

AGREEMENT FOR PROVISION OF
SOBER LIVING SERVICES
BETWEEN
COUNTY OF ORANGE

AND

«UC_PROV»

JULY 1, 2016 THROUGH JUNE 30, 2018

THIS AGREEMENT entered into this 1st day of July 2016, which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and «UC_PROV», a «CORP_STAT» (CONTRACTOR). This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

W I T N E S S E T H:

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Sober Living Services described herein to the residents of Orange County; and

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

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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REFERENCED CONTRACT PROVISIONS

Term: July 1, 2016 through June 30, 2018

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

Period Two means the period from July 1, 2017 through June 30, 2018

Aggregate Maximum Obligation:

Period One Maximum Obligation: \$900,000

Period Two Maximum Obligation: 900,000

TOTAL AGGREGATE MAXIMUM OBLIGATION: \$1,800,000

Basis for Reimbursement: Fee-for-Service

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: «DUNS»

CONTRACTOR TAX ID Number: «TAXID»

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Attention: «CONTACT»
«LC_PROV»
«ADDR»
«CITY_STATE_ZIP»
Email: «EMAIL_ADDR»

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I. ACRONYMS

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

1		
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4	A. AA.	Alcoholics Anonymous
5	B. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
6	C. ABC	Allied Behavioral Care
7	D. ACH	Acute Care Hospital
8	E. ADAS	Alcohol and Drug Abuse Services
9	F. ADL	Activities of Daily Living
10	G. ADP	Alcohol and Drug Program
11	H. AES	Advanced Encryption Standard
12	I. AFLP	Adolescent Family Life Program
13	J. AIDS	Acquired Immune Deficiency Syndrome
14	K. AIM	Access for Infants and Mothers
15	L. AMHS	Adult Mental Health Services
16	M. ARRA	American Recovery and Reinvestment Act of 2009
17	N. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
18	O. ASI	Addiction Severity Index
19	P. ASIST	Applied Suicide Intervention Skills Training
20	Q. ASO	Administrative Services Organization
21	R. ASRS	Alcohol and Drug Programs Reporting System
22	S. BBS	Board of Behavioral Sciences
23	T. BCP	Business Continuity Plan
24	U. BH	Base Hospital
25	V. BHS	Behavioral Health Services
26	W. CalOMS	California Outcomes Measurement System
27	X. CalWORKs	California Work Opportunity and Responsibility for Kids
28	Y. CAP	Corrective Action Plan
29	Z. CAT	Centralized Assessment Team
30	AA. CCC	California Civil Code
31	AB. CCLD	(California) Community Care Licensing Division
32	AC. CCR	California Code of Regulations
33	AD. CDCR	California Department of Corrections and Rehabilitation
34	AE. CDSS	California Department of Social Services
35	AF. CERC	Children's Emergency Receiving Center
36	AG. CESI	Client Evaluation of Self at Intake
37	AH. CEST	Client Evaluation of Self and Treatment

1	AI.	CFDA	Catalog of Federal Domestic Assistance
2	AJ.	CFR	Code of Federal Regulations
3	AK.	CHDP	Child Health and Disability Prevention
4	AL.	CHHS	California Health and Human Services Agency
5	AM.	CHPP	COUNTY HIPAA Policies and Procedures
6	AN.	CHS	Correctional Health Services
7	AO.	CIPA	California Information Practices Act
8	AP.	CMPPA	Computer Matching and Privacy Protection Act
9	AQ.	COI	Certificate of Insurance
10	AR.	CPA	Certified Public Accountant
11	AS.	CSI	Client and Services Information
12	AT.	CSW	Clinical Social Worker
13	AU.	CYBHS	Children and Youth Behavioral Health Services
14	AV.	DATAR	Drug Abuse Treatment Access Report
15	AW.	DCR	Data Collection and Reporting
16	AX.	DD	Dually Diagnosed
17	AY.	DEA	Drug Enforcement Agency
18	AZ.	DHCS	California Department of Health Care Services
19	BA.	D/MC	Drug/Medi-Cal
20	BB.	DMV	California Department of Motor Vehicles
21	BC.	DoD	US Department of Defense
22	BD.	DPFS	Drug Program Fiscal Systems
23	BE.	DRC	Probation's Day Reporting Center
24	BF.	DRP	Disaster Recovery Plan
25	BG.	DRS	Designated Record Set
26	BH.	DSM	Diagnostic and Statistical Manual of Mental Disorders
27	BI.	DSM-IV	Diagnostic and Statistical Manual of Mental Disorders. 4th Edition
28	BJ.	DSM-V	Diagnostic and Statistical Manual of Mental Disorders. 5th Edition
29	BK.	EBP	Evidence-Based Practice
30	BL.	EDN	Electronic Disease Notification System
31	BM.	EEOC	Equal Employment Opportunity Commission
32	BN.	EHR	Electronic Health Records
33	BO.	ePHI	Electronic Protected Health Information
34	BP.	EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
35	BQ.	ERC	Emergency Receiving Center
36	BR.	FFS	Fee For service
37	BS.	FIPS	Federal Information Processing Standards

