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3 **EXHIBIT B**

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30 **REFERENCED CONTRACT PROVISIONS**

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33 **Term:** July 1, ~~2012~~2014 through June 30, ~~2014~~2017

34 Period One means the period from July 1, ~~2012~~2014 through June 30, ~~2013~~2015

35 Period Two means the period from July 1, ~~2013~~2015 through June 30, ~~2014~~2016

36 Period Three means the period from July 1, 2016 through June 30, 2017

37 **Aggregate Maximum Obligation:**

1	Period One Aggregate Maximum Obligation:	\$249,309,843
2	Period Two Aggregate Maximum Obligation:	-249,309,843
3	Period Three Aggregate Maximum Obligation:	309,843
4	TOTAL AGGREGATE MAXIMUM OBLIGATION:	\$499,686,929,529

Basis for Reimbursement: ~~Fee For Service~~ Negotiated Amount

Payment Method: Fee For Service

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: ~~«LC_NAME»~~
~~«Street_Addr»~~
~~«PO_Box»~~
~~«City_State_Zip»~~

CONTRACTOR's Insurance Coverages:

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

~~«NAME2»~~
~~«ADDRESS»~~

I. ACRONYMS

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

- A. ABC Allied Behavioral Care
- ~~B. ADL Activities of Daily Living~~
- ~~B. AES Advanced Encryption Standards~~
- ~~C. AMHS Adult Mental Health Services~~
- ~~D. AA Alcoholics Anonymous~~
- ~~E. ARRA American Recovery and Reinvestment Act~~
- ~~D. F. ASO Administrative Service Organization~~
- ~~G. ASRS Alcohol and Drug Programs Reporting System~~
- ~~H. BBS Board of Behavioral Sciences~~
- ~~E. BCP Business Continuity Plan~~
- ~~F. I. BHS Behavioral Health Services~~
- ~~J. CAT Centralized Assessment Team~~
- ~~K. CCC California Civil Code~~
- ~~G. L. CCR California Code of Regulations~~
- ~~H. CD/DVD Compact Disc/Digital Video or Versatile Disc~~
- ~~I. CYS Children and Youth Services~~
- ~~J. CEO County Executive Office~~
- ~~K. M. CFR Code of Federal Regulations~~
- ~~L. CHHS California Health and Human Services Agency~~
- ~~M. N. CHPP COUNTY HIPAA Policies and Procedures~~
- ~~N. O. CHS Correctional Health Services~~
- ~~P. CSW Clinical Social Worker~~
- ~~CIPA California Information Practices Act~~
- ~~O. CMPPA Computer Matching and Privacy Protection~~
- ~~P. COI Certificate of Insurance~~
- ~~Q. CYS Child Youth Services~~
- ~~R. D/MC Drug/Medi-Cal~~
- ~~S. DCR Data Collection and Reporting~~
- ~~T. DD Dual Disorders~~
- ~~U. DHCS Department of Health Care Services~~
- ~~R. DoD Department of Defense~~
- ~~S. DRP Disaster Recovery Plan~~
- ~~T. V. DPFS Drug Program Fiscal Systems~~
- ~~W. DRS Designated Record Set~~

- 1 ~~X. DSH~~ Direct Service Hours
- 2 ~~Y. U.~~ DSM Diagnostic and Statistical Manual of Mental Disorders
- 3 ~~V. E-Mail~~ Electronic Mail
- 4 ~~W. Z.~~ DSM-IV Diagnostic and Statistical Manual of Mental Disorders, 4th Edition
- 5 ~~AA. EBP~~ Evidence-Based Practice
- 6 ~~AB. EHR~~ Electronic Health Record
- 7 ~~X. ePHI~~ Electronic Protected Health Information
- 8 ~~Y. FIPS~~ Federal Information Processing Standards
- 9 ~~Z. GAAP~~ Generally Accepted Accounting Principles
- 10 ~~AA. AC. FAX~~ Facsimile Machine
- 11 ~~AD. FSP~~ Full Service Partnership
- 12 ~~AE. FTE~~ Full Time Equivalent
- 13 ~~AF. HCA~~ Health Care Agency
- 14 ~~AB. AG. HHS~~ Health and Human Services
- 15 ~~AC. AH. HIPAA~~ Health Insurance Portability and Accountability Act of 1996,
Public Law 104-191
- 17 ~~AD. AI. HSC~~ California Health and Safety Code
- 18 ~~AE. AJ. IRIS~~ Integrated Records Information
~~IEA~~ Information
- 19 ~~System~~ Exchange Agreement
- 20 ~~AF. ISO~~ Insurance Services Office
- 21 ~~AG. AK. KET~~ Key Events Tracking
- 22 ~~AL. LPT~~ Licensed Psychiatric Technician
- 23 ~~AM. MFT~~ Marriage and Family Therapist
- 24 ~~AN. MHP~~ MHIS Mental Health Plan
- 25 ~~AO. MHS~~ Mental Health Specialist
- 26 ~~AP. MHSA~~ Mental Health Services Act
- 27 ~~AQ. MIHS~~ Medical and Institutional Health Inpatient Services
- 28 ~~AH. AR. MORS~~ Milestones of Recovery Scale
- 29 ~~AS. MTP~~ Master Treatment Plan
- 30 ~~AT. NA~~ Narcotics Anonymous
- 31 ~~AU. NOA-A~~ Notice of Action
- 32 ~~AV. NP~~ Nurse Practitioner
- 33 ~~AW. NPI~~ National Provider Identifier
- 34 ~~AI. AX. NPP~~ Notice of Privacy Practices
- 35 ~~AJ. AY. OCJS~~ Orange County Jail System
- 36 ~~AZ. OCPD~~ Orange County Probation Department
- 37 ~~BA. OCR~~ Office for Civil Rights

- 1 ~~BB. OCSD Orange County Sheriff's Department~~
- 2 ~~BC. OIG [REDACTED] Office of Inspector General~~
- 3 ~~BD. AK. OMB [REDACTED] Office of Management and Budget~~
- 4 ~~BE. AL. OPM [REDACTED] Federal Office of Personnel Management~~
- 5 ~~BF. AM. P&P [REDACTED] Policies and Procedures~~
- 6 ~~BG. PADSS Payment Application Data Security Standard~~
- 7 ~~BH. PAF Partnership Assessment Form~~
- 8 ~~BI. PBM Pharmaceutical Benefits Management~~
- 9 ~~BJ. AN. PC [REDACTED] State of California Penal Code~~
- 10 ~~AO. BK. PCI DSS Payment Card Industry Data Security Standard~~
- 11 ~~BL. PEI Prevention and Early Intervention~~
- 12 ~~BM. PHI [REDACTED] Protected Health Information~~
- 13 ~~AP. BN. PII [REDACTED] Personally Identifiable Information~~
- 14 ~~AQ. BO. PRA [REDACTED] Public Record Act~~
- 15 ~~AR. SIR [REDACTED] Self-Insured Retention~~
- 16 ~~AS. BP. PSC Personal Services Coordinator~~
- 17 ~~BQ. QIC Quality Improvement Committee~~
- 18 ~~BR. RN Registered Nurse~~
- 19 ~~BS. SRAS Suicide Risk Assessment Standards~~
- 20 ~~BT. SSI SSA Social Security Income~~
- 21 ~~BU. SSA Social Services Agency~~
- 22 ~~AT. BV. TAR [REDACTED] Treatment Authorization Request~~
- 23 ~~BW. TAY Transitional Age Youth~~
- 24 ~~BX. AU. The HITECH Act The Health Information Technology for Economic and~~
- 25 ~~Clinical Health Act, [REDACTED] Public Law 111-005~~
- 26 ~~AV. UMDAP [REDACTED] Universal Method of Determining Ability to Pay~~
- 27 ~~BY. AW. UOS [REDACTED] Unit of Service~~
- 28 ~~AX. USC [REDACTED] United States Code~~
- 29 ~~AY. BZ. WIC [REDACTED] State of California Welfare and Institutions Code~~
- 30 ~~CA. WRAP Wellness Recovery Action Plan~~
- 31 ~~CB. XML Extensible Markup Language~~

II. ALTERATION OF TERMS

34 A. This Agreement, together with Exhibit A, ~~B, and C~~ attached hereto and incorporated herein ~~by~~
 35 ~~reference~~, fully expresses all understanding of COUNTY and CONTRACTOR with respect to the
 36 subject matter of this Agreement, ~~and shall constitute the total Agreement between the parties for these~~
 37 ~~purposes. No~~

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

6 **III. ASSIGNMENT OF DEBTS**

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

15 **IV. COMPLIANCE**

16 A. ~~COMPLIANCE PROGRAM~~—ADMINISTRATOR has established a Compliance Program for
 17 the purpose of ensuring adherence to all rules and regulations related to federal and state health care
 18 programs.

19 1. ADMINISTRATOR shall ~~ensure that~~ provide CONTRACTOR ~~is made aware~~ with a copy of
 20 the relevant ~~policies and procedures~~ HCA P&Ps relating to HCA's Compliance Program, HCA's Code of
 21 Conduct and General Compliance Trainings.

