

1 AGREEMENT FOR PROVISION OF
2 MEDI-CAL MENTAL HEALTH MANAGED CARE
3 PSYCHIATRIC INPATIENT HOSPITAL SERVICES

4 BETWEEN

5 COUNTY OF ORANGE

6 AND

7 «NAME1»

8 JULY 1, 2014 THROUGH JUNE 30, 2017

9
10 THIS AGREEMENT entered into this 1st day of July 2014, which date is enumerated for purposes
11 of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and
12 «NAME1», a «CORP_STAT» (CONTRACTOR). This Agreement shall be administered by the County
13 of Orange Health Care Agency (ADMINISTRATOR).

14
15 **W I T N E S S E T H:**

16
17 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Medi-Cal
18 Mental Health Managed Care Psychiatric Inpatient Hospital Services described herein to the residents of
19 Orange County; and

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

22 NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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REFERENCED CONTRACT PROVISIONS

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Term: July 1, 2014 through June 30, 2017
Period One means the period from July 1, 2014 through June 30, 2015
Period Two means the period from July 1, 2015 through June 30, 2016
Period Three mean the period from July 1, 2016 through June 30, 2017

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: «ATTN»
«NAME2»
«ADDRESS»
«CITYSTATEZIP»

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I. ACRONYMS

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

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4	A. AES	Advanced Encryption Standard
5	B. ARRA	American Recovery and Reinvestment Act
6	C. ASRS	Alcohol and Drug Programs Reporting System
7	D. BCP	Business Continuity Plan
8	E. CCC	California Civil Code
9	F. CCR	California Code of Regulations
10	G. CD/DVD	Compact Disc/Digital Video or Versatile Disc
11	H. CEO	County Executive Office
12	I. CFR	Code of Federal Regulations
13	J. CHPP	COUNTY HIPAA Policies and Procedures
14	K. CHHS	California Health and Human Services Agency
15	L. CHS	Correctional Health Services
16	M. CIPA	California Information Practices Act
17	N. CMPPA	Computer Matching and Privacy Protection Act
18	O. COI	Certificate of Insurance
19	P. CSW	Clinical Social Worker
20	Q. D/MC	Drug/Medi-Cal
21	R. DHCS	Department of Health Care Services
22	S. DoD	Department of Defense
23	T. DPFS	Drug Program Fiscal Systems
24	U. DRP	Disaster-Recovery Plan
25	V. DRS	Designated Record Set
26	W E-Mail	Electronic Mail
27	X. EHR	Electronic Health Records
28	Y. ePHI	Electronic Protected Health Information
29	Z. FIPS	Federal Information Processing Standards
30	AA. FSP	Full Service Partnership
31	AB. GAAP	Generally Accepted Accounting Principles
32	AC. HCA	Health Care Agency
33	AD. HHS	Health and Human Services
34	AE. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
35		Law 104-191
36	AF. HSC	California Health and Safety Code
37	AG. ID	Identification

1	AH. IEA	Information Exchange Agreement
2	AI. ISO	Insurance Services Office
3	AJ. MHP	Mental Health Plan
4	AK. MHSA	Mental Health Services Act
5	AL. OCJS	Orange County Jail System
6	AM. OCPD	Orange County Probation Department
7	AN. OCR	Office for Civil Rights
8	AO. OCSD	Orange County Sheriff's Department
9	AP. OIG	Office of Inspector General
10	AQ. OMB	Office of Management and Budget
11	AR. OPM	Federal Office of Personnel Management
12	AS. PA DSS	Payment Application Data Security Standard
13	AT. PC	State of California Penal Code
14	AU. PCI DSS	Payment Card Industry Data Security Standard
15	AV. PHI	Protected Health Information
16	AW. PI	Personal Information
17	AX. PII	Personally Identifiable Information
18	AY. PRA	Public Record Act
19	AZ. SIR	Self-Insured Retention
20	BA. The HITECH Act	The Health Information Technology for Economic and Clinical Health
21		Act, Public Law 111-005
22	BB. USC	United States Code
23	BC. WIC	State of California Welfare and Institutions Code

II. ALTERATION OF TERMS

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

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

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III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

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

1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the relevant HCA policies and procedures relating to HCA’s Compliance Program, HCA’s Code of Conduct and General Compliance Trainings.

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

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

4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then it shall submit a copy of its Compliance Program, Code of Conduct and relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement. ADMINISTRATOR’s Compliance Officer shall determine if CONTRACTOR Compliance Program and Code of Conduct contains all required elements. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the HCA’s Compliance Program and Code of Conduct if the CONTRACTOR’s Compliance Program and Code of Conduct does not contain all required elements.

5. Upon written confirmation from ADMINISTRATOR’s Compliance Officer that the CONTRACTOR Compliance Program and Code of Conduct contains all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR’s Compliance Program, Code of Conduct and related policies and procedures.

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1 6. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct and
2 relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure
3 such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute
4 grounds for termination of this Agreement as to the non-complying party.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 D. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

37 //

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

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

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

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

11
12 **V. CONFIDENTIALITY**

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

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

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

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

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

35 C. If CONTRACTOR is a public institution, COUNTY understands and agrees the
36 CONTRACTOR is subject to the provisions of the California Public Records Act. In the event
37 CONTRACTOR receives a request to produce this Agreement, or identify any term, condition, or aspect

1 of this Agreement, CONTRACTOR shall notify COUNTY no less than three (3) business days prior to
2 releasing such information.

3
4 **VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

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

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

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

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

37 //

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

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

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

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

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

16
17 **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

18 CONTRACTOR attests that it shall fully comply with all federal and state statutes and regulations
19 regarding the employment of aliens and others and to ensure that employees, subcontractors, and
20 consultants performing work under this Agreement meet the citizenship or alien status requirement set
21 forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees, and shall use
22 its best efforts to obtain, from subcontractors and consultants performing work hereunder, all
23 verification and other documentation of employment eligibility status required by federal or state
24 statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986,
25 8 USC §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR
26 shall retain all such documentation for all covered employees, subcontractors, and consultants for the
27 period prescribed by the law.

28
29 **VIII. FACILITIES, PAYMENTS AND SERVICES**

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

35 B. CONTRACTOR shall, at its own expense, provide and maintain the organizational and
36 administrative capabilities required to carry out its duties and responsibilities under this Agreement and
37 in accordance with all the applicable statutes and regulations pertaining to Medi-Cal Providers.

IX. INDEMNIFICATION AND INSURANCE

1
2 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
3 which approval shall not be unreasonably held, and hold COUNTY, its elected and appointed officials,
4 officers, employees, agents and those special districts and agencies for which COUNTY’s Board of
5 Supervisors acts as the governing Board (COUNTY INDEMNITEES) harmless from any claims,
6 demands or liability of any kind or nature, including but not limited to personal injury or property
7 damage, arising from or related to the services, products or other performance provided by
8 CONTRACTOR pursuant to this Agreement but only in proportion to and to the extent such claims,
9 demands, including defense costs, or liability are caused by or result from the negligent or intentional
10 acts or omissions of CONTRACTOR, its officers, employees or agents. If judgment is entered against
11 CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active
12 negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that
13 liability will be apportioned as determined by the court. Neither party shall request a jury
14 apportionment.