1	BT. FQHC	Federally Qualified Health Center
2	BU. FSP	Full Service Partnership
3	BV. FTE	Full Time Equivalent
4	BW. GAAP	Generally Accepted Accounting Principles
5	BX. HAB	Federal HIV/AIDS Bureau
6	BY. HCA	County of Orange Health Care Agency
7	BZ. HHS	Federal Health and Human Services Agency
8	CA. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
9		Law 104-191
10	CB. HITECH ACT	Health Information Technology for Economic and Clinical Health
11		Act, Public Law 111-005
12	CC. HIV	Human Immunodeficiency Virus
13	CD. HRSA	Federal Health Resources and Services Administration
14	CE. HSC	California Health and Safety Code
15	CF. IBNR	Incurred But Not Reported
16	CG. ID	Identification
17	CH. IEA	Information Exchange Agreement
18	CI. IMD	Institute for Mental Disease
19	CJ. IOM	Institute of Medicine
20	CK. IRIS	Integrated Records and Information System
21	CL. ISO	Insurance Services Office
22	CM. ITC	Indigent Trauma Care
23	CN. LCSW	Licensed Clinical Social Worker
24	CO. LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
25	CP. LPS	Lanterman/Petris/Short (Act)
26	CQ. LPT	Licensed Psychiatric Technician
27	CR. MAT	Medication Assisted Treatment
28	CS. MEDS	Medi-Cal Eligibility Determination System
29	CT. MFT	Marriage and Family Therapist
30	CU. MH	Mental Health
31	CV. MHIS	Mental Health Inpatient Services
32	CW. MIHS	Medical and Institutional Health Services
33	CX. MHP	Mental Health Plan
34	CY. MHRC	Mental Health Rehabilitation Centers
35	CZ. MHS	Mental Health Specialist
36	DA. MHSA	Mental Health Services Act
37	DB. MORS	Milestones of Recovery Scale

1	DC. MS	Mandatory Supervision
2	DD. MSN	Medical Safety Net
3	DE. MTP	Master Treatment Plan
4	DF. NA	Narcotics Anonymous
5	DG. NIATx	Network Improvement of Addiction Treatment
6	DH. NIH	National Institutes of Health
7	DI. NIST	National Institute of Standards and Technology
8	DJ. NOA	Notice of Action
9	DK. NP	Nurse Practitioner
10	DL. NPDB	National Provider Data Bank
11	DM. NPI	National Provider Identifier
12	DN. NPP	Notice of Privacy Practices
13	DO. OCEMS	Orange County Emergency Medical Services
14	DP. OCJS	Orange County Jail System
15	DQ. OC-MEDS	Orange County Medical Emergency Data System
16	DR. OCPD	Orange County Probation Department
17	DS. OCR	Federal Office for Civil Rights
18	DT. OCSD	Orange County Sheriff's Department
19	DU. OIG	Federal Office of Inspector General
20	DV. OMB	Federal Office of Management and Budget
21	DW. OPM	Federal Office of Personnel Management
22	DX. ORR	Federal Office of Refugee Resettlement
23	DY. P&P	Policy and Procedure
24	DZ. PA DSS	Payment Application Data Security Standard
25	EA. PAF	Partnership Assessment Form
26	EB. PAR	Prior Authorization Request
27	EC. PBM	Pharmaceutical Benefits Management
28	ED. PC	California Penal Code
29	EE. PCI DSS	Payment Card Industry Data Security Standard
30	EF. PCP	Primary Care Provider
31	EG. PCS	Post-Release Community Supervision
32	EH. PHI	Protected Health Information
33	EI. PI	Personal Information
34	EJ. PII	Personally Identifiable Information
35	EK. PRA	California Public Records Act
36	EL. PSAI/ACT	Perinatal Substance Abuse Services Initiative/Assessment and
37		Coordination Team

1	EM. PSC	Professional Services Contract
2	EN. PTRC	Paramedic Trauma Receiving Center
3	EO. QI	Quality Improvement
4	EP. QIC	Quality Improvement Committee
5	EQ. RHAP	Refugee Health Assessment Program
6	ER. RHEIS	Refugee Health Electronic Information System
7	ES. RN	Registered Nurse
8	ET. RSA	Remote Site Access
9	EU. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
10	EV. SD/MC	Short-Doyle Medi-Cal
11	EW. SIR	Self-Insured Retention
12	EX. SMA	Statewide Maximum Allowable (rate)
13	EY. SNF	Skilled Nursing Facility
14	EZ. SR	Supervised Release
15	FA. SRP	Supervised Release Participant
16	FB. SSA	County of Orange Social Services Agency
17	FC. SSI	Supplemental Security Income
18	FD. STP	Special Treatment Program
19	FE. SUD	Substance Use Disorder
20	FF. TAR	Treatment Authorization Request
21	FG. TAY	Transitional Age Youth
22	FH. TB	Tuberculosis
23	FI. TBS	Therapeutic Behavioral Services
24	FJ. TRC	Therapeutic Residential Center
25	FK. TTY	Teletypewriter
26	FL. TUPP	Tobacco Use Prevention Program
27	FM. UMDAP	Uniform Method of Determining Ability to Pay
28	FN. UOS	Units of Service
29	FO. USC	United States Code
30	FP. VOLAGs	Volunteer Agencies
31	FQ. W&IC	California Welfare and Institutions Code
32	FR. WIC	Women, Infants and Children

II. ALTERATION OF TERMS

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

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

5 **III. ASSIGNMENT OF DEBTS**

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

14 **IV. COMPLIANCE**

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

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

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

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

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

35 5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the
 36 CONTRACTOR's Compliance Program and Code of Conduct contains all required elements,
 37 //

1 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of
2 CONTRACTOR's Compliance Program, Code of Conduct and related policies and procedures.