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

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

30 4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then it
 31 shall submit a copy of its Compliance Program, Code of Conduct and relevant P&Ps to
 32 ADMINISTRATOR within thirty (30) calendar days of award of this Agreement. ADMINISTRATOR's
 33 Compliance Officer shall determine if CONTRACTOR Compliance Program and Code of Conduct
 34 contains all required elements. CONTRACTOR shall take necessary action to meet said standards or
 35 shall be asked to acknowledge and agree to the HCA's Compliance Program and Code of Conduct if the
 36 CONTRACTOR's Compliance Program and Code of Conduct do not contain all required elements.

37 5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the

1 CONTRACTOR Compliance Program and Code of Conduct contains all required elements,
 2 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of
 3 CONTRACTOR's Compliance Program, Code of Conduct and related P&Ps.

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

8 ~~2~~ B. SANCTION SCREENING – CONTRACTOR shall adhere to all screening P&Ps and
 9 screen all Covered Individuals employed or retained to provide services related to this Agreement to
 10 ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall
 11 be conducted against the General Services Administration's Excluded Parties List System or System for
 12 Award Management, the HHS/OIG List of Excluded Individuals/Entities, and the California Medi-Cal
 13 Suspended and Ineligible Provider List and/or any other as identified by the ADMINISTRATOR.

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

23 ~~3. CONTRACTOR has the option to adhere to ADMINISTRATOR's Compliance Program or~~
 24 ~~establish its own, provided CONTRACTOR's Compliance Program has been verified to include all~~
 25 ~~required elements by ADMINISTRATOR's Compliance Officer as described in Subparagraphs A.4.,~~
 26 ~~A.5., A.6., and A.7. below.~~

27 ~~4. If CONTRACTOR elects to have its own Compliance Program then it shall submit a copy~~
 28 ~~of its Compliance Program and relevant policies and procedures to ADMINISTRATOR within thirty~~
 29 ~~(30) calendar days of award of this Agreement.~~

30 ~~5. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's~~
 31 ~~Compliance Program contains all required elements. CONTRACTOR shall take necessary action to~~
 32 ~~meet said standards or shall be asked to acknowledge and agree to the ADMINISTRATOR's~~
 33 ~~Compliance Program if the CONTRACTOR's Compliance Program does not contain all required~~
 34 ~~elements.~~

35 ~~6. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the~~
 36 ~~CONTRACTOR's Compliance Program contains all required elements, CONTRACTOR shall ensure~~
 37 ~~that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's~~

~~Compliance Program and related policies and procedures:~~

~~7. Failure of CONTRACTOR to submit its Compliance Program and relevant policies and procedures shall constitute a material breach of this Agreement. 2. An Failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.~~

~~B. SANCTION SCREENING CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement to ensure that they are not designated as Ineligible Persons, as defined hereunder. Screening shall be conducted against the General Services Administration's List of Parties Excluded from Federal Programs, the Health and Human Services/OIG List of Excluded Individuals/Entities, and Medi-CAL Suspended and Ineligible List.~~

~~1. Ineligible Person shall be any individual or entity who:~~

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

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

~~23. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this Agreement.~~

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

~~45. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify ADMINISTRATOR immediately upon such disclosure if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.~~

~~56. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with COUNTY in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Agreement.~~

~~67. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or~~

entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened. Such individual or entity shall be immediately removed from participating in any activity associated with this Agreement. ADMINISTRATOR will determine appropriate repayment from or sanction(s) to CONTRACTOR for services provided by ineligible person or individual.

~~7.~~ CONTRACTOR shall promptly return any overpayments within ~~in~~ forty-five (45) business days after the overpayment is verified by the ADMINISTRATOR.

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

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

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

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

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

~~D. D. CODE OF CONDUCT – ADMINISTRATOR has developed a Code of Conduct for adherence by ADMINISTRATOR’s employees and contract providers.~~

~~1. ADMINISTRATOR shall ensure that CONTRACTOR is made aware of ADMINISTRATOR’s Code of Conduct.~~

~~2. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR’s Code of Conduct.~~

~~3. CONTRACTOR has the option to adhere to ADMINISTRATOR’s Code of Conduct or establish its own provided CONTRACTOR’s Code of Conduct has been approved by ADMINISTRATOR’s Compliance Officer as described in subparagraphs D.4., D.5., D.6., D.7., and D.8. below.~~

~~4. If CONTRACTOR elects to have its own Code of Conduct, then it shall submit a copy of its Code of Conduct to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.~~

~~5. ADMINISTRATOR’s Compliance Officer shall determine if CONTRACTOR’s Code of Conduct is accepted. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the ADMINISTRATOR’s Code of Conduct.~~

~~6. Upon approval of CONTRACTOR’s Code of Conduct by ADMINISTRATOR, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR’s Code of Conduct.~~

~~7. If CONTRACTOR elects to adhere to ADMINISTRATOR's Code of Conduct then CONTRACTOR shall submit to ADMINISTRATOR a signed acknowledgement and agreement that CONTRACTOR shall comply with ADMINISTRATOR's Code of Conduct.~~

~~8. Failure of CONTRACTOR to timely submit the acknowledgement of ADMINISTRATOR's Code of Conduct shall constitute a material breach of this Agreement, and failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.~~

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

1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner and are consistent with federal, state and county laws and regulations.

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

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

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

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

V. CONFIDENTIALITY

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

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

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

1 Part 2.6 relating to confidentiality of medical information.

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

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

12 **VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

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

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

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

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

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

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

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

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

#

~~B. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY. For CONTRACTORS which are nonprofit corporations, any change from a nonprofit corporation to any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%) of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an assignment for purposes of this paragraph 4. This provision shall not be applicable to service agreements usually and customarily entered into by CONTRACTOR to obtain or arrange for supplies, technical support, and professional services provided by consultants.~~

~~Any attempted assignment or delegation in derogation of this paragraph shall be void.~~

~~C. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY. For CONTRACTORS which are for profit organizations, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a change in fifty percent (50%) or more of CONTRACTOR's directors at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or delegation in derogation of this paragraph shall be void.~~

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VII. EMPLOYEE ELIGIBILITY VERIFICATION

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

VIII. EXPENDITURE AND REVENUE REPORT

A. No later than sixty (60) calendar days following termination of each period or fiscal year of this Agreement, CONTRACTOR shall submit to ADMINISTRATOR, for informational purposes only, an Expenditure and Revenue Report for the preceding period or fiscal year, or portion thereof. Such report shall be prepared in accordance with the procedure that is provided by ADMINISTRATOR and ~~generally accepted accounting principles~~ GAAP.

B. CONTRACTOR may be required to submit periodic Expenditure and Revenue Reports throughout the term of ~~the~~ this Agreement.

#

IX. FACILITIES, PAYMENTS AND SERVICES

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

X. INDEMNIFICATION AND INSURANCE

A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY, which approval shall not be unreasonably withheld, and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board (COUNTY INDEMNITEES) harmless from any claims, demands, including defense costs, or liability of any kind or nature, including, but not limited to,

1 personal injury or property damage, arising from or related to the services, products or other
 2 performance provided by CONTRACTOR pursuant to this Agreement. If judgment is entered against
 3 CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active
 4 negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that
 5 liability will be apportioned as determined by the court. Neither party shall request a jury
 6 apportionment.

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

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

19 ~~D. — D. Without limiting CONTRACTOR's indemnification, CONTRACTOR warrants that it~~
 20 ~~is self-insured or shall maintain in force at all times during the term of this Agreement, the policy or~~
 21 ~~policies of insurance covering its operations placed with reputable insurance companies in amounts as~~
 22 ~~specified in the Referenced Contract Provisions of this Agreement. Upon request by~~
 23 ~~ADMINISTRATOR, CONTRACTOR shall provide evidence of such insurance.~~

24 ~~COUNTY and CONTRACTOR warrant that they are self-insured or maintain~~ — E. — COUNTY
 25 ~~warrants that it is self-insured or maintains~~ policies of insurance placed with reputable insurance
 26 companies licensed to do business in the State of California which ~~insures~~ insure the perils of bodily
 27 injury, medical, professional liability, and property damage. — Upon request by CONTRACTOR,
 28 COUNTY shall provide evidence of such insurance.

29 E. QUALIFIED INSURER

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

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

37 F. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum

limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 aggregate
Automobile Liability including coverage	\$1,000,000 per occurrence for owned, non-owned and hired vehicles
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$10,000,000 per claims made or per occurrence
Sexual Misconduct Liability	\$1,000,000 per occurrence

G. REQUIRED COVERAGE FORMS

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

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

//

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

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

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

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

J. The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its

1 electd and appointed officials, officers, agents and employees.

2 K. If CONTRACTOR’s Professional Liability policy is a "claims made" policy, CONTRACTOR
3 shall agree to maintain professional liability coverage for two years following completion of Agreement.

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

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

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

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

18 P. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

22 //

23 //

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

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

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

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

36 b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late
37 COI or endorsement for each business day, pursuant to any and all Agreements between COUNTY and

1 CONTRACTOR, until such time that the required COI and endorsements that meet the insurance
2 provisions stipulated in this Agreement are submitted to ADMINISTRATOR.