15 B. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees,
16 agents, directors, members, shareholders and/or affiliates harmless from any claims, demands, including
17 defense costs, or liability of any kind or nature, including but not limited to personal injury or property
18 damage, arising from or related to the services, products or other performance provided by COUNTY
19 pursuant to this Agreement. If judgment is entered against COUNTY and CONTRACTOR by a court
20 of competent jurisdiction because of the concurrent active negligence of CONTRACTOR, COUNTY
21 and CONTRACTOR agree that liability will be apportioned as determined by the court. Neither party
22 shall request a jury apportionment.

23 C. Each party agrees to provide the indemnifying party with written notification of any claim
24 related to services provided by either party pursuant to this Agreement within thirty (30) calendar days
25 of notice thereof, and in the event the indemnifying party is subsequently named party to the litigation,
26 each party shall cooperate with the indemnifying party in its defense.

27 D. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
28 required insurance, or maintain a program of self-insurance at CONTRACTOR’s expense and to submit
29 to COUNTY the COI, including all endorsements required herein, necessary to satisfy COUNTY that
30 the insurance provisions of this Agreement have been complied with and to maintain such insurance
31 coverage or maintain equivalent self-insurance during the entire term of this Agreement. In addition, all
32 subcontractors performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain
33 insurance or equivalent self-insurance subject to the same terms and conditions are set forth herein for
34 CONTRACTOR.

35 E. All self-insured retentions (SIRs) and deductibles shall be clearly stated on the COI. If no SIRs
36 or deductibles apply, indicate this on the COI with a 0 by the appropriate line of coverage.

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

G. 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.

H. 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	\$5,000,000 per occurrence \$5,000,000 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
Professional Liability Insurance	\$1,000,000 per claims made or per occurrence
Sexual Misconduct Liability	\$1,000,000 per occurrence

I. REQUIRED COVERAGE FORMS

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

2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

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

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

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

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

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

13 M. Contractor shall notify County in writing within thirty (30) days of any policy cancellation and
14 ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County.
15 Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon
16 which the County may suspend or terminate this Contract.

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

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

21 P. Throughout the term of this AGREEMENT and upon written mutual agreement between
22 COUNTY and CONTRACTOR, the insurance minimum limits and coverage as set forth in
23 Subparagraph VIII.H. above may be increased or decreased. Any increase or decrease in insurance will
24 be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

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

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

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1 S. SUBMISSION OF INSURANCE DOCUMENTS

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

3 a. Prior to the start date of this Agreement.

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

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

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

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

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

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

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

22 d. Notwithstanding the above, endorsements shall not be required in the case of self-
23 insurance.

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

27 T. COUNTY warrants that it is self-insured or maintains policies of insurance placed with
28 reputable insurance companies licensed to do business in the State of California which insures the perils
29 of bodily injury, medical, professional liability, and property damage. Upon request by
30 CONTRACTOR, COUNTY shall provide evidence of such coverage.

31
32 X. INSPECTIONS AND AUDITS

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

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

6 1. These audits, reviews, evaluations, or examinations may include, but are not limited to, the
7 following:

8 a. Level and quality of care, including the necessity and appropriateness of the services
9 provided.

10 b. Internal procedures for assuring efficiency, economy, and quality of care.

11 c. Compliance with COUNTY Client Grievances Procedures.

12 d. Financial records when determined necessary to protect public funds.

13 2. COUNTY shall provide CONTRACTOR with at least seventy-two (72) hours' notice of
14 such inspections or evaluations. Unannounced inspections, evaluations, or requests for information may
15 be made in those situations where arrangement of an appointment beforehand is not possible or is
16 inappropriate due to the nature of the inspection or evaluation.

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

21 C. COUNTY shall provide CONTRACTOR with at least seventy-two (72) hours' notice of such
22 inspections or evaluations. Unannounced inspections, evaluations, or requests for information may be
23 made in those situations where arrangement of an appointment beforehand is not possible or is
24 inappropriate due to the nature of the inspection or evaluation.

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

30 **XI. LICENSES AND LAWS**

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

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

5 B. CONTRACTOR shall comply with all applicable governmental laws, regulations, and
6 requirements as they exist now or may be hereafter amended or changed.

7 C. The parties acknowledge that each is a Covered Entity, as defined by the Health Insurance
8 Portability and Accountability Act (HIPAA) and is responsible for complying with said regulations for
9 purposes of safeguarding any Protected Health Information (PHI) generated by each party for its own
10 purposes. Except as otherwise limited by said regulations or law, CONTRACTOR shall provide to
11 COUNTY, and COUNTY may use or disclose PHI to perform functions, activities, or services for, or on
12 behalf of, CONTRACTOR as specified in this Agreement, provided that such use or disclosure would
13 not violate the Privacy Rule if done by CONTRACTOR or the Minimum Necessary policies and
14 procedures of CONTRACTOR as required and/or defined by HIPAA.

15 D. CONTRACTOR attests that all CONTRACTOR physicians providing services under this
16 Agreement are and will continue to be as long as this Agreement remains in effect, the holders of
17 currently valid licenses to practice medicine in the State of California and are members in good standing
18 of the medical staff of CONTRACTOR's facility.

19 E. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

4
5 **XII. LITERATURE AND ADVERTISEMENTS.**

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

12 B. Both parties agree that they will not use the name(s), symbols, trademarks or service marks,
13 presently existing or later established, of the other party nor its employees in any advertisement, press
14 release or publicity with reference to this Agreement without the prior written approval of the other
15 party's authorized official. Requests for approval shall be made to ADMINISTRATOR or to
16 CONTRACTOR's signatory of this Agreement. CONTRACTOR may represent itself as a contracted
17 provider of the services described in this Agreement for the residents of Orange County as provided in
18 Subparagraph A above. ADMINISTRATOR may include references to the services described in this
19 Agreement in informational materials relating to the continuum of care provided using federal, state and
20 county funds.

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

23
24 **XIII. NONDISCRIMINATION**

25 **A. EMPLOYMENT**

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

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

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

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

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

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

21 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
22 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
23 on the basis of ethnic group identification, race, religion, ancestry, color, creed, sex, marital status,
24 national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability
25 in accordance with Title IX of the Education Amendments of 1972 as they relate to 20 USC §1681 -
26 §1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975
27 (42 USC §6101); and Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of
28 Regulations, as applicable, and all other pertinent rules and regulations promulgated pursuant thereto,
29 and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or
30 changed. For the purpose of this Nondiscrimination paragraph, Discrimination includes, but is not
31 limited to the following based on one or more of the factors identified above:

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

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

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

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

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

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

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

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

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

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

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

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XIV. 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 Email; 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.

XV. 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 email 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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1 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written
2 report hand delivered, faxed, sent via encrypted email, and/or postmarked and sent via U.S. Mail within
3 forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served
4 pursuant to this Agreement.

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

9
10 **XVI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

18
19 **XVII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

28 C. CONTRACTOR shall mitigate to the extent practicable, the known harmful effect of any use or
29 disclosure of PHI made in violation of federal or state regulations and/or COUNTY policies.