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

7 B. SANCTION SCREENING – CONTRACTOR shall adhere to all screening policies and
8 procedures and screen all Covered Individuals employed or retained to provide services related to this
9 Agreement to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement.
10 Screening shall be conducted against the General Services Administration's Excluded Parties List
11 System or System for Award Management, the Health and Human Services/Office of Inspector General
12 List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider
13 List and/or any other list or system 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 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem
17 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to
18 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 3. CONTRACTOR shall bill only for those eligible services actually rendered which are also
37 fully documented. When such services are coded, CONTRACTOR shall use accurate billing codes

1 which accurately describes the services provided and must ensure compliance with all billing and
2 documentation requirements.

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

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

7 8 **V. CONFIDENTIALITY**

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

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

20 21 **VI. COST REPORT**

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

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

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

1 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
2 pursuant to any or all agreements between COUNTY and CONTRACTOR until such time that the
3 accurate and complete Cost Report is delivered to ADMINISTRATOR.

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

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

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

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

25 D. Unless otherwise approved by ADMINISTRATOR, costs that exceed the provisional rate as
26 specified in the Payments Paragraph of Exhibit A to this Agreement shall be unreimbursable to
27 CONTRACTOR.

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

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

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35 //
36 //
37 //

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

Signed _____
Name _____
Title _____
Date _____"

VII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS

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

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

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

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

3. If CONTRACTOR is a governmental organization, any change to another structure, including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board of Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an

1 assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of this
2 subparagraph shall be void.

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

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

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

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

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

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

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

26 **VIII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

36 //

IX. EQUIPMENT

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

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

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

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

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

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

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

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

3
4 **X. FACILITIES, PAYMENTS AND SERVICES**

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

10
11 **XI. INDEMNIFICATION AND INSURANCE**

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

22 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
23 required insurance at CONTRACTOR's expense and to submit to COUNTY the COI, including all
24 endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this
25 Agreement have been complied with and to maintain such insurance coverage with COUNTY during the
26 entire term of this Agreement. In addition, all subcontractors performing work on behalf of
27 CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and
28 conditions as set forth herein for CONTRACTOR.

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

1 D. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply,
 2 indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an
 3 amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the
 4 CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report.

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

7 F. QUALIFIED INSURER

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

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

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

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

1 H. REQUIRED COVERAGE FORMS

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

4 2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01, CA 00
5 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

6 I. REQUIRED ENDORSEMENTS

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

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

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

15 2. The Network Security and Privacy Liability policy shall contain the following endorsements
16 which shall accompany the COI:

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

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

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

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

28 L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy
29 cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice
30 to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of the
31 Agreement, upon which the COUNTY may suspend or terminate this Agreement.

32 M. If CONTRACTOR's Professional Liability policy is a "claims made" policy, CONTRACTOR
33 shall agree to maintain Professional Liability coverage for two (2) years following completion of
34 Agreement.

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

37 //

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

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

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

13 R. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

37 //

XII. INSPECTIONS AND AUDITS

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

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

16 C. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of
17 services.

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

XIII. LICENSES AND LAWS

24 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
25 the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates,
26 accreditations, waivers, and exemptions necessary for the provision of the services hereunder and
27 required by the laws, regulations and requirements of the United States, the State of California,
28 COUNTY, and all other applicable governmental agencies.

B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

37 //

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

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

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

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

14
15 **XIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

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

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

4 5 **XV. MAXIMUM OBLIGATION**

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

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

14 15 **XVI. MINIMUM WAGE LAWS**

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

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

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

30 31 **XVII. NONDISCRIMINATION**

32 **A. EMPLOYMENT**

33 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not
 34 unlawfully discriminate against any employee or applicant for employment because of his/her race,
 35 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
 36 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
 37 orientation, or military and veteran status. Additionally, during the term of this Agreement,

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

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

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

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

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

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

27 **B. SERVICES, BENEFITS AND FACILITIES** – CONTRACTOR and/or subcontractor shall not
28 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
29 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
30 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
31 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
32 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
33 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
34 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the
35 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq., as applicable, and all other
36 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and
37 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this

1 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one
2 or more of the factors identified above:

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

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

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

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

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

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

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

37 //

XVIII. NOTICES

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

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

7 2. When faxed, transmission confirmed;

8 3. When sent by Email; or

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

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

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

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

XIX. NOTIFICATION OF DEATH

21
22
23 A. Upon becoming aware of the death of any person served pursuant to this Agreement,
24 CONTRACTOR shall immediately notify ADMINISTRATOR.