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

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

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9 **XI.- INSPECTIONS AND AUDITS**

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

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

- 22 a. Level and quality of care, including the necessity and appropriateness of the services
23 provided.
- 24 b. Internal procedures for assuring efficiency, economy, and quality of care.
- 25 c. Compliance with COUNTY Client Grievances Procedures.
- 26 d. Financial records when determined necessary to protect public funds.

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

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

35 ~~C. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of~~
36 ~~services.~~

37 ~~D.~~ C. AUDIT RESPONSE

~~1. 5. CFR, Title 42 and Title 45.~~

~~1. 6. USC Title 42.~~

~~1. 7. Federal Social Security Act, Title XVIII and Title XIX.~~

~~1. 8. 42 USC, Chapter 126, 12101, et seq., the Americans with Disabilities Act of 1990.~~

~~1. 9. 42 USC, §114 and §§1857, et seq., the Clean Air Act.~~

~~1. 10. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.~~

~~11. 31 USC 7501.70, Federal single Audit Act of 1984.~~

~~12. Policies and procedures set forth in MHP Letters.~~

~~13. Policies and procedures set forth in DMH Letters.~~

~~1. 14. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.~~

~~1. 15. OMB Circulars A-87, A-89, A-110, A-122.~~

~~C.~~ ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

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

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

PARA XIII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

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

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

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

D. Any information as described in Subparagraphs A. and B. above shall not imply endorsement by

1 COUNTY, unless ADMINISTRATOR consents thereto in writing.

3 **XIV. MAXIMUM OBLIGATION**

4 **A.** The Aggregate Maximum Obligation of COUNTY for services provided in accordance with all
5 agreements for Mental Health Inpatient Services for Children and Youth during Period One ~~and~~ Period
6 Two, and Period Three, are as specified in the Referenced Contract Provisions of this Agreement. This
7 specific Agreement with CONTRACTOR is only one of several agreements to which this Aggregate
8 Maximum Obligation applies. It therefore is understood by the parties that reimbursement to
9 CONTRACTOR will be only a fraction of these Aggregate Maximum Obligations.

10 **B.** At sole discretion of ADMINISTRATOR, ADMINISTRATOR may increase or decrease the
11 Period One, Period Two, and Period Three Aggregate Maximum Obligations, provided the total of these
12 Aggregate Maximum Obligations does not exceed the Total Aggregate Maximum Obligation of
13 COUNTY as specified in the Referenced Contract Provisions of this Agreement.

14 **XV. ~~NONDISCRIMINATION~~ NONDISCRIMINATION**

15 **A. EMPLOYMENT**

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

25 **2.** ~~CONTRACTOR shall warrant that the evaluation and treatment of employees and~~
26 ~~applicants for employment are free from discrimination~~ CONTRACTOR and its Covered Individuals
27 shall not discriminate against employees or applicants for employment in the areas of employment,
28 promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of
29 pay or other forms of compensation; and selection for training, including apprenticeship.

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

33 **4.** ~~There shall be posted~~ CONTRACTOR shall post in conspicuous places, available to
34 employees and applicants for employment, notices from ADMINISTRATOR and/or the United States
35 Equal Employment Opportunity Commission setting forth the provisions of the Equal Opportunity
36 clause.
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25. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration for employment without regard to ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability. Such ~~requirement~~ requirements shall be deemed fulfilled by use of the ~~phrase "an equal opportunity employer."~~ term EOE.

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

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

1. For the purpose of this ~~Subparagraph B.~~ Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one or more of the factors identified above:

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

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~~C. COMPLAINT PROCESS~~ ~~2. Complaint Process~~ – CONTRACTOR shall establish procedures for advising all clients through a written statement that ~~CONTRACTOR's~~ CONTRACTOR and/or subcontractor's clients may file all complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, ADMINISTRATOR,

1 and/or the COUNTY's Patient's Rights Office. ~~CONTRACTOR's statement shall advise clients of the~~
2 following:

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

7 ~~1) a.~~ COUNTY shall establish a formal resolution and grievance process in the event
8 informal processes do not yield a resolution.

9 ~~2) b.~~ Throughout the problem resolution and grievance process, client rights shall be
10 maintained, including access to the Patients' Rights Office at any point in the process. Clients shall be
11 informed of their right to access the Patients' Rights Office at any time.

12 ~~2) b.~~ ~~In those cases where the client's complaint is filed initially with the Patients'~~
13 ~~Rights Office, the Patients' Rights Office may proceed to investigate the client's complaint.~~

14 ~~e.~~ Within the time limits procedurally imposed, the complainant shall be notified in
15 writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, may file
16 an appeal ~~with the Patients' Rights Office.~~

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

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

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

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37 **XVI. NOTICES**

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

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

6 2. When faxed, transmission confirmed;

7 3. When sent by Email; or

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

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

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

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

20 ~~E. In the event of a death, notification shall be made in accordance with the Notification of Death~~
21 ~~paragraph of this Agreement.~~

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29 **XVII. NOTIFICATION OF DEATH**

30 A. ~~NON-TERMINAL ILLNESS DEATH~~ Upon becoming aware of the death of any person served
31 pursuant to this Agreement, CONTRACTOR shall immediately notify ADMINISTRATOR.

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

35 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by
36 telephone immediately upon becoming aware of the death due to non-terminal illness of any person
37 served ~~hereunder~~ pursuant to this Agreement; provided, however, weekends and holidays shall not be

1 included for purposes of computing the time within which to give telephone notice and, notwithstanding
2 the time limit herein specified, notice need only be given during normal business hours.

3 **2. ~~In addition,~~ WRITTEN NOTIFICATION**

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

8 **b. TERMINAL ILLNESS** – ~~3. The telephone report and written~~
9 ~~Notification of Non-Terminal Illness Death shall contain the name of the deceased, the date and time of~~
10 ~~death, the nature and circumstances of the death, and the name(s) of CONTRACTOR's officers or~~
11 ~~employees with knowledge of the incident.~~

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14 ~~B. TERMINAL ILLNESS DEATH~~

15 ~~1.~~ CONTRACTOR shall notify ADMINISTRATOR by written report ~~faxed,~~ hand delivered,
16 faxed, sent via encrypted email, and/or postmarked and sent via U.S. Mail within forty-eight (48) hours
17 of becoming aware of the death due to terminal illness of any person served ~~hereunder. The Notification~~
18 ~~of Terminal Illness Death shall contain the name of the deceased, the date and time of death, the nature~~
19 ~~and circumstances of the death, and the name(s) of CONTRACTOR's officers or employees with~~
20 ~~knowledge of the incident~~ pursuant to this Agreement.

21 ~~2C.~~ If there are any questions regarding the cause of death of any person served
22 ~~hereunder~~ pursuant to this Agreement who was diagnosed with a terminal illness, or if there are any
23 unusual circumstances related to the death, CONTRACTOR shall immediately notify
24 ADMINISTRATOR in accordance with ~~Subparagraph A. above~~ this Notification of Death Paragraph.

26 **XVIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

35 **XIX. RECORDS MANAGEMENT AND MAINTENANCE**

36 **A.** CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
37 of this Agreement, prepare, maintain and manage records appropriate to the services provided and in

1 accordance with this Agreement and all applicable requirements, ~~which include, but are not limited to:~~
2 ~~1. CCR Title 22, §§70751(e), 71551(e), 73543(a), 74731(a), 75055(a), 75343(a), and~~
3 ~~77143(a).~~

4 ~~2. HSC §123145.~~

5 ~~3. Title 45 CFR, §164.501; §164.524; §164.526; §164.530(e) and (j).~~

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

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

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

16 E. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,
17 preparation, and confidentiality of records related to participant, client and/or patient records are met at
18 all times.

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

23 #

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

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

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

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

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

34 2. Provide auditor or other authorized individuals access to documents via a computer
35 terminal.

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

H. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and security of PII and/or PHI. CONTRACTOR shall, ~~notify COUNTY immediately by telephone call plus email or fax upon the discovery of a breach~~ Breach of ~~privacy unsecured PHI and/or security of PII and/or PHI by CONTRACTOR, notify ADMINISTRATOR of such breach by telephone and email or facsimile.~~

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

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

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

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

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

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

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

~~XX.~~ RESEARCH AND PUBLICATION ~~REVENUE~~

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

XXI. REVENUE

A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal Services or other third party health plans, are provided pursuant to this Agreement, their estates and

1 responsible relatives, according to their ability to pay as determined by the State ~~Department of Mental~~
 2 ~~Health's~~ DHCS UMDAP procedure or by other payment procedure as approved in advance, and in
 3 writing by ADMINISTRATOR; and in accordance with Title 9 of the ~~California Code of~~
 4 ~~Regulations.~~ CCR. Such fee shall not exceed the actual cost of services provided. No client shall be
 5 denied services because of an inability to pay.

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

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

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

18 XXII. RIGHT TO WORK AND MINIMUM WAGE LAWS

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

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

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

35 D. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR,
 36 where applicable, shall comply with the prevailing wage and related requirements, as provided for in
 37

1 accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the
2 State of California (§§1770, et seq.), as it exists or may hereafter be amended.