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

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

35 F. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,
36 preparation, and confidentiality of records related to participant, client and/or patient records are met at
37 all times.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6
7 **XVIII. RESEARCH AND PUBLICATION**

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

10
11 **XIX. REVENUE**

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

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

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

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

32
33 **XX. RIGHT TO WORK AND MINIMUM WAGE LAWS**

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

1 other persons providing services pursuant to this Agreement, in any manner whatsoever, verify the
2 identity of their employees and their eligibility for employment in the United States.

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

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

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

17
18 **XXI. SEVERABILITY**

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

24
25 **XXII. STATUS OF CONTRACTOR**

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

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XXIII. TERM

A. This specific Agreement with CONTRACTOR is only one of several agreements to which the term of this Agreement applies. This specific Agreement shall commence as specified in the Reference Contract Provisions of this Agreement or the execution date, whichever is later. This specific 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.

XXIV. TERMINATION

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

B. ADMINISTRATOR, at its sole discretion, may terminate any program or specific service funded through this Agreement without cause upon (30) calendar days written notice.

C. 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.

D. 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.
4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty required pursuant to this Agreement.
5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this Agreement.
6. The continued incapacity of any physician or licensed person to perform duties required pursuant to this Agreement.
7. Unethical conduct or malpractice by any physician or licensed person providing services pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR removes such physician or licensed person from serving persons treated or assisted pursuant to this Agreement.

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1 E. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3
4 **XXV. THIRD PARTY BENEFICIARY**

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

8
9 **XXVI. WAIVER OF DEFAULT OR BREACH**

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

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

3 «NAME1»
4

5 BY: _____ DATED: _____
6

7 TITLE: _____
8

9
10 BY: _____ DATED: _____
11

12 TITLE: _____
13

14
15
16 COUNTY OF ORANGE
17

18
19 BY: _____ DATED: _____
20

21 HEALTH CARE AGENCY
22

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

28
29 BY:  _____ DATED: 4/18/14
30

31 DEPUTY
32
33
34

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

1 EXHIBIT A
 2 TO AGREEMENT FOR PROVISION OF
 3 MEDI-CAL MENTAL HEALTH MANAGED CARE
 4 PSYCHIATRIC INPATIENT HOSPITAL SERVICES
 5 BETWEEN
 6 COUNTY OF ORANGE
 7 AND
 8 «NAME1»
 9 JULY 1, 2014 THROUGH JUNE 30, 2017

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

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

14 A. Acute Administrative Day means those days authorized by ADMINISTRATOR’s designated
15 Utilization Case Management Unit when, due to lack of an appropriate placement facility, the client’s
16 stay at an acute inpatient facility must be continued beyond the client’s need for acute care.

17 B. ADL means Activities of Daily Living and refers to diet, personal hygiene, clothing care,
18 grooming, money and household management, personal safety, symptom monitoring, etc.

19 C. Additional Income Source means Additional Income Source and refers to all income other than
20 SSI and includes such sources of income as retirement income, disability income, trust fund income,
21 SSI, Veteran’s Affairs disability income, etc.

22 D. ASO means Administrative Services Organization and refers to administrative and mental
23 health services components that include maintenance of a contract provider network including
24 credentialing and contracting, adjudication of provider claims for specialty mental health services, and
25 the operation of a 24-hour telephone access and authorization line.

26 E. Client Day means one (1) calendar day during which CONTRACTOR provides all of the
27 services described hereunder, including the day of admission and excluding the day of discharge. If
28 admission and discharge occur on the same day, one (1) client day shall be charged.

29 F. Client or Consumer means an individual, referred by COUNTY or enrolled in
30 CONTRACTOR’s program for services under the Agreement, who is dealing with a chronic mental
31 illness.

32 G. Customary Charges means the amount CONTRACTOR normally or usually charges the
33 majority of its clients for a specified type of service, including the types of Psychiatric Inpatient
34 Hospital Services defined herein. CONTRACTOR’s customary charges shall be subject to review by
35 the Department of Health Care Services.

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1 H. Diagnosis means the definition of the nature of the client's disorder. When formulating the
2 diagnosis of client, CONTRACTOR shall use the diagnostic codes and axis as specified in the most
3 current edition of the DSM published by the American Psychiatric Association.

4 I. DSM means Diagnostic and Statistical Manual of Mental Disorders and refers to the publication
5 by the American Psychiatric Association that is used as a guide in the diagnosis of mental disorders.

6 J. ECT means Electro Convulsive Therapy and refers to a psychiatric treatment in which seizures
7 are electrically induced in anesthetized patients for therapeutic effect.

8 K. HIPAA means Health Insurance Portability and Accountability Act and refers to the federal law
9 that establishes standards for the privacy and security of health information, as well as standards for
10 electronic data interchange of health information. HIPAA law has two main goals, as its name implies:
11 making health insurance more portable when persons change employers, and making the health care
12 system more accountable for costs-trying especially to reduce waste and fraud.

13 L. Hospital Based Ancillary Services means services which include but are not limited to ECT and
14 MRI. Other ancillary services include: the use of facilities; laboratory, medical and social services
15 furnished by CONTRACTOR including drugs such as take-home drugs, biologicals, supplies,
16 appliances and equipment; nursing, pharmacy and dietary services; and supportive and administrative
17 services required to provide Psychiatric Inpatient Hospital Services. Ancillary services do not include
18 physician or psychologist services that are separately billed to DHCS.

19 M. ITP means Individualized Treatment Plan for each client. All psychiatric, psychological, and
20 social services must be compatible with the ITP.

21 N. LPS means Lanterman Petris-Short and refers to the Act that went into effect July 1, 1972 in
22 California. The Act in effect ended all hospital commitments by the judiciary system, except in the case
23 of criminal sentencing (e.g. convicted sexual offenders) and those who were "gravely disabled" defined
24 as unable to obtain food, clothing, or shelter. It expanded the evaluative power of psychiatrists and
25 created provisions and criteria for involuntary detentions.

26 O. Long Term Care (LTC) refers to the County department that reviews referrals for placement in
27 county-contracted long term care facilities.

28 P. MRI means Magnetic Resonance Imaging and refers to a medical imaging technique used in
29 radiology to visualize detailed internal structures.

30 Q. Medical Necessity means the requirements as defined in the MHP Medical Necessity for
31 Medi-Cal reimbursed Specialty Mental Health Services that includes diagnosis, impairment criteria and
32 intervention related criteria.

33 R. Mental Health Services means interventions designed to provide the maximum reduction of
34 mental disability and restoration or maintenance of functioning consistent with the requirements for
35 learning, development and enhanced self-sufficiency. Services shall include:

36 //
37 //

1 1. Assessment means a service activity, which may include a clinical analysis of the history
2 and current status of a beneficiary's mental, emotional, or behavioral disorder, relevant cultural issues
3 and history, diagnosis and the use of testing procedures.

