

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

11133 Washington Boulevard  
Culver City, CA 90232

B. CONTRACTOR shall provide culturally and linguistically appropriate Crisis Prevention Hotline Services to Orange County residents that are consistent with the COUNTY PEI Plan. CONTRACTOR shall provide accredited twenty-four (24) hour, toll-free suicide prevention services to anyone in crisis or experiencing suicidal thoughts. CONTRACTOR shall provide immediate, confidential, over-the-phone assistance to anyone seeking crisis and/or suicide prevention services for themselves or someone they know. CONTRACTOR shall triage and offer access to other appropriate resources to callers, who are not experiencing a crisis

C. CONTRACTOR shall include, but not be limited to, the following services:

1. CONTRACTOR shall provide toll-free suicide crisis hotline services to COUNTY residents twenty-four (24) hours a day, three hundred sixty-five (365) days a year through either the local number at 1-877-7CRISIS number or the national Lifeline number at 1-800-273-TALK.

2. CONTRACTOR shall have at least eight (8) phones set up to take calls simultaneously with the capacity to add more if needed.

3. CONTRACTOR shall provide services integral to a hotline’s operation and success, which include: face-to-face educational training and outreach, crisis assessment and counseling, emergency interventions, Referrals and follow-up.

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4. CONTRACTOR shall provide face-to-face educational training and outreach, using a variety of methods and customized training materials, to service providers (e.g., medical personnel, law enforcement) and the community at large with special attention to culturally or linguistically isolated or underserved populations, including but not limited to, monolingual non-English speakers (e.g., speakers of Spanish, Vietnamese, and Farsi languages), new immigrants, deaf and hard-of-hearing individuals, lesbian, gay, bisexual and transgender individuals, veterans and older adults.

5. CONTRACTOR shall ensure that all Participants in support activities are directed to an appropriate level of intervention by using an approved SRAS.

6. CONTRACTOR shall use a suicide call model including the Lethality Risk Assessment Scale in assessing and counseling callers.

7. CONTRACTOR shall strive to meet the following goals for their program:

a. Increase awareness of suicide risk and promote help-seeking behavior by providing crisis counseling both to individuals in despair and to those who are concerned about them using Lethality Assessment Scale, which incorporates SRAS four core principles: Suicidal Desire, Suicidal Capability, Suicidal Intent, and Buffers/Connectedness;

b. Connect callers with appropriate and meaningful resources that can reduce or ameliorate the stressors (e.g. domestic abuse, divorce, finances) and ongoing conditions (e.g. behavioral health and substance abuse disorders) contributing to one's distress by regularly updating and expanding existing resource database;

c. Reduce the stigma associated with behavioral health condition, substance abuse and suicide that causes individuals to avoid seeking help and hide their suicidal feelings by educating the community about the connection between behavioral health conditions and suicide; warning signs of suicide; and how-to-help; and

d. Collaborate effectively with existing and developing community programs and organizations to facilitate a seamless suicide prevention network and health care delivery system.

8. In low or medium risk cases, CONTRACTOR shall use genuine listening and counseling skills to help callers draw upon their own strengths and resources to resolve the immediate crisis. In high risk and emergency cases, CONTRACTOR shall attempt to avoid the trauma of an outside intervention by assisting callers by identifying actions that they can take to ensure their safety, such as putting a roommate on the phone or voluntarily calling the paramedics. If the caller is in imminent danger, however, CONTRACTOR shall initiate a rescue by contacting COUNTY's CAT, the police, or paramedics if necessary. CONTRACTOR shall maintain collaborative relationships with all Police Departments in COUNTY and CAT.

9. CONTRACTOR shall use a state-of-the-art technology platform for receiving and managing crisis line calls and tracking all aspects of the call for the purpose of immediate assessment and triage to determine the safety, appropriateness and initial risk level.

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10. CONTRACTOR shall link non-English speaking callers with counselors, who speak their languages. If no such counselors are available, CONTRACTOR shall offer callers translation services through CONTRACTOR's or Lifeline's Language Line services, which also includes operator assisted TTY. If the callers decline translation services, CONTRACTOR shall refer them to local service providers who can provide immediate assistance.

11. CONTRACTOR shall perform an immediate risk assessment on frequent users of the hotline (established callers). CONTRACTOR shall set guidelines to help the callers honor appropriate boundaries and lessen the burden to the crisis line staff; remind the callers of the limits on call frequency; and offer to link them with more appropriate resources such as Warmline Services and community support groups.

12. CONTRACTOR shall offer short term follow-up calls on high risk callers to check on their safety; reassess; and to connect them to resources.

13. CONTRACTOR shall seek the help of third parties, including emergency psychiatric evaluation or law enforcement when a caller's crisis mode remains high throughout the call and if the counselor and/or the caller assesses the caller's life to be in immediate danger.