3
4 **XXIII. SEVERABILITY**

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

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13 **XXIV. SPECIAL PROVISIONS**

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

- 16 1. Making cash payments to intended recipients of services through this Agreement.
- 17 2. Lobbying any governmental agency or official ~~or making political contributions.~~

18 CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to
19 Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal
20 contracting and financial transactions).

- 21 3. ~~Supplanting current funding for existing services.~~

- 22 ~~4. Fundraising.~~

23 ~~5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for~~
24 CONTRACTOR's staff, volunteers, or members of the Board of Directors.

25 ~~6. Reimbursement of CONTRACTOR's members of the Board of Directors for expenses or~~
26 services.

27 ~~7. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,~~
28 subcontractors, and members of the Board of Directors or its designee or authorized agent, or making
29 salary advances or giving bonuses to CONTRACTOR's staff.

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

- 33 ~~9. Severance pay for separating employees.~~

34 ~~10. Paying rent and/or lease costs for a facility prior to the facility meeting all required~~
35 building codes and obtaining all necessary building permits for any associated construction.

- 36 10. Supplanting current funding for existing services.

37 B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR

1 shall not use the funds provided by means of this Agreement for the following purposes:

2 ~~1. Purchasing or improving land, including constructing or permanently improving~~
3 ~~any building or facility, except for tenant improvements.~~

4 ~~2. Providing inpatient hospital services or purchasing major medical equipment.~~

5 ~~3. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal~~
6 ~~funds (matching).~~

7 ~~4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for~~
8 ~~CONTRACTOR's clients.~~

9 ~~5. Funding travel or training (excluding mileage or parking).~~

10 ~~6. Making phone calls outside of the local area unless documented to be directly for the~~
11 ~~purpose of client care.~~

12 ~~7. Payment for grant writing, consultants, certified public accounting, or legal services.~~

13 ~~8. Purchase of artwork or other items that are for decorative purposes and do not directly~~
14 ~~contribute to the quality of services to be provided pursuant to this Agreement.~~

15 **XXV. STATUS OF ~~CONTRACTOR~~ CONTRACTOR**

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

28 **XXVI. TERM**

29
30
31 A. This specific Agreement with CONTRACTOR is only one of several agreements to which the
32 term of this ~~Master~~ Agreement applies. ~~The term of this Master~~ This specific Agreement shall
33 commence ~~on July 1, 2012 and~~ as specified in the Reference Contract Provisions of this Agreement or
34 the execution date, whichever is later. ~~This specific Agreement shall terminate on June 30, 2014;~~
35 ~~provided, however, that the specific term for CONTRACTOR shall be~~ as specified in the Referenced
36 Contract Provisions of this Agreement; and, unless otherwise sooner terminated as provided further that
37 the parties in this Agreement; provided, however, CONTRACTOR shall ~~continue to~~ be obligated to

~~comply with the requirements and~~ perform ~~the~~ such duties ~~specified in~~ as would normally extend beyond this Agreement. ~~Such duties include,~~ term, including but ~~are~~ not limited to, obligations with respect to confidentiality, indemnification, audits, reporting, and accounting.

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

XXVII. TERMINATION

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

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

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

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

D. CONTINGENT FUNDING

1. Any obligation of COUNTY under this Agreement is contingent upon the following:
 - a. The continued availability of federal, state and county funds for reimbursement of COUNTY’s expenditures, and
 - b. Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.
2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,

1 terminate or renegotiate this Agreement upon thirty (30) calendar days written notice given
2 CONTRACTOR.

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

7 F. In the event this Agreement is terminated by either party, after receiving a Notice of
8 Termination, CONTRACTOR shall do the following:

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

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

13 ~~3. If clients~~ 3. Until the date of termination, continue to provide the same level of
14 service required by this Agreement.

15 4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR,
16 upon request, all ~~client~~Client information and records deemed necessary by ADMINISTRATOR to
17 ~~effect~~affect an orderly transfer.

18 5. Assist ADMINISTRATOR in effecting the transfer of ~~clients~~Clients in a manner consistent
19 with ~~client's~~Client's best interests.

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

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

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

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

32
33 **XXVIII. THIRD PARTY BENEFICIARY**

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

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XXIX. WAIVER OF DEFAULT OR BREACH

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

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

3
4 «UC_NAME»

5
6 BY: _____ DATED: _____

7
8 TITLE: _____

9
10
11 BY: _____ DATED: _____

12
13 TITLE: _____

14
15
16 COUNTY OF ORANGE

17
18
19 BY: _____ DATED: _____

20 HEALTH CARE AGENCY

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

27
28
29 BY: _____ DATED: _____

30 DEPUTY

31
32
33
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
37 or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her
signature alone is required by HCA ADMINISTRATOR.

1 EXHIBIT A
 2 TO AGREEMENT FOR PROVISION OF
 3 MENTAL HEALTH INPATIENT SERVICES ~~TO~~FOR ADOLESCENTS AND CHILDREN
 4 ~~WITH~~
 5 ~~BETWEEN~~
 6 ~~COUNTY OF ORANGE~~
 7 ~~AND~~
 8 ~~«UC_NAME»~~
 9 JULY 1, ~~2012~~2014 THROUGH JUNE 30, ~~2014~~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~~this Agreement.

14 A. ~~For~~MHIS, for payment purposes, ~~“Mental Health Inpatient Services”~~ means all services
15 required by this Agreement except Neuroimaging Studies, Psychological testing, and Medical Services.

16 B. ~~“Unit of Service”~~UOS means one (1) calendar day during which CONTRACTOR provides all
17 of the ~~Mental Health Inpatient Services~~MHIS described hereunder, which day shall begin at 12:00 a.m.
18 The number of reimbursable ~~Units of Service~~UOS shall include the day of admission and exclude the
19 day of discharge unless admission and discharge occur on the same day.

20 C. ~~“Psychiatric Inpatient Hospital Services” means services, including ancillary services, provided~~
21 ~~in an acute care hospital for the care and treatment of an acute episode of mental illness.~~

22 ~~—D. “NPI”~~ means the standard unique health identifier that was adopted by the Secretary of
23 ~~HHS~~Health and Human Services under HIPAA of 1996 for health care providers.

24 E. ~~“D. NPP”~~ is a document that notifies individuals of uses and disclosures of PHI that may be
25 made by or on behalf of the health plan or health care provided as set forth in the HIPAA.

26 F. ~~“E. PHI”~~ is individually identifiable health information usually transmitted by electronic media,
27 maintained in any medium as defined in the regulations, or for an entity such as a health plan,
28 transmitted or maintained in any other medium. It is created or received by a covered entity, and relates
29 to the past, present or future physical or mental health or condition of an individual, provision of health
30 care to an individual.

31
32 **II. ISSUE RESOLUTION**~~PAYMENTS~~

33 For resolution of issues between CONTRACTOR and ADMINISTRATOR with respect to the
34 implementation and operation of this Agreement or COUNTY’s policies and procedures regarding
35 services described herein, the following sequential steps shall apply:

36 A. CONTRACTOR shall routinely utilize all informal communication processes and methods with
37 ADMINISTRATOR program and administrative staff including, but not limited to, telephone contact,

1 electronic mail (e-mail), FAX, written correspondence and meetings, to resolve any issues or problems
2 regarding the implementation and operation of this Agreement or COUNTY's policies and procedures
3 regarding services described herein.

4 B. If the parties are unable to resolve the issue, CONTRACTOR shall give written notice to
5 ADMINISTRATOR setting forth in specific terms the existence and nature of any unresolved matter or
6 concern related to the purposes and obligations of this Agreement. ADMINISTRATOR shall have
7 fifteen (15) calendar days following such notice to obtain resolution of any issue(s) identified in this
8 manner, provided, however, by mutual consent this period of time may be extended to thirty (30)
9 calendar days.

10 C. If the parties are unable to obtain resolution of the issue, they shall submit a joint written
11 Statement describing the facts of the issue, within thirty (30) calendar days after the written notice
12 described above to ADMINISTRATOR's Director of Behavioral Health Care for final resolution.

13 D. The rights and remedies provided by this paragraph are in addition to those provided by law to
14 either party.

15 E. CONTRACTOR AND ADMINISTRATOR may mutually agree, in writing, to modify the Issue
16 Resolution Paragraph of this Exhibit A to the Agreement.

17
18 **III. PATIENT'S RIGHTS**

19 A. CONTRACTOR shall post the current California Department of Mental Health Patients' Rights
20 poster as well as the Orange County HCA Mental Health Plan Complaint and Grievance poster in
21 locations readily available to Clients and staff and have complaint forms and complaint envelopes
22 readily accessible to Clients

23 B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have
24 complaint resolution and grievance processes approved by ADMINISTRATOR, to which the beneficiary
25 shall have access.

26 1. CONTRACTOR's complaint resolution processes shall emphasize informal, easily
27 understood steps designed to resolve disputes as quickly and simply as possible.

28 2. CONTRACTOR's complaint resolution and grievance processes shall incorporate
29 COUNTY's grievance, patients' rights, and utilization management guidelines and procedures.