4 2. Medication Support Services means those services provided by a licensed physician,
5 registered nurse, or other qualified medical staff, which includes prescribing, administering, dispensing
6 and monitoring of psychiatric medications or biologicals and which are necessary to alleviate the
7 symptoms of mental illness. These services also include evaluation and documentation of the clinical
8 justification and effectiveness for use of the medication, dosage, side effects, compliance and response
9 to medication, as well as obtaining informed consent, providing medication education and plan
10 development related to the delivery of the service and/or assessment of the beneficiary.

11 3. Rehabilitation Service means an activity which includes assistance in improving,
12 maintaining, or restoring a client's or group of clients' functional skills, daily living skills, social and
13 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or
14 medication education.

15 4. Therapy means a service activity which is a therapeutic intervention that focuses primarily
16 on symptom reduction as a means to improve functional impairments. Therapy may be delivered to an
17 individual or group of beneficiaries which may include family therapy in which the beneficiary is
18 present.

19 S. MHSA means Mental Health Services Act and refers to the law that provides funding for
20 expanded community mental health services. It is also known as "Proposition 63."

21 T. NPI means National Provider Identification and refers to the standard unique health identifier
22 that was adopted by the Secretary of Health and Human Services (HHS) under HIPAA for health care
23 providers. All HIPAA covered healthcare providers, individuals and organizations must obtain an NPI
24 for use to identify themselves in HIPAA standard transactions. The NPI is assigned for life.

25 U. NPP means Notice of Privacy Practices and refers to a document that notifies individuals of
26 uses and disclosures of PHI that may be made by or on behalf of the health plan or health care provider
27 as set forth in the HIPAA.

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

34 W. Psychiatric Inpatient Hospital Services means services, including ancillary services, provided
35 either in an acute care hospital or a free-standing psychiatric hospital for the care and treatment of an
36 acute episode of mental illness. Services provided in a free-standing hospital may only be reimbursed
37 for persons age twenty-one (21) or younger and sixty-five (65) or older. If the person was receiving

such services prior to the person’s twenty-first birthday and continues to require and receives services without interruption, the eligibility for services continues to the date the person no longer requires such services, or the person’s twenty-second birthday, whichever is earlier.

X. Psychiatrist means an individual who meets the minimum professional and licensure requirements set forth in CCR, Title 9, Section 623.

Y. Psychologist means an individual who meets the minimum professional and licensure requirements set forth in CCR, Title 9, Section 624.

Z. Recovery means a “deeply personal, unique process of changing one’s attitudes, values, feelings, goals, skills and/or roles. It is a way of living a satisfying, hopeful and contributing life even with limitations caused by the illness. Recovery involves the development of new meaning and purpose in one’s life as one grows beyond the catastrophic effects of mental illness. Ultimately, because recovery is a personal and unique process, everyone with a psychiatric illness develops his or her own definition of recovery. However, certain concepts or factors are common to recovery.” (William Anthony, 1993).

AA. Referral means providing the effective linkage of a client to another service, when indicated; with follow-up to be provided within five (5) working days to assure that the client has made contact with the referred service.

AB. SNF means Skilled Nursing Facility and refers to a facility that provides twenty-four (24)-hour/day skilled nursing care and supervision.

AC. SSI/SSP means Supplemental Security Income/State Supplemental Income and refers to revenue resources paid to an eligible client, or the client’s payee by the federal Social Security Administration.

AD. Unit of Service means one (1) calendar day during which CONTRACTOR provides all of the services described hereunder, which day shall begin at twelve o’clock midnight.

II. PAYMENTS

A. CONTRACTOR shall be reimbursed by DHCS for services provided at the following all-inclusive rates per client day for acute Psychiatric Inpatient Hospital Services and based on the following accommodation codes.

Accommodation Code	Description	Rate		
		Period One	Period Two	Period Three
097	Adolescent/Child, Psychiatric	\$«RATE_1»	\$«RATE_2»	\$«RATE_3»
114 - 204	Adult, Psychiatric	\$«RATE_4»	\$«RATE_5»	\$«RATE_6»
169	Administrative Day	Current DHCS Rate	Current DHCS Rate	Current DHCS Rate

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1. The rate for Accommodation Code 169 is established and adjusted by the DHCS.
2. Rates are inclusive of all Psychiatric Inpatient Hospital Services as defined in this Exhibit A to the Agreement, and shall constitute payment in full for these services.
3. The number of billable Units of Service shall include the day of admission and exclude the day of discharge unless admission and discharge occur on the same day.
4. DHCS may reimburse Administrative Days for dates in which documentation does not meet requirements for Acute Day reimbursement, contingent upon CONTRACTOR documentation of services that qualify for the Administrative Day reimbursement.
5. Rates do not include physician or psychologist services rendered to clients, or transportation services required in providing Psychiatric Inpatient Hospital services. These services shall be billed separately from the above per diem rate for Psychiatric Inpatient Hospital services as follows:
 - a. When Medi-Cal eligible mental health services are provided by a psychiatrist or psychologist, such services shall be billed to COUNTY's ASO. Prior authorization and notification are not required prior to providing these services.
 - b. When Medi-Cal eligible medical services are provided by a physician, such services shall be billed to the designated CalOptima Plan or CalOptima Direct, depending on the client's health coverage benefit. Prior authorization and notification may be required prior to providing these services.
 - c. When Medi-Cal eligible transportation services are provided, such services shall be billed to the designated CalOptima Plan or CalOptima Direct, depending on the client's health coverage benefit. Prior authorization and notification may be required prior to providing these services.
6. The client daily rates stated above do not include ECT or MRI Services. The rates for ECT and MRI Services shall apply only for the day(s) in which the client received an approved ECT or MRI (rates listed below). These rates reflect CONTRACTOR's reimbursement only and associated professional services shall be billed to COUNTY's ASO, the designated CalOptima Plan or CalOptima Direct. CONTRACTOR must obtain prior approval from the ADMINISTRATOR to perform the ECT or MRI in order to be reimbursed. CONTRACTOR shall submit to ADMINISTRATOR ECT and MRI invoices that indicate for whom services were provided, the date of service, and shall be supported with such documentation as may be required by ADMINISTRATOR.

Description	Rate
Psychiatric, ECT	\$«ECT_RATE_1»
Psychiatric, MRI	\$«MRI_RATE_1»

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1 B. Billing Procedures

2 1. CONTRACTOR must obtain an NPI.

3 2. CONTRACTOR shall invoice DHCS for each client day, approved by the
4 ADMINISTRATOR, for each client who meets notification, admission and/or continued stay criteria,
5 documentation requirements, treatment and discharge planning requirements and occupies a psychiatric
6 inpatient hospital bed at 12:00 AM in CONTRACTOR's facility. CONTRACTOR may invoice DHCS
7 if the client is admitted and discharged during the same day; provided, however, that such admission and
8 discharge is not within twenty-four (24) hours of a prior discharge.

9 2. CONTRACTOR shall determine that Psychiatric Inpatient Hospital services provided
10 pursuant to the Agreement are not covered, in whole or in part, under any other state or federal medical
11 care program or under any other contractual or legal entitlement including, but not limited to, a private
12 group indemnification or insurance program or Workers' Compensation Program. CONTRACTOR
13 shall seek to be reimbursed by other coverage prior to seeking reimbursement by DHCS. DHCS's
14 maximum obligation shall be reduced if other coverage is available.