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

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

33 2. WRITTEN NOTIFICATION

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

37 //

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

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

9 **XX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

18 **XXI. PAYMENT CARD COMPLIANCE**

19 Should CONTRACTOR conduct credit/debit card transactions in conjunction with their business
 20 with COUNTY, on behalf of COUNTY, or as part of the business that they conduct, CONTRACTOR
 21 covenants and warrants that it is currently PCI DSS and PA DSS compliant and will remain compliant
 22 during the entire duration of this Agreement. CONTRACTOR agrees to immediately notify COUNTY
 23 in the event CONTRACTOR should ever become non-compliant, and will take all necessary steps to
 24 return to compliance and shall be compliant within ten (10) business days of the commencement of any
 25 such interruption. Upon demand by COUNTY, CONTRACTOR shall provide to COUNTY written
 26 certification of CONTRACTOR's PCI DSS and/or PA DSS compliance.
 27

28 **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

32 B. CONTRACTOR shall implement and maintain administrative, technical and physical
 33 safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of
 34 PHI in violation of the HIPAA, federal and state regulations and/or CHPP. CONTRACTOR shall
 35 mitigate to the extent practicable, the known harmful effect of any use or disclosure of PHI made in
 36 violation of federal or state regulations and/or COUNTY policies.
 37

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

14
15 **XXIII. RESEARCH AND PUBLICATION**

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

19
20 **XXIV. REVENUE**

21 A. CLIENT FEES – CONTRACTOR shall charge a fee to clients to whom services are provided
22 pursuant to this Agreement, their estates and responsible relatives, in accordance with the fee system
23 designated by ADMINISTRATOR. This fee shall be based upon the person's ability to pay for services,
24 but it shall not exceed the actual cost of services provided. No person shall be denied services because
25 of an inability to pay.

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

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

36 //

37 //

XXV. SEVERABILITY

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

XXVI. SPECIAL PROVISIONS

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, or members of the Board of Directors.
5. Reimbursement of CONTRACTOR's members of the Board of Directors for expenses or services.
6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR's staff.
7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at www.opm.gov.
8. Severance pay for separating employees.
9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.
10. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.
11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).
12. Contracting or subcontracting with any entity other than an individual or nonprofit entity.
13. Producing any information that promotes responsible use, if the use is unlawful, of drugs or alcohol.
14. Promoting the legalization of any drug or other substance included in Schedule 1 of §202 of the Controlled Substance Act (21 USC 812).

1 15. Distributing or aiding in the distributing of sterile needles or syringes for the hypodermic
2 injection of any illegal drug.

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

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

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

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

8 2. Making phone calls outside of the local area unless documented to be directly for the
9 purpose of client care.

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

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

13 5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
14 CONTRACTOR's clients.

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

19 **XXVII. STATUS OF CONTRACTOR**

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

32 **XXVIII. TERM**

33 A. This specific Agreement with CONTRACTOR is only one of several agreements to which the
34 term of this Agreement applies. The term of this Agreement shall commence and terminate as specified
35 in the Referenced Contract Provisions of this Agreement, unless otherwise sooner terminated as
36 provided in this Agreement; provided, however, CONTRACTOR shall be obligated to perform such
37

1 duties as would normally extend beyond this term, including but not limited to, obligations with respect
2 to confidentiality, indemnification, audits, reporting and accounting.

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

6 **XXIX. TERMINATION**

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

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

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

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

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

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

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

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

29 **D. CONTINGENT FUNDING**

30 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
31 a. The continued availability of federal, state and county funds for reimbursement of
32 COUNTY's expenditures, and

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

35 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,
36 terminate or renegotiate this Agreement upon thirty (30) calendar days written notice given

37 //

1 CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated
2 funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

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 pursuant to Subparagraphs B., C. or D.
8 above, 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. Until the date of termination, continue to provide the same level of service required by this
14 Agreement.

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

18 5. Assist ADMINISTRATOR in effecting the transfer of clients in a manner consistent with
19 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 **XXX. 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 provided services pursuant to this
36 Agreement.

37 //

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

3
4 «UC_PROV»

5
6 BY: _____ DATED: _____

7
8 TITLE: _____

9
10
11 BY: _____ DATED: _____

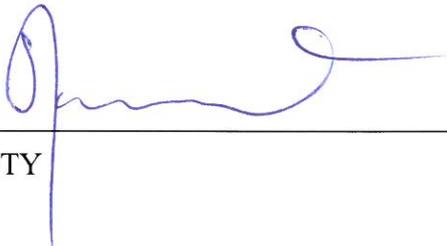
12
13 TITLE: _____

14
15
16
17 COUNTY OF ORANGE

18
19
20 BY: _____ DATED: _____

21 HEALTH CARE AGENCY

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

28
29
30 BY:  _____ DATED: 4/15/16

31 DEPUTY

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

EXHIBIT A
 TO AGREEMENT FOR PROVISION OF
 SOBER LIVING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 «UC_PROV»
 JULY 1, 2016 THROUGH JUNE 30, 2018

I. COMMON TERMS AND DEFINITIONS

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

1. Bed Day means one (1) calendar day during which CONTRACTOR provides residential sober living services as described in Exhibit A of the Agreement. A Bed Day will include the day of admission; but not the day of discharge. If admission and discharge occur on the same day, one (1) Bed Day will be charged.

2. Co-Occurring is when a person has at least one substance use disorder and one mental health disorder that can be diagnosed independently of the other.

3. Graduation or Participant Completion means the completion of the residential sober living program whereby the Participant has successfully completed all goals and objectives within the maximum authorized length of stay authorized by ADMINISTRATOR and documented in the Participant's chart.

4. Intake means the initial face-to-face meeting between a Participant and CONTRACTOR staff in which specific information about the Participant is gathered including the ability to pay and standard admission forms pursuant to the Agreement.

5. Linkage means connecting Participant to ancillary services such as outpatient and/or residential treatment and supportive services which may include self-help groups, social services, rehabilitation services, vocational services, job training services, or other appropriate services

6. Participant means a person sentenced on AB 109 Post-release Community Supervision (PCS) or Mandatory Supervision (MS) with a substance use disorder, and/or for whom a COUNTY approved referral has been completed pursuant to the Agreement.