30 C. Complaint Resolution and Grievance Process – ADMINISTRATOR shall implement complaint
31 and grievance procedures that shall include the following components:

32 1. *Complaint Resolution.* This process will specifically address and attempt to resolve Client
33 complaints and concerns at CONTRACTOR's facility. Examples of such complaints may include
34 dissatisfaction with services or with the quality of care, or dissatisfaction with the condition of the
35 physical plant.

36 2. *Formal Grievance.* ~~A.~~ When the Client's complaint is not resolved at CONTRACTOR's
37 facility and the Client or Client representative requests it, the complaint becomes a formal grievance.

The request is made to County Mental Health Inpatient Services and represents the first step in the formal grievance process.

//

3. Title IX Rights Advocacy. This process may be initiated by a Client who registers a statutory rights violation or a denial or abuse complaint with the County Patients' Rights Office. The Patients' Rights office shall investigate the complaint, and Title IX grievance procedures shall apply, which involve ADMINISTRATOR'S Director of Behavioral Health Care and the State Patients' Rights Office.

D. The parties agree that Clients have recourse to initiate a complaint to CONTRACTOR, appeal to the County Patients' Rights Office, file a formal grievance, and file a Title IX complaint. The Patients' Advocate shall advise and assist the Client, investigate the cause of the complaint or grievance, and attempt to resolve the matter

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

F. CONTRACTOR AND ADMINISTRATOR may mutually agree, in writing, to modify the Patient's Rights Paragraph of this Exhibit A to the Agreement.

IV. PAYMENTS

A. MHIS for Adolescents and Children - COUNTY shall pay CONTRACTOR, ~~monthly in arrears,~~ at ~~the~~ a negotiated rate ~~of \$«Rate»~~ provided, however, the total of all payments to CONTRACTOR and all other contract providers of ~~Mental Health Inpatient Services to Children and MHIS for~~ Adolescents and Children shall not exceed ~~the~~ COUNTY's Aggregate Maximum Obligation for ~~each~~ Period ~~as stated~~ One, Period Two, and Period Three as specified in the Referenced Contract Provisions of the Agreement.

1. CONTRACTOR shall bill ADMINISTRATOR at the negotiated rate of «RATE 1» per bed day.

2. The rate is inclusive of all MHIS and shall constitute payment in full for these services.

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

~~2. Fees and revenues received by CONTRACTOR, from or on behalf of clients receiving services pursuant to the Agreement, shall be deducted from any Mental Health Services invoice to COUNTY.~~

~~B. Neuroimaging Studies and Psychological Testing as defined in Subparagraph III.E. of this Exhibit A to the Agreement, CONTRACTOR shall be reimbursed for the actual cost of services,~~

1 provided ~~CONTRACTOR's invoice to COUNTY for the costs of these services shall be submitted with~~
2 ~~the monthly invoice for hospital services. Invoices shall indicate for whom services were provided, and~~
3 ~~be supported with such documentation as may be required by ADMINISTRATOR.~~

4 ~~C. Medical Services CONTRACTOR shall be reimbursed by COUNTY for authorized medical~~
5 ~~services provided only to clients referred by COUNTY at the usual, customary or reasonable rate for the~~
6 ~~service(s) provided pursuant to Subparagraph III.C. of this Exhibit A to the Agreement. COUNTY shall~~
7 ~~make no payment, and shall not be liable, for any medical expenses of full fee clients, clients with~~
8 ~~insurance, Medicare, Medi-Cal or other third party coverage.~~

9 ~~1. CONTRACTOR shall invoice COUNTY within one hundred eighty (180) days after the last~~
10 ~~date medical services are provided to a COUNTY client. COUNTY shall pay CONTRACTOR within~~
11 ~~forty-five (45) days of COUNTY's receipt of each invoice.~~

12 ~~2. CONTRACTOR shall make every reasonable effort to collect the costs of services from the~~
13 ~~client receiving service. Invoices to COUNTY shall include all professional fees, an assignment to~~
14 ~~COUNTY of any uncollected accounts and the following documents:~~

15 ~~a. An itemized statement of client charges.~~

16 ~~b. Discharge billing/summary for clients admitted for medical treatment C.~~

17 CONTRACTOR shall make a good faith effort to bill and collect to the full extent of coverage those
18 claims covered by all known third-party, primary, or other insurance or third party-payors (including
19 Client fees) for hospital services provided.

20 D. If CONTRACTOR, during the term of the Agreement, identifies and receives reimbursement
21 from a third party, primary or other insurance claim for services reimbursed through this or any prior
22 Agreement, CONTRACTOR shall, within thirty (30) days of receipt, reimburse the COUNTY an
23 amount equal to the payment for the services paid by COUNTY to CONTRACTOR or the third party,
24 primary or other insurance claim payment, whichever is less.

25 //

26 //

27 E. If any reimbursement due the COUNTY is not paid by CONTRACTOR in accordance with
28 Subparagraph D. above, the ADMINISTRATOR shall reduce CONTRACTOR's payment by an amount
29 not to exceed the amount to be reimbursed.

30 F. Following notification from ADMINISTRATOR that any Client served under this contract has
31 become eligible for Medi-Cal, CONTRACTOR agrees to submit retroactive Medi-Cal TARs to
32 ADMINISTRATOR for review. Further, CONTRACTOR agrees to submit hospital claims to EDS and
33 upon receipt of payment, shall remit payment to the COUNTY within sixty (60) days for the total
34 amount previously paid for bed day stay less payment made for professional services during the Medi-
35 Cal eligibility period.

36 G:

37 ~~c. An accounting of client revenue received.~~

- 1 ~~_____ d. A letter assigning client's debt to COUNTY.~~
- 2 ~~_____ e. A copy of the letter sent to client indicating assignment of the debt for medical services~~
- 3 ~~to COUNTY.~~
- 4 ~~_____ 3. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply~~
- 5 ~~with any provision of the Agreement.~~
- 6 ~~_____ 4. CONTRACTOR shall not claim reimbursement for services provided beyond the expiration~~
- 7 ~~and/or termination of the Agreement, except as may otherwise be provided under the Agreement.~~
- 8 ~~_____ D. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the~~
- 9 ~~Payments Paragraph of this Exhibit A to the Agreement.~~

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V. REPORTS

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

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

VI. SERVICES

~~_____ A. DESCRIPTION OF SERVICES~~

CONTRACTOR shall provide MHIS for Adolescents and Children. Services shall be provided in an acute care hospital for the care and treatment of an acute episode of mental illness.

B. FACILITY – CONTRACTOR shall provide acute psychiatric ~~inpatient hospital services~~ MHIS for ~~children~~ Adolescents and ~~adolescents~~ Children at the following location, or at any other location approved, in writing, by ADMINISTRATOR.

~~_____~~ ~~«Fac_Name»~~
~~_____~~ ~~«Fac_Addr»«Fac_PO_Box»~~
~~_____~~ ~~«Fac_City_State_Zip»~~

~~_____ B. PSYCHIATRIC~~

[Fac Name]
[Fac Address] [Fac PO Box]
[Fac City Zip]

C. MENTAL HEALTH INPATIENT ~~HOSPITAL~~ SERVICES

1. Unless provided by COUNTY, CONTRACTOR shall provide, or have provided by members of its staff, psychiatric treatment and other services, in accordance with Title 9 of the CCR which shall include, but not be limited to, the following:

a. Direct evaluation and treatment services to include a history and physical examination of each ~~client~~ Client within twenty-four (24) hours of admission, psychiatric history, diagnosis and evaluation, preparation of an individual treatment plan, medication orders, psychiatric and psychological services compatible with the individual treatment plan, discharge planning, continuing care planning and referral, and follow-up services.

b. CONTRACTOR shall provide psychiatric testimony in all legal proceedings required for the institutionalization, admission, or treatment of ~~clients~~ Clients provided services hereunder. These services shall include but not be limited to, habeas corpus, conservatorship, seventy-two (72)-hour treatment and evaluation, court-ordered evaluation, and appeal and post-certification proceedings.

2. CONTRACTOR shall provide ancillary services necessary for psychiatric evaluation and treatment including clinical laboratory, radiological, pharmaceutical, neurological and neuropsychiatric services as clinically indicated.

3. CONTRACTOR shall provide those services required by Title 22 of the CCR, which shall include, but not be limited to the following:

a. Direct Services – Room and dietetic services, nursing services, including drug administration and ~~client~~ Client care, ~~client~~ Client activities to include occupational/recreational services, social services and educational services.

b. Support Services – Housekeeping, laundry, maintenance, medical records, drug order processing, arrangements for emergency and non-emergency services and transportation.