15 3. CONTRACTOR shall submit claims to DHCS's fiscal intermediary for all services
16 rendered pursuant to the Agreement, in accordance with the applicable invoice and billing requirements
17 contained in WIC, Section 5778.

18 4. CONTRACTOR may appeal, in writing, a denied request for reimbursement to the
19 ADMINISTRATOR. In the event that the appeal is denied, by the ADMINISTRATOR,
20 CONTRACTOR may continue the appeals process by writing directly to DHCS, within thirty (30)
21 calendar days of the ADMINISTRATOR's decision. The decision of DHCS shall be final.

22 C. Overpayments

23 1. CONTRACTOR agrees that DHCS may recoup any such overpayment by withholding the
24 amount owed to DHCS from future payments due CONTRACTOR, in the event that an audit or review
25 performed by the ADMINISTRATOR, DHCS, the State Controller's Office, or any other authorized
26 agency discloses that CONTRACTOR has been overpaid.

27 2. CONTRACTOR agrees that DHCS may recoup funds from prior year's overpayments,
28 which occurred prior to the effective date of the Agreement, by withholding the amount currently owed
29 to CONTRACTOR by DHCS.

30 3. CONTRACTOR may appeal recoupments according to applicable procedural requirements
31 of the regulations adopted pursuant to WIC, Sections 5775, et seq. and 14680, et seq., with the following
32 exceptions:

33 a. The recovery or recoupment shall commence sixty (60) calendar days after issuance of
34 account status or demand resulting from an audit or review and shall not be deferred by the filing of a
35 request for an appeal according to the applicable regulations.

36 b. CONTRACTOR's liability to COUNTY for any amount recovered shall be as
37 described in WIC, Section 5778(h).

1 D. Customary Charges Limitation – DHCS’s obligation to CONTRACTOR shall not exceed
2 CONTRACTOR’s total customary charges for like services during each hospital fiscal year or portion
3 thereof in which the Agreement is in effect. DHCS may recoup any portion of the total payments to
4 CONTRACTOR which are in excess of CONTRACTOR’s total customary charges.

5 E. CONTRACTOR shall submit the 18-3 TAR for authorization of payment for Psychiatric
6 Inpatient Hospital services to ADMINISTRATOR no later than fourteen (14) calendar days after:

- 7 1. Ninety-nine (99) calendar days of continuous service to a client, and/or
- 8 2. Discharge.

9 F. CONTRACTOR shall resubmit the 18-3 TAR and any additional information requested, no
10 later than sixty (60) calendar days from the date of the deferral letter, in the event ADMINISTRATOR
11 defers the 18-3 TAR back to CONTRACTOR to obtain further information.

12 G. ADMINISTRATOR shall provide CONTRACTOR with a Notification Form confirming
13 hospitalization of the client. CONTRACTOR must submit the Notification Form, along with the
14 client’s TAR to ADMINISTRATOR for review of medical necessity and payment authorization.

15 H. CONTRACTOR must document, in the client’s medical record, each contact with the
16 appropriate placement facility or the person or agency responsible for placement. CONTRACTOR must
17 continue to document contacts with appropriate placement facilities until the client is discharged.
18 Contacts shall be documented by a brief description of the placement facilities reported bed availability
19 status, reason for denial if applicable, and the signature of the person making the contact.

20 I. ADMINISTRATOR shall monitor the client’s status, the appropriateness of the facilities being
21 contacted for referral, and/or the client’s chart to determine if the client’s status has changed.

22 J. CONTRACTOR shall notify ADMINISTRATOR, prior to 12:00 PM Monday through Friday,
23 excluding holidays, of the daily census of all clients in which reimbursement for Psychiatric Inpatient
24 Hospital Services will be requested. The census report following a weekend and/or holiday shall
25 include any admissions made during that time.

26 K. CONTRACTOR shall notify ADMINISTRATOR of any client discharge within twenty-four
27 (24) hours of the client’s discharge, excluding weekends and holidays. CONTRACTOR shall include
28 the client’s name, discharge date, discharge placement and placement phone number. CONTRACTOR
29 shall inform COUNTY of where the client has been referred for continuing treatment, along with the
30 facility’s phone number, contact person and the client’s first appointment time and date.

31 L. CONTRACTOR shall notify the Regional Center Service Coordinator and Nurse Consultant of
32 a Regional Center client’s admission within twenty-four (24) hours of admission or within twenty-four
33 (24) hours of identifying that a client is a Regional Center client.

34 M. CONTRACTOR shall notify both the client’s Regional Center Service Coordinator and one of
35 the Regional Center Nurse Consultants of the intent to seek their placement services. Such notification
36 must occur on or before the date for which CONTRACTOR intends to seek Administrative Day
37 //

1 reimbursement. CONTRACTOR may seek reimbursement from Regional Center for all Administrative
2 Days after the first three (3) Administrative Days.

3 N. CONTRACTOR shall notify the ADMINISTRATOR within twenty-four (24) hours of
4 admission of all clients, served under this agreement, who are admitted on involuntary hold.

5 O. CONTRACTOR shall notify ETS on the day that the other health insurance benefit has been
6 exhausted, or the day the other health insurance benefit is known to be denied, if the client has other
7 health insurance coverage in addition to Medi-Cal, and the CONTRACTOR intends to seek Medi-Cal
8 reimbursement for all or a portion of the hospital stay.

9 P. CONTRACTOR shall provide Psychiatric Inpatient Hospital Services in the same manner to
10 Medi-Cal clients as it provides to all other clients and not discriminate against Medi-Cal clients in any
11 manner, including admission practices, placement in special wings or rooms, or provision of special or
12 separate meals.

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

15
16 **III. SERVICES**

17 A. FACILITY – CONTRACTOR shall provide Psychiatric Inpatient Hospital Services at the
18 following location:

19
20 «SVC_ADDR»
21 «SVC_CSZ»
22

23 B. CLIENTS SERVED – CONTRACTOR shall admit and serve all clients referred by
24 ADMINISTRATOR who meet the ADMINISTRATOR’s criteria for acute psychiatric hospitalization.
25 CONTRACTOR may admit and serve clients not referred by the ADMINISTRATOR or ETS; however
26 CONTRACTOR must first notify the ADMINISTRATOR of any client served under the Agreement
27 who has not been referred by ADMINISTRATOR or ETS prior to admission.

28 **C. SERVICES PROVIDED**

29 1. CONTRACTOR shall provide Psychiatric Inpatient Hospital Services, which include but
30 are not limited to physician services, psychologist services, and transportation services, in accordance
31 with WIC, Sections 5774, et seq. and 14680, et seq.

32 2. CONTRACTOR shall provide services that include but are not limited to psychiatric,
33 ancillary, testimony, medical, specialized services, and additional services required of general acute care
34 hospitals. CONTRACTOR’s services shall be designed to engage seriously mentally ill adults,
35 including those who are dually diagnosed, in a partnership to achieve the individual’s wellness and
36 recovery goals. CONTRACTOR shall provide services in collaboration with the COUNTY’s Director
37 of Behavioral Health, or designee.