7. Self-Help Meetings means a non-professional, peer participatory meeting formed by people with a common problem or situation offering mutual support to each other towards a goal or healing or recovery.

8. Sober Living housing means transitional housing services that are provided to Participants at a twenty-four (24)-hour sober living facility. Services are provided in an alcohol and drug free environment. These services are provided in a non-medical residential setting.

1 9. Substance Use Disorder (SUD) means condition in which the use of one or more substances
 2 leads to a clinically significant impairment or distress per the Diagnostic and Statistical Manual of
 3 Mental Disorders, Fifth Edition (DSM-5)

4 10. Unit of Service means one (1) calendar day during which services are provided to a
 5 Participant pursuant to this Agreement. A day in which a Participant is absent for a CONTRACTOR -
 6 sanctioned overnight pass may also be included as a unit of service.

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

9 10 **II. PAYMENTS**

11 A. BASIS FOR REIMBURSEMENT – As compensation to CONTRACTOR for services provided
 12 pursuant to the Agreement, COUNTY shall pay CONTRACTOR monthly in arrears at \$38.00 per bed
 13 day served at CONTRACTOR’s facility for all Sober Living Services for substance users, and a \$25
 14 Intake and Assessment fee for all authorized short term stay participants (less than 2 weeks), provided
 15 however, that the total of all such payments to CONTRACTOR and all other COUNTY contract
 16 providers for all Sober Living Services shall not exceed COUNTY’s Aggregate Maximum Obligation as
 17 set forth in the Referenced Contract Provisions of the Agreement; and provided further, that
 18 CONTRACTOR’s costs are allowable pursuant to applicable county, federal , and state regulations.
 19 Non-compliance will require the completion of CAP by CONTRACTOR. If CAPs are not completed
 20 within timeframes as determined by ADMINISTRATOR, payments may be reduced accordingly. All
 21 payments are interim payments only, and subject to final settlement in accordance with the Cost Report
 22 Paragraph of the Agreement.

23 B. CONTRACTOR’s billings shall be on forms approved or supplied by ADMINISTRATOR and
 24 provide such information as is required by ADMINISTRATOR. Billings are due the tenth (10th)
 25 calendar day of each month, and payments to CONTRACTOR should be released by COUNTY no later
 26 than twenty-one (21) calendar days after receipt of the correctly completed billing form.

27 C. All billings to COUNTY shall be supported, at CONTRACTOR’s facility, by source
 28 documentation including, but not limited to, ledger and journals of service provided.
 29 ADMINISTRATOR may require CONTRACTOR to submit documentation in support of the monthly
 30 billing.

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

33 E. ADMINISTRATOR may withhold or delay processing of CONTRACTOR’s final invoice until
 34 CONTRACTOR submits a correctly completed Cost Report as defined in the Cost Report Paragraph.

35 F. CONTRACTOR shall not claim reimbursement for services provided beyond the expiration
 36 and/or termination of the Agreement, except as may otherwise be provided under the Agreement.

37 //

1 G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
2 Payments Paragraph of this Exhibit A to the Agreement.

3 4 **III. PERFORMANCE OUTCOMES**

5 A. CONTRACTOR shall achieve performance objectives, tracking and reporting Performance
6 Outcome Objective statistics in monthly programmatic reports, as appropriate. ADMINISTRATOR
7 recognizes that alterations may be necessary to the following services to meet the objectives, and,
8 therefore, revisions to objectives and services may be implemented by mutual agreement between
9 CONTRACTOR and ADMINISTRATOR.

10 1. CONTRACTOR shall provide effective sober living program to Participants with identified
11 alcohol and/or drug problems as measured by Retention and Completion Rates.

12 a. Retention Rates shall be calculated by using the number of Participants currently
13 enrolled in or successfully completing the sober living program divided by the total number of
14 Participants served during the evaluation period.

15 b. Completion Rates shall be calculated by using the number of Participants successfully
16 completing the sober living program divided by the total number of Participants discharged during the
17 evaluation period.

18 2. Employment Rate: Eighty Percent (80%) of all Participants shall obtain employment within
19 the first thirty (30) calendar days of sober living. Participants who are enrolled as a full time student,
20 who are deemed physically or mentally disabled by certified physician, and who have volunteered for
21 more than 10 hours per week in the community are considered as employed.

22 3. Housing Linkage Rate: Eighty Percent (80%) of all Participants shall be linked to stable
23 housing upon completion of sober living.

24 4. Abstinence Rate: Eighty Percent (80%) of all drug and alcohol screenings shall be negative.

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

27 28 **IV. RECORDS**

29 A. CONTRACTOR shall create and maintain all files pertaining to Sober Living Participants in the
30 following manner:

31 1. All files shall be kept in a locked cabinet; and
32 2. Access shall be limited to the director and other personnel with a legitimate need for access
33 who are specified in CONTRACTOR's policies and procedures.

34 B. CONTRACTOR shall ensure the contents of individual Participant files include, but are not
35 limited to, the following:

36 1. A personal information form which contains:

37 a. Personal data for proper identification.

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

3 4 **VI. SERVICES**

5 A. FACILITY – CONTRACTOR shall provide Sober Living Services described herein at an
6 Orange County Sherriff Certified Sober Living facility. Unless otherwise authorized in writing by
7 ADMINISTRATOR, CONTRACTOR shall maintain regularly scheduled service hours, seven (7) days a
8 week, twenty-four (24) hours per day throughout the . Services shall be provided a «FAC1_ADDR»,
9 «FAC1_CSZ», or at any other facility approved in advance in writing by ADMINISTRATOR.