~~4. CONTRACTOR hospital shall exchange information with COUNTY’s therapist or psychiatrist regarding discharge planning, and shall facilitate visits with current therapists, social workers, probation officers and other key personnel involved with said discharge planning as follows:~~

~~a. CONTRACTOR shall consult with COUNTY’s Hospital Liaison on a daily basis to aid in discharge planning.~~

~~b. Cases shall be assigned to CONTRACTOR’s social worker/case manager within twenty-four (24) hours of admission.~~

~~c. Clinical information shall be shared with the Liaison and a specific aftercare appointment shall be set up prior to discharge.~~

~~d. If the minor is admitted and discharged in the same weekend, it shall be CONTRACTOR’s responsibility to telephone the Liaison the next business day to get the case assigned and follow-up by giving this information to parents/legal guardians. Also, Liaison shall be notified on the day the minor is discharged.~~

~~e. CONTRACTOR must send a completed COUNTY ABC Hospital Discharge Referral~~

1 Form or a copy of the Hospital's Aftercare Plan, a copy of the initial Psychiatric Evaluation, History and
2 Physical Exam, most recent lab studies, medical consults, and Medication Sheets to the appropriate
3 clinic at the time of patient discharge.

4 f. If discharge of a Client from hospitalization is clinically indicated but an alternate
5 appropriate disposition (e.g., home, foster care, etc.) is not immediately available, ADMINISTRATOR
6 may, at its sole discretion, authorize continuation of hospitalization and reimbursement.

7 //

8 g. If ADMINISTRATOR does not approve a request for continuing treatment,
9 ADMINISTRATOR shall work with CONTRACTOR to arrange alternate appropriate treatment upon
10 discharge.

11 h. If ADMINISTRATOR does not approve CONTRACTOR's request for continuation of
12 treatment and CONTRACTOR elects to retain the Client in treatment, CONTRACTOR shall be
13 responsible for the cost of treatment provided.

14 D. PSYCHIATRIC SERVICES

15 1. CONTRACTOR shall cause licensed psychiatrists to provide psychiatric services which
16 shall include the following:

17 a. Direct Treatment Services including psychiatric history, diagnosis and evaluation which
18 shall include an interview, mental status, diagnosis, clinical recommendation, and prescription of
19 medication as required for treatment of the ~~client~~Client.

20 b. Approval of an individual treatment plan and supervision or provision of individual
21 therapy as required by ~~client~~Client; provided, however, the psychiatrist shall provide a minimum of three
22 (3) individual therapy sessions to each ~~client~~Client per week. Each individual therapy session shall be at
23 least thirty (30) minutes in length, and additional sessions shall be provided by a psychiatrist if indicated
24 by ~~client~~Client acuity. All other individual therapy sessions may be provided by a person licensed to
25 provide psychotherapy.

26 c. Supervision or provision of family therapy sessions if indicated, which shall be at least
27 thirty (30) minutes in duration. Family therapy shall be provided two (2) times per week if minor
28 remains hospitalized more than three (3) days. At least one (1) family session shall be provided before
29 discharge unless clinically contraindicated.

30 ~~_____ d. Other services to include supervision of affiliate and nursing staff as it relates to client
31 treatment, clinical consultation to other mental health clinical staff, and participation in
32 CONTRACTOR's quality assurance procedures.~~

33 ~~_____ e~~ d. CONTRACTOR's hospital psychiatrist and social worker/case manager
34 shall consult with parent/legal guardian for minors who are living with parents/legal guardian, SSA for
35 dependents, and Probation for Wards of the Court during the hospital stay.

36 fe. CONTRACTOR's hospital psychiatrist shall make at least one contact with
37 ~~client's~~Client's treating psychiatrist during each hospital stay.

~~5. CONTRACTOR hospital shall exchange information with COUNTY's therapist or psychiatrist regarding discharge planning, and shall facilitate visits with current therapists, social workers, probation officers and other key personnel involved with said discharge planning as follows:~~

~~a. CONTRACTOR _____ f. CONTRACTOR's hospital psychiatrist shall consult provide Clients with ADMINISTRATOR on a daily basis to aid in seven (7) days of medications at discharge planning.~~

~~b. Cases shall be assigned to CONTRACTOR's social worker/case manager within twenty four (24) hours of admission.~~

~~c. Clinical information shall be shared with ADMINISTRATOR. This includes psychiatric medications and a specific aftercare appointment shall be set up prior to discharge.~~

~~d. If the minor is admitted and discharged in the same weekend, it shall be CONTRACTOR's responsibility to telephone the ADMINISTRATOR the next working day to get the case assigned and follow up by giving this information to parents/legal guardians. Also, ADMINISTRATOR shall be notified on the day the minor is discharged.~~

~~e. CONTRACTOR must facsimile a completed COUNTY ABC Hospital Discharge Referral Form or a copy of the Hospital's Aftercare Plan, a copy of the initial Psychiatric Evaluation, History and Physical Exam, most recent lab studies, other medications needed to treat concurrent medical consults, and Medication Sheets to the appropriate clinic at the time of patient discharge conditions.~~

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~~g. Other services to include supervision of affiliate and nursing staff as it relates to Client treatment, clinical consultation to other mental health clinical staff, and participation in CONTRACTOR's quality assurance procedures.~~

~~E _____ f. If discharge of a client from hospitalization is clinically indicated but an alternate appropriate disposition (e.g., home, foster care, etc.) is not immediately available, ADMINISTRATOR may, at its sole discretion, authorize continuation of hospitalization and reimbursement.~~

~~g. If ADMINISTRATOR does not approve a request for continuing treatment, ADMINISTRATOR shall work with CONTRACTOR to arrange alternate appropriate treatment upon discharge.~~

~~h. If ADMINISTRATOR does not approve CONTRACTOR's request for continuation of treatment and CONTRACTOR elects to retain the client in treatment, CONTRACTOR shall be responsible for the cost of treatment provided.~~

~~C. MEDICAL SERVICES~~

1. CONTRACTOR shall provide medical services, as required, to ~~clients~~ Clients treated pursuant to this Agreement. For purposes of this paragraph such medical services shall be limited to those which are not necessary to the evaluation ~~or~~ and treatment of psychiatric disorders.

2. CONTRACTOR shall be reimbursed by COUNTY for medical services provided only to

1 ~~clients~~ unfunded Clients referred by ADMINISTRATOR COUNTY. Medical services provided to such
2 ~~clients~~ Clients shall be authorized and billed in the following manner:

3 a. Emergency Medical Services – For purposes of this ~~paragraph~~ subparagraph, an
4 "emergency" is defined as a life-threatening event requiring immediate medical attention.
5 CONTRACTOR may receive ADMINISTRATOR COUNTY approval for treatment of medical
6 emergencies by telephone. A TAR form shall be completed for all medical services provided to
7 COUNTY ~~clients~~ COUNTY's Clients; provided, however, in the case of emergency medical treatment,
8 the required TAR form may be completed by CONTRACTOR and ~~mailed~~ sent to COUNTY after the
9 approved services are provided.

10 b. Non-Emergency Medical Services

11 1) CONTRACTOR shall request prior approval for non-emergency medical services
12 on COUNTY's TAR form. TAR forms shall be supplied by ADMINISTRATOR. Completed TAR
13 forms shall be mailed in accordance with the Notices Paragraph of ~~the~~ this Agreement.

14 2) ADMINISTRATOR COUNTY shall report to CONTRACTOR, within three (3)
15 ~~working~~ business days after receipt of the TAR form, whether the request for treatment has been
16 approved.

17 ~~D~~F. CLINICAL CARE STANDARDS

18 1. CONTRACTOR shall develop and maintain a plan for Quality Improvement, of which the
19 overall goal is the maintenance of high quality ~~client~~ Client care and effective utilization of services
20 offered. This plan will include utilization review, peer review, and medication monitoring as mandated
21 by the DHCS. CONTRACTOR shall adhere to the standards set forth in Title 9 of the CCR.

22 2. CONTRACTOR shall allow ADMINISTRATOR to take part in utilization review
23 activities.

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26 a. If ADMINISTRATOR does not approve a request for continuing treatment,
27 ADMINISTRATOR shall work with CONTRACTOR to arrange alternate appropriate treatment upon
28 discharge.

29 b. If discharge of a ~~client~~ Client from hospitalization is clinically indicated but an alternate
30 appropriate disposition (e.g., home, foster care, etc.) is not immediately available, ADMINISTRATOR
31 may, at its sole discretion, authorize continuation of hospitalization and reimbursement.

32 c. If ADMINISTRATOR does not approve CONTRACTOR's request for continuation of
33 treatment and CONTRACTOR elects to retain the ~~client~~ Client in treatment, CONTRACTOR shall be
34 responsible for the cost of treatment provided.

35 3. CONTRACTOR shall implement all provisions of DHCS letter 87-24, as it may
36 periodically amended or changed, regarding aftercare plans for patients.

37 ~~E~~G. NEUROIMAGING STUDIES AND PSYCHOLOGICAL TESTING – CONTRACTOR may, as

part of the diagnosis and evaluation of a COUNTY ~~client's~~Client's psychiatric condition, authorize request necessary testing. CONTRACTOR shall receive approval from ADMINISTRATOR before such testing, and document this approval in the ~~client's~~Client's medical record. The parties expect that testing will be infrequent.