1 a. PSYCHIATRIC SERVICES – CONTRACTOR shall provide psychiatric services that
2 include psychiatric assessment, psychiatric treatment and psychiatric support services in accordance
3 with all applicable laws and regulations. Psychiatric services shall include but not be limited to:
4 1) A psychiatric evaluation, within twenty-four (24) hours of admission, by a licensed
5 psychiatrist. The psychiatric evaluation shall include a psychiatric history, diagnosis, and be completed
6 in accordance with the current DSM;
7 2) A review of each client’s medical history and a physical examination within
8 twenty-four (24) hours of admission;
9 3) Case staffing of each new client within twenty-four (24) hours of admission;
10 4) An ITP for each client. All psychiatric, psychological, and social services must be
11 compatible with the ITP;
12 5) Appropriate collateral therapy and interventions for each client;
13 6) Appropriate one-on-one, client-to-staff counseling as appropriate to the diagnosis
14 and ITP;
15 7) Documentation of client’s attendance and their participation in collateral therapy
16 including schedule of therapies, attendance log, and medical record progress notes;
17 8) Daily rounds and progress notes by psychiatrists on all clients;
18 9) Discharge planning that includes but is not limited to continuing care planning, and
19 referral services;
20 a) Discharge planning must begin upon admission and occur seven (7) days a
21 week;
22 b) ADMINISTRATOR may provide assistance to CONTRACTOR to initiate,
23 develop and finalize discharge planning and necessary follow-up services on a case-by case basis;
24 c) CONTRACTOR shall document in the client’s medical record, for those
25 clients being referred to a SNF at discharge, at least four (4) SNF contacts daily, Monday through
26 Friday, until the client is either discharged or no longer requires a SNF level of care;
27 d) CONTRACTOR shall document, in the client’s medical record, for those
28 clients waiting for LTC placement, contact with the ADMINISTRATOR’s LTC Unit at least once every
29 seven (7) days until the client is either discharged or no longer requires LTC services. Contact may be
30 by fax, e-mail, or direct telephone discussion with ADMINISTRATOR. If CONTRACTOR fails to
31 document contact with the ADMINISTRATOR within a seven (7) day period, CONTRACTOR will be
32 ineligible for Administrative Day reimbursement until the next contact with the ADMINISTRATOR;
33 e) CONTRACTOR shall contact COUNTY clinics daily, Monday through
34 Friday, excluding holidays, if the client requires Board and Care placement, or until the client is either
35 discharged or no longer requires Board and Care placement. CONTRACTOR shall comply with P&P’s,
36 established by ADMINISTRATOR, for placing Board and Care clients; and
37 //

1 f) CONTRACTOR shall arrange a specific date and time for an aftercare
2 appointment with a COUNTY outpatient clinic, for any client referred to an outpatient clinic at
3 discharge. CONTRACTOR shall fax to the COUNTY outpatient clinic, at the time of discharge, the
4 Allied Behavioral Care Hospital Discharge Referral Form or the hospital's aftercare plan, the initial
5 psychiatric evaluation, the history and physical examination report, recent lab studies, the medication
6 list, and any medical consults.

7 10) On-call psychiatric and medical specialist coverage twenty-four (24) hours per day,
8 seven (7) days per week;

9 11) Daily evaluation and documentation by the treating psychiatrist for each day of
10 psychiatric service;

11 12) A psycho-social assessment completed within forty-eight (48) hours of admission;
12 and

13 13) Linkages with COUNTY-operated clinics or COUNTY contracted mental health or
14 substance abuse clinics. Linkages must be made five (5) days a week, Monday through Friday.
15 Linkages must be documented in the client's medical record.

16 b. ANCILLARY SERVICES

17 CONTRACTOR shall provide ancillary services, necessary for the evaluation and treatment of
18 psychiatric conditions. Services shall be recovery-based, non-coercive and must focus on assisting
19 clients to become more independent and self-sufficient. Services shall include but not be limited to:

- 20 1) Group therapy;
21 2) Activities therapy and other adjunctive therapy;
22 3) Initial laboratory services that are consistent with CONTRACTOR's usual and
23 customary hospital admitting protocol;
24 4) Additional laboratory and diagnostic services, when necessary for the initiation and
25 monitoring of psychiatric medication treatments; and
26 5) Pharmaceutical services.

27 c. TESTIMONY SERVICES – CONTRACTOR shall provide expert witness testimony
28 by appropriate mental health professionals in all legal proceedings required for the institutionalization,
29 admission, or treatment of COUNTY clients. These services shall include, but not be limited to, writs of
30 habeas corpus, capacity hearings, conservatorship, probable cause hearings, court-ordered evaluation,
31 and appeal and post-certification proceedings. ADMINISTRATOR shall provide representation to
32 CONTRACTOR, at ADMINISTRATOR's cost and expense, in all legal proceedings required for
33 conservatorship. CONTRACTOR shall cooperate with ADMINISTRATOR in all such proceedings.
34 ADMINISTRATOR will provide hearing officers for probable cause hearings for clients approved by
35 ADMINISTRATOR only.

36 d. MEDICAL SERVICES – CONTRACTOR shall provide all medical care services
37 deemed appropriate according to usual and customary hospital practices without regard for payer status.

1 Medical services include physician and/ or other professional services required by the client.
2 CONTRACTOR shall provide transportation to the medical treatment and an escort to and from the
3 service.

4 1) INPATIENT/OUTPATIENT ECT and MRI – CONTRACTOR shall provide ECT
5 and MRI services for clients. ECT and MRI services must be performed pursuant to all legal and
6 regulatory requirements and be approved by ADMINISTRATOR in advance to treatment.
7 ADMINISTRATOR approval shall be documented in the client’s medical record.

8 2) COMPUTERIZED TOMORGRAPHY (CT) – CONTRACTOR shall provide CT
9 scans as part of the diagnosis and evaluation of a client’s psychiatric condition when indicated. CT
10 scans must be approved by ADMINISTRATOR in advance of treatment. ADMINISTRATOR approval
11 shall be documented in the client’s medical record.

12 e. SPECIALIZED SERVICES – CONTRACTOR shall provide specialized medical
13 services and/or diagnostic testing services to clients referred by ADMINISTRATOR. Specialized
14 services shall be provided to clients from Metropolitan State Hospital and/or be referred by
15 ADMINISTRATOR. Specialized services include, but are not limited to, mental health evaluation, and
16 clinic treatment and rehabilitation services. Reimbursement for such services shall be agreed upon, in
17 writing, by the CONTRACTOR and ADMINISTRATOR prior to provision of services.

18 f. ADDITIONAL SERVICES – CONTRACTOR shall provide additional services
19 required of general acute care hospitals. Additional services shall include, but not be limited to, the
20 following:

21 1) Direct Services – including a therapeutic milieu, room and dietetic services,
22 nursing services, including drug administration and client care, and a client activity program including
23 occupational therapy and rehabilitation services.

24 2) Support Services – including housekeeping, laundry, maintenance, medical
25 records, and drug order processing services.