10 1. CONTRACTOR’s Sober Living facility shall include the following:

11 a. Safe sleeping quarters, a separate bed for each Participant and a lounge area for all
12 Participants. Facility shall be maintained in a decent, safe, and sanitary condition.

13 b. No more than two (2) persons of the same gender sharing a standard bedroom within
14 the facility at any time, unless CONTRACTOR receives prior written approval by ADMINSTRATOR.

15 c. Basic living facilities and supplies, including but not limited to, bathroom and shower
16 area, eating area, bedroom, bed, linens and/or appropriate bed coverings, pillow, towel, etc.

17 d. Laundry facilities and laundry supplies at no cost to the Participant; and

18 e. Toiletry articles appropriate to the health and grooming needs of the Participant.

19 **B. PERSONS TO BE SERVED**

20 1. CONTRACTOR shall serve adult female and/or male AB 109 offenders and who were
21 released either on PCS or on MS and who have no available housing.

22 2. AB109 screening unit, shall be responsible for all referrals to CONTRACTOR for Sober
23 Living Services under the Agreement.

24 3. CONTRACTOR will accept all participants on Medication Assisted Treatment (MAT)
25 referred by ADMINISTRATOR. CONTRACTOR may terminate said participants in concurrence with
26 ADMINISTRATOR if participant is displaying behavior of being over-medicated.

27 4. CONTRACTOR shall, in accordance with capacity of facility, admit persons referred by
28 ADMINISTRATOR.

29 C. UNITS OF SERVICE – CONTRACTOR shall provide, pursuant to the Agreement, no more
30 than four (4) months of Sober Living Services, equivalent to a maximum of one hundred twenty (120)
31 Sober Living Units of Service, per Participant within a twelve (12) month period, unless otherwise
32 authorized in writing by ADMINISTRATOR.

33 D. SCOPE OF SERVICES – CONTRACTOR shall provide services within the specifications
34 stated below, unless otherwise authorized by ADMINISTRATOR. Such services shall include, but not
35 limited to, the following:

36 1. DUTIES OF HOUSE MANAGER/DIRECTOR – CONTRACTOR shall provide an alcohol
37 and drug-free living environment for Participants. CONTRACTOR shall have staff performing the

1 duties of house manager and/or director, who shall reside at the Sober Living facility, or shall be present
 2 at a minimum, between the hours of 11:00 P.M. and 6:00 A.M. weekdays, and 12:00 A.M. and 6:00
 3 A.M. weekends and holidays. Whenever CONTRACTOR's house manager and/or director is not
 4 present at the facility, a designated facility staff person shall be on-call to respond, and arrive at the
 5 facility within twenty (20) minutes of being summoned. CONTRACTOR shall post the contact
 6 telephone number of designated on-call staff immediately upon the absence of CONTRACTOR's house
 7 manager and/or director at the facility.

8 2. STRUCTURED DAILY ACTIVITIES – CONTRACTOR shall encourage structured daily
 9 activities to include Participant's responsibility for daily household duties, including, but not limited to:
 10 house cleaning, and basic household operations. CONTRACTOR shall encourage Participants to live
 11 productive, drug-free lives, which may include working, going to school, attending appropriate self-help
 12 program meetings, volunteering in the community, and taking increased responsibility for treatment
 13 goals established by the individual. CONTRACTOR shall encourage Participants to use support systems
 14 in the community, maintain adequate grooming, and use their leisure time in a constructive manner.

15 3. HOUSE RULES – CONTRACTOR shall establish house rules for standards of conduct for
 16 Participants that shall include mandatory participation either in a COUNTY-approved AB 109 outpatient
 17 treatment program and/or are linked to DRC. Exceptions to aftercare linkages must be approved by
 18 ADMINISTRATOR. CONTRACTOR shall make referrals and require Participants to attend Self-Help
 19 programs, such as Narcotics Anonymous, Alcoholics Anonymous, or other support programs. Said
 20 house rules shall be enforced by CONTRACTOR's house manager and/or director, other paid staff,
 21 intern(s) or volunteer(s), as designated by CONTRACTOR's house manager and/or director.

22 4. PARTICIPANT SIGN IN/OUT LOG AND SCHEDULE – CONTRACTOR shall maintain
 23 a resident sign in/out log for all residents, which shall include, but not be limited to, the following:
 24 a. Participant's schedule for treatment, work, education or other activities;
 25 b. Location and telephone number where the Participant may be reached; and
 26 c. Requirement for all Participants to notify the program of any change in his/her
 27 schedule.

28 5. TRANSPORTATION – ADMINISTRATOR shall provide bus passes to CONTRACTOR,
 29 as long as they are available. CONTRACTOR shall provide bus passes to Participants who request
 30 them. CONTRACTOR shall also provide Participants with information regarding public transportation,
 31 how to obtain a bus pass, bus schedules, etc., to assist and encourage participation in the following types
 32 of activities designed to maintain a drug and alcohol-free lifestyle:

- 33 a. substance use disorder treatment programs,
- 34 b. DRC,
- 35 c. vocational and/or educational activities, and
- 36 d. seeking and/or maintaining employment

37 //

1 e. In the event Participant owns and operates a vehicle, which is operable by Participant in
2 accordance with federal, state, and county rules and regulations, CONTRACTOR shall make its best
3 efforts to accommodate the storage and use of the vehicle.