H. CONTRACTOR RESPONSIBILITIES

CONTRACTOR shall:

1. Attend periodic meetings with CYS.
2. Follow current legislative requirements for wards and dependents of the Juvenile Court. CONTRACTOR shall obtain information regarding any court ordered monitoring of visits, mandatory translators, and other court orders from SSA, Probation, or any other responsible agency.
3. Cooperate with ADMINISTRATOR to collect any hospital-related State required Performance Outcome Measures. ADMINISTRATOR will share results with hospital as they become available.
4. Make its best efforts to provide services pursuant to this Agreement in a manner that is culturally and linguistically appropriate for the population(s) served.
5. Maintain documentation of such efforts which may include, but not be limited to: records of participation in COUNTY-sponsored or other applicable training; recruitment and hiring policies and procedures; copies of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity to, persons who are physically challenged.
6. Document all adverse incidents affecting the physical and/or emotional welfare of Clients, including but not limited to serious physical harm to self or others, serious destruction of property, developments, etc., and which may raise liability issues with COUNTY. CONTRACTOR shall notify ADMINISTRATOR within twenty-four (24) hours of any such serious adverse incident.
7. Not conduct any proselytizing activities, regardless of funding sources, with respect to any person who has been referred to CONTRACTOR by ADMINISTRATOR under the terms of this Agreement. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian institution, or religious belief.
8. ~~F. PERSONS~~ Document any readmissions that occur within thirty (30) days after discharge.

I. INDIVIDUALS TO BE SERVED

1. CONTRACTOR shall provide services to only those ~~clients~~Clients referred by ADMINISTRATOR. At its sole discretion, ADMINISTRATOR shall make referrals based upon the age of the ~~client~~Client, the relative geographic proximity of the hospital to the residence of the ~~client's~~Client's family, the availability of beds, and the appropriateness of the treatment milieu.
2. CONTRACTOR shall provide acute psychiatric inpatient services to ~~clients~~Clients with a psychiatric diagnosis as defined in the current Diagnostic and Statistical Manual of Mental Disorders,

1 who meet CONTRACTOR’s admission criteria. Clients must be medically stable for admission and not
2 in need of detoxification. Clients experiencing medical problems due to ingestion of medication or
3 other toxic substances shall have been medically cleared prior to referral to CONTRACTOR.

4 ~~G~~
5 ~~//~~

6 J. PROGRAM MODIFICATIONS - CONTRACTOR shall notify ADMINISTRATOR in writing
7 thirty (30) days prior to any change in service components, including program change, bed availability,
8 and other substantive changes, which might impact ~~client~~ patient care.

9 HK. STAFFING

10 1. For the unit in which services are provided pursuant to this Agreement, CONTRACTOR
11 shall provide clinical staffing as required by Title 9, CCR, Section 663 as it exists now or may hereafter
12 be amended or changed.

13 2. CONTRACTOR shall provide administrative and clerical staff to support the above-
14 mentioned staffing and the services provided pursuant to ~~the~~ this Agreement.

15 IL. NPI – All HIPAA covered healthcare providers, individuals and organizations must obtain an
16 NPI for use to identify themselves in HIPAA standard transactions. The NPI is assigned to individuals
17 for life.

18 JM. NPP – CONTRACTOR shall provide, upon request, the NPP for the ~~COUNTY~~ County of
19 Orange, as the ~~MHP~~ Mental Health Plan, to any individual who received services under ~~the~~ this
20 Agreement.

21 KN. COUNTY may choose to provide the psychiatric services set forth in Subparagraph ~~III.B.4~~
22 ~~of this Exhibit A to the Agreement~~ D. above. COUNTY psychiatrists providing such services at
23 CONTRACTOR’s facility shall file an application with CONTRACTOR for staff membership, meet the
24 requirements set by CONTRACTOR for its own medical staff, adhere to all necessary rules and
25 regulations of CONTRACTOR, and stipulate in writing, on a case-by-case basis, that the psychiatrist is
26 assuming responsibilities set forth in ~~the~~ this Services Paragraph ~~of this Exhibit A to the Agreement~~.

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

30 **IV. ISSUE RESOLUTION**

31 ~~— For resolution of issues between CONTRACTOR and COUNTY with respect to the implementation~~
32 ~~and operation of the Agreement or COUNTY’s P&P regarding services described herein, the following~~
33 ~~sequential steps shall apply:~~

34 ~~— A. CONTRACTOR shall routinely utilize all informal communication processes and methods with~~
35 ~~ADMINISTRATOR program and administrative staff including, but not limited to, telephone contact,~~
36 ~~electronic mail (e-mail), FAX, written correspondence and meetings, to resolve any issues or problems~~
37 ~~regarding the implementation and operation of the Agreement or COUNTY’s P&P regarding services~~

1 ~~described herein.~~

2 ~~— B. If the parties are unable to resolve the issue, CONTRACTOR shall give written notice to~~
3 ~~ADMINISTRATOR setting forth in specific terms the existence and nature of any unresolved matter or~~
4 ~~concern related to the purposes and obligations of the Agreement. ADMINISTRATOR shall have~~
5 ~~fifteen (15) calendar days following such notice to obtain resolution of any issue(s) identified in this~~
6 ~~manner, provided, however, by mutual consent this period of time may be extended to thirty (30)~~
7 ~~calendar days.~~

8 ~~— C. If the parties are unable to obtain resolution of the issue, they shall submit a joint written~~
9 ~~statement describing the facts of the issue, within thirty (30) calendar days after the written notice~~
10 ~~described above to COUNTY's Director of Behavioral Health, or designee, for final resolution.~~

11 ~~— D. The rights and remedies provided by this paragraph are in addition to those provided by law to~~
12 ~~either party.~~

13 ~~— E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Issue~~
14 ~~Resolution Paragraph of this Exhibit A to the Agreement.~~

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19 **V. PATIENTS' RIGHTS**

20 ~~— A. CONTRACTOR shall post the current DHCS Patients' Rights poster as well as the COUNTY~~
21 ~~MHP Complaint and Grievance poster in locations readily available to clients and staff and have~~
22 ~~complaint forms and complaint envelopes readily accessible to clients~~

23 ~~— B. In addition to those processes provided by COUNTY, CONTRACTOR shall have complaint~~
24 ~~resolution and grievance processes approved by ADMINISTRATOR, to which the beneficiary shall have~~
25 ~~access.~~

26 ~~— 1. CONTRACTOR's complaint resolution processes shall emphasize informal, easily~~
27 ~~understood steps designed to resolve disputes as quickly and simply as possible.~~

28 ~~— 2. CONTRACTOR's complaint resolution and grievance processes shall incorporate~~
29 ~~COUNTY's grievance, patients' rights, and utilization management guidelines and procedures.~~

30 ~~— C. Complaint Resolution and Grievance Process — COUNTY shall implement complaint and~~
31 ~~grievance procedures that shall include the following components:~~

32 ~~— 1. *Complaint Resolution.* This process will specifically address and attempt to resolve client~~
33 ~~complaints and concerns at CONTRACTOR's facility. Examples of such complaints may include~~
34 ~~dissatisfaction with services or with the quality of care, or dissatisfaction with the condition of the~~
35 ~~physical plant.~~

36 ~~— 2. *Formal Grievance.* When the client's complaint is not resolved at CONTRACTOR's~~
37 ~~facility and the client or client representative requests it, the complaint becomes a formal grievance. The~~

request is made to ADMINISTRATOR and represents the first step in the formal grievance process.

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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
MENTAL HEALTH INPATIENT SERVICES FOR ADOLESCENTS AND CHILDREN
BETWEEN
COUNTY OF ORANGE
AND
«UC_NAME»
JULY 1, 2014 THROUGH JUNE 30, 2017

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. Title IX Rights Advocacy. This process may be initiated by a client who registers a statutory rights violation or a denial or abuse complaint with the COUNTY Patients’ Rights Office. The Patients’ Rights Office shall investigate the complaint, and Title IX grievance procedures shall apply, which involve the COUNTY’s Director of Behavioral Health, or designee, and the State Patients’ Rights Office.~~

~~D. The parties agree that clients have recourse to initiate a complaint to CONTRACTOR, appeal to the COUNTY Patients’ Rights Office, file a formal grievance, and file a Title IX complaint. The Patients’ Advocate shall advise and assist the client, investigate the cause of the complaint or grievance, and attempt to resolve the matter~~

~~E. No provision of this Agreement shall be construed as to replacing or conflicting with the duties of COUNTY Patients' Rights Office pursuant to WIC Section 5500.~~

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

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VI. REPORTS

~~A. ADMINISTRATOR may request reasonable reports of CONTRACTOR in order to determine the quality and nature of services provided hereunder. ADMINISTRATOR will be specific as to the nature of information requested, and allow thirty (30) days for CONTRACTOR to respond.~~

~~B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the~~

1 ~~Reports Paragraph of this Exhibit A to the Agreement.~~

2
3 ~~**VII. RESPONSIBILITIES**~~

4 ~~A. CONTRACTOR shall:~~

5 ~~1. Attend periodic meetings with ADMINISTRATOR.~~

6 ~~2. Follow current legislative requirements for wards and dependents of the Juvenile Court.~~
7 ~~CONTRACTOR shall obtain information regarding any court ordered monitoring of visits, mandatory~~
8 ~~translators, and other court orders from SSA, Probation, or any other responsible agency.~~

9 ~~3. Cooperate with COUNTY to collect any State required Performance Outcome Measures.~~
10 ~~COUNTY will share results with hospital as they become available.~~