14. CONTRACTOR shall train staff to encourage high risk callers to assist in their own rescue and will only resort to "Involuntary Rescues" when all other options are exhausted. CONTRACTOR shall make every reasonable attempt to de-escalate the situation before considering an involuntary rescue. Involuntary rescues are only done after a complete lethality assessment and in two circumstances:

- a. The caller is currently attempting suicide; or
- b. An attempt is judged to be imminent.

15. After the decision is made to initiate an involuntary rescue, CONTRACTOR shall call 911 to begin a line trace. If no Caller ID is available, the trace needs to be conducted through the appropriate phone company as detailed in CONTRACTOR's Emergency Procedures Manual. The decision to initiate an involuntary rescue and subsequent trace needs to be approved by the shift supervisor in consensus with the crisis line counselor and the on-call supervisor.

16. CONTRACTOR shall provide relevant information learned from the phone call and why CONTRACTOR evaluated the level of risk as CONTRACTOR did to emergency personnel. CONTRACTOR shall always ask the 911 dispatcher to have the responding emergency personnel contact CONTRACTOR while at the scene of all rescues, especially those involving imminent risk.

17. CONTRACTOR shall conduct a debriefing session upon completion of the rescue process.

18. CONTRACTOR shall connect callers with ongoing community support. CONTRACTOR shall regularly and consistently research and update the state-of-the art resource database and make them available to phone counselors at all times.

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D. CONTRACTOR shall achieve, track, and report, at a minimum, the following units of service:

UNITS OF SERVICES	ANNUAL CONTRACTED UNITS
Total Calls	6,500
Unduplicated Callers	6,000
Calls handled per FTE Response Staff or Volunteer	
Total number of callers accepting follow up	210
Percentage of follow up attempted	100%
Average length of time per call	25 minutes
Types of calls by percentage	
1. Information/referral only calls	25%
2. Suicide/Crisis calls	75%
Number of staff-initiated rescues	54
Outreach activities	
1. Number of Face-to-Face Presentations, Trainings, and/or Health Fairs	230
2. Total Number of people served in outreach activities	15,000

E. CONTRACTOR shall track and implement the following OUTCOME MEASURES.

1. CONTRACTOR shall measure the impact the crisis interventions have on callers by measuring:

a. Callers' self-rated intent at the start and end of the calls.

1) A minimum of 50% of callers rating themselves at high or imminent risk will show a decrease in their self-rated intent by the end of the call.

2) A minimum of 50% of callers rating themselves at medium risk will show a decrease in their self-rated intent by the end of the call.

b. A minimum of 90% of callers will report being satisfied with services.

c. The percentage of follow-up callers who connected with provided Referrals.

2. CONTRACTOR shall utilize ADMINISTRATOR approved forms to collect pertinent data, which would be entered and analyzed for Participant's level of satisfaction, program management, and quality improvement purposes. In addition, CONTRACTOR shall utilize any data collection systems for tracking Participant enrollment, demographics, trends, and service utilization. CONTRACTOR shall provide the COUNTY with monthly data reports or as needed upon request.

3. CONTRACTOR shall develop a system to track and record the following demographics: number of individuals served based on age groups; race and ethnicity; primary language; culture such as

1 lesbian, gay, bisexual, transgender, questioning, and intersex (LGBTQI), veterans, and others such as  
2 hearing impaired.

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

6 5. CONTRACTOR shall provide the COUNTY with monthly data reports, or as needed upon  
7 request of ADMINISTRATOR.

8 F. CONTRACTOR shall, on an ongoing basis and in partnership with ADMINISTRATOR,  
9 develop, modify, and incorporate different and/or additional outcome measurements, as approved by  
10 ADMINISTRATOR.

11 G. CONTRACTOR shall conduct on-going evaluations of the program and provide analysis to  
12 ADMINISTRATOR on a regular basis and in a format approved by ADMINISTRATOR.

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

## 15 VI. STAFFING

16 A. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in  
17 FTEs continuously throughout the term of the Agreement. One (1) FTE shall be equal to an average of  
18 forty (40) hours work per week.  
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20	PROGRAM	FTEs
21	Division Director	0.06
22	Program Director	0.08
23	Outcomes Analyst	0.10
24	Clerical Assistant	0.50
25	Crisis Line Manager	0.06
26	Bilingual Crisis Counselor	0.50
27	Shift Supervisor	1.64
28	Program Coordinator I Bilingual	0.03
29	Program Coordinator I	0.03
30	Therapist Bilingual	1.00
31	Training Coordinator	<u>0.05</u>
32	TOTAL FTEs	4.05

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35 B. CONTRACTOR shall make best effort to include bilingual/bicultural services to meet the  
36 diverse needs of the community threshold languages as determined by COUNTY. Whenever possible,  
37 bilingual/bicultural staff should be recruited and retained. Any staffing vacancies occurring at a time

when bilingual and bicultural composition of the staffing does not meet the above requirement must be filled with bilingual and bicultural staff unless ADMINISTRATOR consents, in writing, to the filling of those positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be used to cover costs other than salaries and employees benefits unless otherwise authorized in writing, in advance, by ADMINISTRATOR.