4 6. MEALS/FOOD – CONTRACTOR shall provide enough food for two (2) meals per day for
5 each Participant. CONTRACTOR may elect to use a food voucher with a value of fifty dollars (\$50) per
6 Participant per week, or a combination of food and food vouchers with an approximate value of \$50.
7 For stays less than one week, fifty dollar value may be prorated. If CONTRACTOR opts to provide
8 meals, such meals shall be nutritious and appropriate to the health needs of the Participant.

9 7. HOUSE LOG – CONTRACTOR shall maintain a house log on each shift that is supervised
10 by a designated CONTRACTOR staff person. Information to be documented in the house log shall
11 include but not to be limited to:

- 12 a. Date, time, signature and title of person making all entries in the house log.
- 13 b. Staff and shift changes which occur at the Sober Living facility; and
- 14 c. Special incidents as specified in the Agreement.

15 8. ALCOHOL AND/OR DRUG SCREENING – CONTRACTOR shall perform random drug
16 and/or alcohol testing on Participant(s) suspected of using substances or at minimum of one (1) time per
17 month. Testing supplies shall be provided by CONTRACTOR. In the event that a Participant receives a
18 drug screening test result indicating any substance use, CONTRACTOR shall formulate and implement
19 a plan of corrective action, which shall include termination from the program, and shall be documented
20 in the Participant's record, and shall notify Probation and COUNTY of said test result indicating any
21 substance use within one (1) business days. CONTRACTOR shall:

- 22 a. Establish procedures that protect against the falsification and/or contamination of any
23 body specimen sample collected for drug screening; and,
- 24 b. All urine specimen collection shall be observed by same sex staff.
- 25 c. Document results of the drug screening in the Participant's record.

26 9. MEETINGS – CONTRACTOR's Executive Director or designee shall participate, when
27 requested, in meetings facilitated by ADMINISTRATOR related to the provision of services pursuant to
28 this Agreement.

29 10. CULTURAL COMPETENCY – CONTRACTOR shall make its best effort to provide
30 services pursuant to this Agreement in a manner that is culturally and linguistically appropriate for the
31 population(s) served. CONTRACTOR shall maintain documents of such efforts which may include; but
32 not be limited to: records of participation in COUNTY-sponsored or other applicable training;
33 recruitment and hiring policies and procedures; copies of literature in multiple languages and formats, as
34 appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity to,
35 individuals who are physically challenged.

36 11. NO PROSELYTIZING POLICY – CONTRACTOR shall not conduct any proselytizing
37 activities, regardless of funding sources, with respect to any person who has been referred to

1 CONTRACTOR by COUNTY under the terms of this Agreement. Further, CONTRACTOR agrees that
 2 the funds provided hereunder shall not be used to promote, directly or indirectly, any religion, religious
 3 creed or cult, denomination or sectarian institution, or religious belief.

4 12. AUTHORITY – CONTRACTOR shall recognize the authority of Orange County Probation
 5 Department (OCPD) as officers of the court, and shall extend cooperation to OCPD within the
 6 constraints of CONTRACTOR’s program of substance use disorder residential services.

7 13. NON-SMOKING POLICY – CONTRACTOR shall establish a written non-smoking policy
 8 which shall be reviewed and approved by ADMINISTRATOR. At a minimum, the non-smoking policy
 9 shall specify that the facility is “smoke free” and that designated smoking areas are outside the visiting
 10 areas at the facility.

11 14. GOOD NEIGHBOR POLICY – CONTRACTOR shall establish a Good Neighbor Policy,
 12 which shall be reviewed and approved by ADMINISTRATOR. The policy shall include, but not be
 13 limited to, staff training to deal with neighbor complaints, staff contact information available to
 14 neighboring residents and complaint procedures.

15 15. TRANSGENDER POLICY – CONTRACTOR shall establish a written Transgender Policy,
 16 which shall be reviewed and approved by ADMINISTRATOR. The policy shall include, but not limited
 17 to, the following:

- 18 a. Admission
- 19 b. Housing arrangement
- 20 c. Bathroom privacy
- 21 d. Drug testing

22 16. MEDICATION POLICY – CONTRACTOR shall establish a written Medication Policy,
 23 which shall be reviewed and approved by ADMINISTRATOR. The policy shall include but not be
 24 limited to the securing, handling, and administration of Participant prescribed medication(s). Such
 25 policy shall address medications that are prescribed for substance and mental health disorders and
 26 medications disallowed by CONTRACTOR. Participants shall have medications during their stay with
 27 the program, and/or to have the ability to get refill(s).

28 17. OPIOID OVERDOSE EMERGENCY TREATMENT – CONTRACTOR shall have
 29 available at each program site at minimum one Naloxone Nasal Spray for the treatment of known or
 30 suspected opioid overdose. At least one staff per shift shall be trained in administering the Naloxone
 31 Nasal Spray. Naloxone Nasal Spray is not a substitute for emergency medical care. CONTRACTOR
 32 shall always seek emergency medical assistance in the event of a suspected, potentially life-threatening
 33 opioid emergency.