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

17 ~~5. Document all adverse incidents affecting the physical and/or emotional welfare of clients,~~
18 ~~including but not limited to serious physical harm to self or others, serious destruction of property,~~
19 ~~developments, etc., and which may raise liability issues with COUNTY. CONTRACTOR shall notify~~
20 ~~COUNTY within twenty four (24) hours of any such serious adverse incident.~~

21 ~~6. Not conduct any proselytizing activities, regardless of funding sources, with respect to any~~
22 ~~person who has been referred to CONTRACTOR by COUNTY under the terms of the Agreement.~~
23 ~~Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to promote, directly~~
24 ~~or indirectly, any religion, religious creed or cult, denomination or sectarian institution, or religious~~
25 ~~belief.~~

26 ~~B. ADMINISTRATOR shall:~~

27 ~~1. Assist CONTRACTOR's social services staff to initiate, develop, and finalize discharge~~
28 ~~planning, necessary follow up services, and placement as necessary.~~

29 ~~2. Conduct a financial evaluation of each client, including application of UMDAP to clients.~~

30 ~~3. Provide necessary client transportation between the facility and another mental health~~
31 ~~facility or a health facility in accordance with the COUNTY's Medical Transportation Contract.~~

32 ~~4. Review the quantity and quality of services provided.~~ The parties agree that a business
33 associate relationship under HIPAA, the HITECH Act, and the HIPAA regulations between the
34 CONTRACTOR and COUNTY arises to the extent that CONTRACTOR performs, or delegates to
35 subcontractors to perform, functions or activities on behalf of COUNTY pursuant to, and as set forth in,
36 the Agreement that are described in the definition of "Business Associate" in 45 CFR § 160.103.

37 3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the

1 terms of the Agreement, some of which may constitute PHI, as defined below in Subparagraph B.10., to
2 be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the
3 Agreement.

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

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

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

16 //

17 with respect to PHI and ePHI created, received, maintained, transmitted, used, or disclosed pursuant to
18 the Agreement.

19 **B. DEFINITIONS**

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

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

25 a. Breach excludes:

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

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

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

37 b. Except as provided in Subparagraph a. of this definition, an acquisition, access, use, or

1 disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach
2 unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised
3 based on a risk assessment of at least the following factors:

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

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

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

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

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

11 4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR
12 § 164.501.

13 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in
14 45 CFR § 160.103.

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

17 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in
18 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
19 with 45 CFR § 164.502(g).

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

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

25 10. "PHI" shall have the meaning given to such term under the HIPAA regulations in
26 45 CFR § 160.103.

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

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

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

35 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of ePHI at
36 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

37 15. "SubCONTRACTOR" shall have the meaning given to such term under the HIPAA

1 regulations in 45 CFR § 160.103.

2 16. "Technical safeguards" means the technology and the P&Ps for its use that protect ePHI and
3 control access to it.

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

8 18. "Use" shall have the meaning given to such term under the HIPAA regulations in
9 45 CFR § 160.103.

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

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

14 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
15 Associate Contract and the Agreement, to prevent use or disclosure of PHI COUNTY discloses to
16 //
17 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
18 other than as provided for by this Business Associate Contract.

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

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

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

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

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

37 8. CONTRACTOR agrees to make any amendment(s) to PHI in a DRS that COUNTY directs

1 or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY or an Individual, within thirty (30)
2 calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify COUNTY in
3 writing no later than ten (10) calendar days after said amendment is completed.

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

9 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to
10 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
11 and to make information related to such Disclosures available as would be required for COUNTY to
12 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with
13 45 CFR § 164.528.

14 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
15 a time and manner to be determined by COUNTY, that information collected in accordance with the
16 //
17 Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of
18 Disclosures of PHI in accordance with 45 CFR § 164.528.

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

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

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

34 15. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting
35 CONTRACTOR in the performance of its obligations under the Agreement, available to COUNTY at no
36 cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative
37 proceedings being commenced against COUNTY, its directors, officers or employees based upon

1 claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which
 2 involves inactions or actions by CONTRACTOR, except where CONTRACTOR or its subcontract,
 3 employee, or agent is a named adverse party.

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

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

16 //

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

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

23 D. SECURITY RULE

24 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish
 25 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with
 26 45 CFR § 164.308, § 164.310, and § 164.312, with respect to ePHI COUNTY discloses to
 27 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.
 28 CONTRACTOR shall develop and maintain a written information privacy and security program that
 29 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of
 30 CONTRACTOR's operations and the nature and scope of its activities.

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

35 3. CONTRACTOR shall ensure the continuous security of all computerized data systems
 36 containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
 37 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents

1 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
2 or transmits on behalf of COUNTY. These steps shall include, at a minimum:

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

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

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

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

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

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

20 E. DATA SECURITY REQUIREMENTS

21 1. Personal Controls

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

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

33 c. Confidentiality Statement. All persons that will be working with PHI COUNTY
34 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
35 COUNTY must sign a confidentiality statement that includes, at a minimum, General Use, Security and
36 Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the
37 workforce member prior to access to such PHI. The statement must be renewed annually. The

1 CONTRACTOR shall retain each person's written confidentiality statement for COUNTY inspection for
2 a period of six (6) years following the termination of the Agreement.

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

10 2. Technical Security Controls

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

16 //

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

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

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

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

35 f. Patch Management. All workstations, laptops and other systems that process and/or
36 store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or
37 transmits on behalf of COUNTY must have critical security patches applied, with system reboot if

1 necessary. There must be a documented patch management process which determines installation
2 timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable
3 patches must be installed within thirty (30) days of vendor release. Applications and systems that cannot
4 be patched due to operational reasons must have compensatory controls implemented to minimize risk,
5 where possible.

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

15 1) Upper case letters (A-Z)

16 2) Lower case letters (a-z)

17 3) Arabic numerals (0-9)

18 4) Non-alphanumeric characters (punctuation symbols)

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

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

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

33 k. System Logging. The system must maintain an automated audit trail which can identify
34 the user or system process which initiates a request for PHI COUNTY discloses to CONTRACTOR or
35 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, or which alters such
36 PHI. The audit trail must be date and time stamped, must log both successful and failed accesses, must
37 be read only, and must be restricted to authorized users. If such PHI is stored in a database, database

1 logging functionality must be enabled. Audit trail data must be archived for at least three (3) years after
2 occurrence.

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

6 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
7 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
8 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
9 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
10 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
11 website access, file transfer, and E-Mail.

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

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17 3. Audit Controls

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

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

27 c. ~~pursuant to this Agreement.~~

28 ~~5. Review CONTRACTOR's procedures for Utilization Review, Peer Review, and~~
29 ~~Medication Monitoring of clients who are provided services pursuant to the Agreement, and submit~~
30 ~~CONTRACTOR's plans to the State for approval.~~

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

4. Business Continuity/Disaster Recovery Control

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

b. Data Backup Plan. CONTRACTOR must have established documented procedures to backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular schedule for making backups, storing backup offsite, an inventory of backup media, and an estimate of

1 the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule
2 must be a weekly full backup and monthly offsite storage of DHCS data. BCP for CONTRACTOR and
3 COUNTY (e.g. the application owner) must merge with the DRP.

4 5. Paper Document Controls

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

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

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

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

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

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

32 F. BREACH DISCOVERY AND NOTIFICATION

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

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

1 known to CONTRACTOR.

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

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

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

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

11 b. Any other information that COUNTY is required to include in the notification to
12 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or

13 // promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period
14 set forth in 45 CFR § 164.410 (b) has elapsed, including:

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

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

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

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

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

26 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
27 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
28 COUNTY.

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

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

36 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
37

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

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

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

14 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

24 1) The Disclosure is required by law; or

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

30 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to
 31 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of
 32 CONTRACTOR.

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

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

37 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as

1 required by law.

2 H. PROHIBITED USES AND DISCLOSURES

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

8 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
9 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
10 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
11 42 USC § 17935(d)(2).

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14 I. OBLIGATIONS OF COUNTY

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

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

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

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

26 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

37 a. This provision shall apply to all PHI that is in the possession of Subcontractors or

1 agents of CONTRACTOR.

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

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

9 3. The obligations of this Business Associate Contract shall survive the termination of the
10 Agreement.

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EXHIBIT C

TO AGREEMENT FOR PROVISION OF
MENTAL HEALTH INPATIENT SERVICES FOR ADOLESCENTS AND CHILDREN

BETWEEN

COUNTY OF ORANGE

AND

«UC_NAME»

JULY 1, 2014 THROUGH JUNE 30, 2017

PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

6 **B. TERMS OF AGREEMENT**

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

11 **2. Responsibilities of CONTRACTOR**

12 CONTRACTOR agrees:

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

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

25 c. Security. CONTRACTOR shall ensure the continuous security of all computerized
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 Federal
32 Automated Information Systems, which sets forth guidelines for automated information systems in
33 Federal agencies.

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

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

7 d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful
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,
19 including 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 an
31 individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for
32 carrying out the requirements of this Personal Information Privacy and Security Contract and for
33 communicating on security matters with the COUNTY.

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