26 3) In-Service Training – Provide formalized in-service training to staff that focuses on
27 subjects that increase their expertise in mental health services and ability to manage and serve clients;
28 and

29 4) Program Description – Maintain an ADMINISTRATOR approved, written
30 description of the inpatient psychiatric program, which shall include goals, objectives, philosophy, and
31 activities which reflect the active involvement of nursing personnel in all aspects of the inpatient
32 therapeutic milieu.

33 D. CONTRACTOR shall provide a copy of the “COUNTY Guide to Medi-Cal Mental Health
34 Services” and “County Behavioral Health Services Plan Provider List” to each
35 client/guardian/conservator at the time of admission. CONTRACTOR shall ensure that the client signs
36 a form indicating receipt of both handbooks, and this form shall become part of the client’s medical
37 //

1 record. If the client refuses to sign or receive the handbooks, a hospital staff member shall document
2 that the handbooks were provided.

3 E. CONTRACTOR shall provide the client/guardian/conservator the DHCS notification materials
4 entitled, "EPSDT", and "TBS" to each full-scope Medi-Cal client under twenty-one (21) years of age
5 admitted for acute psychiatric inpatient services. CONTRACTOR shall document in the client's
6 medical record that these materials were provided.

7 F. CONTRACTOR shall provide, the NPP for the COUNTY, as the MHP, to any individual who
8 received services under the Agreement.

9 G. CONTRACTOR shall allow ADMINISTRATOR to conduct a face-to-face evaluation of the
10 client for assessment and recommendation to CONTRACTOR regarding the appropriate level of care
11 and need for the clients' hospitalization.

12 H. CONTRACTOR shall send a completed ABC Hospital Discharge Referral Form or a copy of
13 the Hospital's Aftercare Plan to the appropriate clinic at the time of client discharge, for Medi-Cal
14 clients being referred to COUNTY outpatient clinics or COUNTY contracted outpatient clinics.
15 CONTRACTOR will also fax copies of the Initial Psychiatric Evaluation, History and Physical Exam,
16 most recent lab studies, medical consults, and Medication Sheets.

17 I. CONTRACTOR shall ensure that contact is made with the minor's Social Worker or Probation
18 Officer daily, excluding weekend and holidays when the minor is a dependent or ward of the Court and
19 is in need of an appropriate placement facility.

20 J. QUALITY IMPROVEMENT – CONTRACTOR shall cooperate with ADMINISTRATOR in
21 meeting quality improvement and utilization review requirements. Quality improvement and utilization
22 reviews shall include, but not be limited to, performance outcome studies and client satisfaction surveys.
23 CONTRACTOR shall cooperate with managed care procedures related to treatment authorization,
24 including the provision of working space for ADMINISTRATOR to conduct visits with the client,
25 interview staff and perform chart reviews.

26 K. PERFORMANCE OUTCOMES – CONTRACTOR shall perform outcome studies, on-site
27 reviews and written reports to be made available to ADMINISTRATOR upon request.

28 L. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
29 Services Paragraph of this Exhibit A to the Agreement.

30 M. CONTRACTOR shall provide services pursuant to the Agreement in a manner that is culturally
31 and linguistically appropriate for the population(s) served. CONTRACTOR shall maintain
32 documentation of such efforts which may include, but not be limited to: records of participation in
33 COUNTY sponsored or other applicable training; recruitment and hiring P&Ps; copies of literature in
34 multiple languages and formats, as appropriate; and descriptions of measures taken to enhance
35 accessibility for, and sensitivity to, persons who are physically challenged.

36 N. CONTRACTOR shall provide Inpatient Psychiatric Hospital Services that are non-
37 discriminatory and tailored to meet the individual needs of the multi-cultural clients served under the

1 Agreement. CONTRACTOR shall demonstrate program access, linguistically appropriate and timely
2 mental health service delivery, staff training, and organizational P&P's related to the treatment of
3 culturally diverse populations. CONTRACTOR shall ensure that high quality accessible mental health
4 care includes:

- 5 1. Clinical care and therapeutic interventions which are linguistically and culturally
- 6 appropriate; including, at a minimum, admission, discharge, and medication consent forms available in
- 7 English, Spanish, Farsi and Vietnamese;
- 8 2. Medically appropriate interventions which acknowledge specific cultural influences;
- 9 3. Provision and utilization of qualified interpreters within twenty-four (24) hours of identified
- 10 need;
- 11 4. Screening and certification of interpreters;
- 12 5. Client related information translated into the various languages of the diverse populations
- 13 served.

14
15 **IV. PATIENTS' RIGHTS**

16 A. CONTRACTOR shall post the current DHCS Patients' Rights poster as well as the local Mental
17 Health Plan Complaint and Grievance posters in all threshold languages, including English, Spanish,
18 Vietnamese and Farsi. CONTRACTOR shall display the posters in locations readily available to
19 patients and staff and have complaint forms and complaint envelopes readily accessible to patients.

20 B. In addition to those processes provided by ADMINISTRATOR and the resident County,
21 CONTRACTOR shall have complaint resolution and grievance processes approved by
22 ADMINISTRATOR, to which the beneficiary shall have access.

23 1. CONTRACTOR's complaint resolution processes shall emphasize informal, easily
24 understood steps designed to resolve disputes as quickly and simply as possible in all threshold
25 languages.

26 2. CONTRACTOR's complaint resolution and grievance processes shall incorporate
27 COUNTY's and the resident County's grievance, patients' rights, and utilization management guidelines
28 and procedures.

29 C. Complaint Resolution and Grievance Process – COUNTY shall support complaint and
30 grievance procedures in concert with the resident County that shall include the components outlined
31 below. The resident County will handle such complaints that may include allegations of denial of rights,
32 dissatisfaction with services or with the quality of care, or dissatisfaction with the condition of the
33 physical plant. COUNTY will handle such complaints regarding access to care or regarding
34 COUNTY's Public Administrator/Public Guardian Office services.

35 1. Complaint Resolution. This process will specifically address and attempt to resolve client
36 complaints and concerns at CONTRACTOR's facility.

37 //

1 2. Formal Grievance. When the client's complaint is not resolved at CONTRACTOR's
2 facility and the client or client representative requests it, the complaint becomes a formal grievance.
3 The request is made to the respective resident County or ADMINISTRATOR and represents the first
4 step in the formal grievance process.

5 3. Title IX Rights Advocacy. This process may be initiated by a client who registers a
6 statutory rights violation or a denial or abuse complaint with the COUNTY Patients' Rights Office. The
7 Patients' Rights office shall investigate the complaint, and Title IX grievance procedures shall apply,
8 which involve the COUNTY Behavioral Health Director and the State Patients' Rights Office.

9 D. CONTRACTOR agrees that clients have recourse to initiate a complaint to CONTRACTOR,
10 appeal to the respective resident County or COUNTY's Patients' Rights Office, to file a formal
11 grievance, or to file a Title IX complaint. The Patients' Advocate shall advise and assist the client,
12 investigate the cause of the complaint or grievance, and attempt to resolve the matter.

13 E. CONTRACTOR agrees that no provision of the Agreement shall be construed as to replacing or
14 conflicting with the duties of COUNTY's Patients' Rights Office pursuant to WIC, Section 5500.