34 18. POSTINGS – CONTRACTOR shall post the following in a prominent place within the
 35 facility:

- 36 a. Sheriff Certification Certificate of Compliance
- 37 b. Prohibition against Alcohol and Non-Prescription Drugs

- 1 c. Sexual Harassment of Resident or Staff is Prohibited Notice
 2 d. House Rules, Visitation, and Smoking Policies
 3 e. Fee schedule
 4 f. Grievance procedure
 5 g. Evacuation plans
 6 h. Hours that individual staff members will be on site
 7 i. List of resources within community which shall include medical, dental, mental health,
 8 public health, social services and where to apply for determination of eligibility for State, Federal or
 9 county entitlement programs.
 10 j. Information on self-help meetings. AA, NA, and non-12 step meetings shall be
 11 included.

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

14 **VII. STAFFING**

15
 16 A. CONTRACTOR shall provide staffing in accordance with the Orange County Adult Alcohol
 17 and Drug Sober Living Facilities Certification Guidelines, Chapter 4 articles 1-3, and/or as approved by
 18 ADMINISTRATOR, to meet the needs of the Sober Living Services program.

19 B. STAFF/VOLUNTEER/INTERN SCREENING – CONTRACTOR shall provide pre-
 20 employment “live scan” screening of any staff person providing services pursuant to this Agreement.
 21 All new staff, volunteers, and interns shall pass a one-time “live scan” finger printing background check
 22 prior to employment. All staff shall be subject to sanction screening as referenced in the Compliance
 23 paragraph on a bi-annual basis. All staff shall also be screened by Megan’s Law, OC Courts and OC
 24 Sheriff’s Department on an annual basis. The results of the fingerprint checks will be sent directly from
 25 the Department of Justice to CONTRACTOR. Results must remain in staff file.

- 26 1. All staff/volunteers/interns, prior to starting services, shall meet the following requirements:
 27 a. No person shall have been convicted of a sex offense for which the person is required to
 28 register as a sex offender under PC section 290;
 29 b. No person shall have been convicted of an arson offense – Violation of PC sections
 30 451, 451.1, 451.5, 452, 45231, 453, 454, or 455;
 31 c. No person shall have been convicted of any violent felony as defined in PC section
 32 667.5, which involves doing bodily harm to another person, for which the staff member was convicted
 33 within five (5) years prior to employment;
 34 d. No person shall be on parole or probation;
 35 e. No person shall participate in the criminal activities of a criminal street gang and/or
 36 prison gang; and
 37 //

1 f. No person shall have prior employment history of improper conduct, including but not
2 limited to, forging or falsifying documents or drug tests, sexual assault or sexual harassment, or
3 inappropriate behavior with staff or residents at another treatment Facility.

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

7 C. STAFF TRAINING – CONTRACTOR shall develop a written plan for staff training. All Staff
8 training shall be documented and maintained as part of the training plan.

9 1. CONTRACTOR shall ensure that within the first (1st) year of employment, all program
10 staff, including administrator, volunteers and interns having direct contact with Participants shall
11 complete training on:

- 12 a. infectious disease recognition,
- 13 b. crisis intervention,
- 14 c. recognizing physical and psychiatric symptoms that require appropriate referrals to
15 other agencies.

16 2. CONTRACTOR shall ensure that on an annual basis, all program staff including
17 administrator, volunteers and interns having direct contact with Participants shall complete:

- 18 a. County Annual Provider Training
- 19 b. County Annual Compliance Training
- 20 c. Training on topics related to alcohol and drug use
- 21 d. Minimum one hour training in cultural competence

22 D. All personnel files shall be complete and made readily accessible to ADMINISTRATOR for
23 purposes of audits and investigations or any other reason deemed necessary by ADMINISTRATOR.

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

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EXHIBIT B
 TO AGREEMENT FOR PROVISION OF
 SOBER LIVING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 «UC_PROV»
 JULY 1, 2016 THROUGH JUNE 30, 2018

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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

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

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

37 //

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

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

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

9 D. SECURITY RULE

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

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

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

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

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

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

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

37 //

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

34 2. Technical Security Controls

35 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY
 36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
 37 //

1 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which
2 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the
3 COUNTY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 3. Audit Controls

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

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

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

19 4. Business Continuity/Disaster Recovery Control

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

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

32 5. Paper Document Controls

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

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

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

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

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

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

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

24 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

15 1) The Disclosure is required by law; or

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

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

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

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

28 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
 29 required by law.

30 H. PROHIBITED USES AND DISCLOSURES

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

36 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
 37 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on

1 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §
2 17935(d)(2).

3 I. OBLIGATIONS OF COUNTY

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

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

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

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

15 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

35 3. The obligations of this Business Associate Contract shall survive the termination of the
36 Agreement.

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EXHIBIT C
 TO AGREEMENT FOR PROVISION OF
 SOBER LIVING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 «UC_PROV»
 JULY 1, 2016 THROUGH JUNE 30, 2018

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

6. "Notice-triggering Personal Information" shall mean the personal information identified in 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

1 with respect to health care providers participating in the program, and statutes or regulations that require
 2 the production of information, including statutes or regulations that require such information if payment
 3 is sought under a government program providing public benefits.

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

7 B. TERMS OF AGREEMENT

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

12 2. Responsibilities of CONTRACTOR

13 CONTRACTOR agrees:

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

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

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

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

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

35 3) If the data obtained by CONTRACTOR from COUNTY includes PII,
 36 CONTRACTOR shall also comply with the substantive privacy and security requirements in the
 37 CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and

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

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

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

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

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

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

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

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