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

D. CONTRACTOR shall actively recruit and maintain a large pool of qualified volunteers, especially those who speak other languages and those whose lives were impacted by Behavioral Health Conditions, substance abuse, and suicide and train them to be crisis counselors. Further, CONTRACTOR shall encourage volunteers/interns who have demonstrated exceptional skills on the Crisis Hotline to apply for available paid positions with CONTRACTOR upon written approval of ADMINISTRATOR.

E. CONTRACTOR is highly encouraged to augment the above paid staff with qualified and trained volunteers and/or interns upon written approval of ADMINISTRATOR.

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

G. CONTRACTOR shall establish clear P&Ps pertaining to staff's work location options (i.e. office vs. field/home) and equipment usage (e.g., cell phones, texting devices, and computers). The P&Ps shall address at the minimum the following:

1. Eligibility and selection criteria;
2. Staff's field/home on-duty conduct and responsibilities;
3. Supervision plan of staff and equipment including emergency procedure; and
4. Confidentiality and records keeping.

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

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

J. CONTRACTOR shall ensure that all staff, albeit paid or unpaid, complete necessary training prior to discharging duties associated with their titles and any other training necessary to assist the

1 CONTRACTOR and COUNTY to be in compliance with prevailing standards of practice as well as  
2 State and Federal regulatory requirements.

3 K. CONTRACTOR shall provide ongoing supervision throughout all shifts to all staff, albeit paid  
4 or unpaid, direct line staff or supervisors/directors, to enhance service quality and program effectiveness.  
5 Supervision methods should include debriefings and consultation as needed, individual supervision or  
6 one-on-one support, and team meetings. Supervision should be provided by a supervisor who has  
7 extensive knowledge regarding mental health issues.

8 L. CONTRACTOR shall ensure its accreditation and crisis call center network membership status  
9 is current and in good standing at all times as governed by pertinent protocols and best practice  
10 standards.

11 M. ADMINISTRATOR shall provide, or cause to be provided, training and ongoing consultation to  
12 CONTRACTOR's staff to assist CONTRACTOR in ensuring compliance with ADMINISTRATOR  
13 Standards of Care practices, P&Ps, documentation standards and any State regulatory requirements.

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

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EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
CRISIS PREVENTION HOTLINE SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
DIDI HIRSCH PSYCHIATRIC SERVICE  
DBA DIDI HIRSCH MENTAL HEALTH SERVICES  
JULY 1, 2014 THROUGH JUNE 30, 2015

**I. BUSINESS ASSOCIATE CONTRACT**

**A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

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

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

4 B. DEFINITIONS

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

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

11 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### D. SECURITY RULE

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

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

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

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

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

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

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

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

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

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

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

##### 34           2. Technical Security Controls

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

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

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

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

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

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

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

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

1) Upper case letters (A-Z)

2) Lower case letters (a-z)

3) Arabic numerals (0-9)

4) Non-alphanumeric characters (punctuation symbols)

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

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

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

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

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

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

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

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

### 3 3. Audit Controls

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

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

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

### 17 4. Business Continuity/Disaster Recovery Control

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

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

### 30 5. Paper Document Controls

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

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

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

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

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

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

#### F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

31          8. CONTRACTOR shall continue to provide all additional pertinent information about the  
32 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after  
33 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests  
34 for further information, or follow-up information after report to COUNTY, when such request is made  
35 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 is  
15 disclosed that it will be held confidentially and used or further disclosed only as required by law or for  
16 the purposes for which it was disclosed to the person and the person immediately notifies  
17 CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has  
18 been breached.

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

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

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

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

28 **H. PROHIBITED USES AND DISCLOSURES**

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

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

1 I. OBLIGATIONS OF COUNTY

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

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

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

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

13 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C  
TO AGREEMENT FOR PROVISION OF  
CRISIS PREVENTION HOTLINE SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
DIDI HIRSCH PSYCHIATRIC SERVICE  
DBA DIDI HIRSCH MENTAL HEALTH SERVICES  
JULY 1, 2014 THROUGH JUNE 30, 2015

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

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

**A. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

## 9 B. TERMS OF AGREEMENT

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

14 2. Responsibilities of CONTRACTOR  
 15 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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