15 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
16 Patients' Rights Paragraph of this Exhibit A to the Agreement.

17
18 **V. ISSUE RESOLUTION**

19 A. CONTRACTOR agrees that for resolution of issues between ADMINISTRATOR and
20 CONTRACTOR, with respect to the implementation and operation of the Agreement or
21 ADMINISTRATOR's P&P regarding services described herein, the following sequential steps will be
22 followed:

23 1. CONTRACTOR shall routinely utilize all informal communication processes and methods
24 with ADMINISTRATOR including, but not limited to, telephone, email, and fax communication,
25 written correspondence and meetings, to resolve any issues or problems regarding the implementation
26 and operation of the Agreement or ADMINISTRATOR's P&P regarding services described herein.

27 2. CONTRACTOR agrees that if the parties are unable to resolve the issue, CONTRACTOR
28 shall give written notice to ADMINISTRATOR setting forth, in specific terms, the existence and nature
29 of any unresolved matter or concern related to the purposes and obligations of the Agreement.
30 ADMINISTRATOR shall be given fifteen (15) calendar days following such notice to obtain resolution
31 of any issue(s) identified in this manner. CONTRACTOR agrees that by mutual consent this period of
32 time may be extended to thirty (30) calendar days.

33 3. CONTRACTOR agrees that if the parties are still unable to obtain resolution of the issue,
34 they shall submit a joint written statement describing the facts of the issue, within thirty (30) calendar
35 days after the written notice described above, to COUNTY's Director of Behavioral Health, or designee,
36 for final resolution.

37 //

1 B. The rights and remedies provided by this paragraph are in addition to those provided by law to
2 either party.

3 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Issue
4 Resolutions Paragraph of this Exhibit A to the Agreement.

5
6 **VI. STAFFING**

7 A. CONTRACTOR shall provide clinical staffing as required by CCR, Title 9, Section 663.
8 CONTRACTOR shall provide professional, allied, and supportive paramedical personnel to provide all
9 necessary and appropriate Psychiatric Inpatient Hospital services. There is no specific administrative
10 and/or clerical staffing pattern however, CONTRACTOR must provide sufficient staff to support the
11 services provided pursuant to the Agreement.

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

14 C. CONTRACTOR shall ensure that a bilingual professional or qualified interpreter is fluent in
15 English and in the primary language spoken by the client. The bilingual professional or qualified
16 interpreter must have the ability to accurately speak, read and interpret the client's primary language.
17 CONTRACTOR shall ensure that, when needed, a qualified interpreter is available who can accurately
18 provide sign language services. The bilingual professional or qualified interpreter must have the ability
19 to translate mental health terminology necessary to convey information such as symptoms or
20 instructions to the client. CONTRACTOR shall ensure that the bilingual person and/or the qualified
21 interpreter, completes appropriate courses that cover terms and concepts associated with mental illness,
22 psychotropic medications, and cultural beliefs and practices which may influence the client's mental
23 health condition, if they have not been not been trained in the provision of mental health services.

24 D. CONTRACTOR shall ensure that all staff is trained and is knowledgeable in treatment issues
25 reflecting the diversity of the Medi-Cal population. CONTRACTOR shall develop and maintain in-
26 service staff training programs which will train staff to respect and respond with sensitivity to the
27 language and cultural experiences of the clients. CONTRACTOR staff shall participate in cultural
28 competency and/or awareness training on an annual basis. Training shall be designed to help staff
29 understand cultural diversity and may include but not be limited to such topics such as: mental health
30 care that is unique to the client including awareness; sensitivity to the client's cultural and spiritual
31 beliefs, and the role of the family in diverse cultures and ethnic groups. Additionally, training
32 components shall include:

- 33 1. Background information for identifying and treating mental illnesses and related health
34 conditions not commonly found in the dominant client population;
35 2. Utilization of non-psychiatrically trained interpreters in taking client histories and assisting
36 with communication relating to mental health treatment; and
37 //

1 3. Strategies for utilizing the belief patterns and family support systems of clients to promote
2 adherence to the course of treatment and assuming responsibility for preventive mental health behaviors.
3

4 **VII. REPORTS**

5 A. CONTRACTOR shall maintain records and make statistical reports as required by
6 ADMINISTRATOR and/or DHCS on forms provided by either agency.

7 B. ADMINISTRATOR may request reasonable reports of CONTRACTOR in order to determine
8 the quality and nature of services provided hereunder. ADMINISTRATOR will be specific as to the
9 nature of information requested, and may allow up to thirty (30) calendar days for CONTRACTOR to
10 respond.

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

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EXHIBIT B
MEDI-CAL MENTAL HEALTH MANAGED CARE
PSYCHIATRIC INPATIENT HOSPITAL SERVICES
BETWEEN
COUNTY OF ORANGE
AND
«NAME1»
JULY 1, 2014 THROUGH JUNE 30, 2017

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 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 (“the 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, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,

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

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of
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
33 45 CFR § 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.

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

37 //

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

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

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

9 D. SECURITY RULE

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

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

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

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

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

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

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

37 //

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

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

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

21 f. Patch Management. All workstations, laptops and other systems that process and/or
22 store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or
23 transmits on behalf of COUNTY must have critical security patches applied, with system reboot if
24 necessary. There must be a documented patch management process which determines installation
25 timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable
26 patches must be installed within thirty (30) 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) calendar or business days, preferably every
36 sixty (60) calendar or business days. Passwords must be changed if revealed or compromised.

37 //

1 Passwords must be composed of characters from at least three (3) of the following four (4) groups from
2 the standard keyboard:

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

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

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

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

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

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

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

37 //

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

5 3. Audit Controls

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

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

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

19 4. Business Continuity/Disaster Recovery Control

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

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

32 5. Paper Document Controls

33 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
34 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left
35 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means
36 that information is not being observed by an employee authorized to access the information. Such PHI
37 //

1 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
2 baggage on commercial airplanes.

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

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

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

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

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

24 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

37 //

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

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

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

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

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

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

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

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

19 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
20 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
21 COUNTY.

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

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

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

34 8. CONTRACTOR shall continue to provide all additional pertinent information about the
35 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after
36 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable
37 //

1 requests for further information, or follow-up information after report to COUNTY, when such request
2 is made by COUNTY.

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

7 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

17 1) The Disclosure is required by law; or

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

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

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

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

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

32 H. PROHIBITED USES AND DISCLOSURES

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

1 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
2 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
3 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
4 42 USC § 17935(d)(2).

5 I. OBLIGATIONS OF COUNTY

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

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

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

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

17 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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1 3. The obligations of this Business Associate Contract shall survive the termination of the
2 Agreement.
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EXHIBIT C
TO AGREEMENT FOR PROVISION OF
MEDI-CAL MENTAL HEALTH MANAGED CARE
PSYCHIATRIC INPATIENT HOSPITAL SERVICES
BETWEEN
COUNTY OF ORANGE
AND
«NAME1»
JULY 1, 2014 THROUGH JUNE 30, 2017

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

6 B. TERMS OF AGREEMENT

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

11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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