

AGREEMENT FOR PROVISION OF
MEDI-CAL ADMINISTRATIVE ACTIVITIES

BETWEEN

COUNTY OF ORANGE

AND

«CONTRACT_LEGAL_NAMES_UC»

JULY 1, ~~2012~~2015 THROUGH JUNE 30, ~~2015~~2018

THIS AGREEMENT entered into this 1st day of July ~~2012~~2015, which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and «CONTRACT_LEGAL_NAMES_UC», a California «Corporate_Status» (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, the State of California, hereinafter referred to as State, and COUNTY have entered into an Agreement to assist State in the proper and efficient administration of the Medi-Cal Program, and assistance in providing Medi-Cal Administrative Activities (MAA) by the CONTRACTOR has been determined an effective method of assuring the availability and accessibility of Medi-Cal services to eligible individuals served by CONTRACTOR; and

WHEREAS, COUNTY has a Memorandum of Understanding (MOU) for Fiscal Leveraging and Support Services with the Children and Families Commission of Orange County (Commission); and

WHEREAS, the MOU between COUNTY and Commission outlines responsibilities of COUNTY regarding funds to be paid to CONTRACTOR; and

WHEREAS, COUNTY has access to programs such as, but not limited to Title XIX FFP for administrative costs necessary for the proper and efficient administration of the Medi-Cal program and Department of Health Care Services (DHCS) for MAA; and

WHEREAS, the DHCS has, by contract, designated the ADMINISTRATOR as the Local Government Agency (LGA) for purposes of submitting claims for Medi-Cal Administrative Activities to State; and

WHEREAS, COUNTY recognizes the unique relationship that the CONTRACTOR has with Medi-Cal eligible individuals and the expertise of CONTRACTOR in identifying and assessing the health care needs of Medi-Cal eligible individuals it serves, and is agreeable to working with CONTRACTOR to provide the appropriate claiming procedures, and a mechanism for reimbursement; 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, 20122015 through June 30, 20152018
Period One means the period from July 1, 20122015 through June 30, 20132016
Period Two means the period from July 1, 20132016 through June 30, 20142017
Period Three means the period from July 1, 20142017 through June 30, 20152018

CONTRACTOR DUNS Number: <<DUNS>>

CONTRACTOR TAX ID Number: <<TAX ID>>

Notices to COUNTY and CONTRACTOR:

COUNTY: County of Orange
Health Care Agency
Contract Development and Management
405 West 5th Street, Suite 600
Santa Ana, CA 92701
and
LGA MAA/TCM Coordinator
County of Orange/HCA Accounting
200 W. Santa Ana Blvd., Suite 800
Santa Ana, CA 92701

CONTRACTOR: <<Contract_Legal_Names_LC>>
<<MAILING_ADDRESS>>
<<CITY_STATE_ZIP>>
Attn: <<Salutation>> <<ContactFName>> <<ContactLName>>, <<POSITION_TITLE>>

CONTRACTOR's Insurance Coverages:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence
	\$2,000,000 aggregate
Automobile Liability, including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence

~~Workers' Compensation Statutory~~

~~Employer's Liability Insurance \$1,000,000 per occurrence~~

~~Professional Liability Insurance \$1,000,000 per claims made or per occurrence~~

I. ACRONYMS

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

A.	ARRA	American Recovery and Reinvestment Act
B.	ASRS	Alcohol and Drug Programs Reporting System
C.	CCC	California Civil Code
D.	CCR	California Code of Regulations
E.	CMS	Centers for Medicare and Medicaid Services
F.	CFR	Code of Federal Regulations
G.	CHPP	COUNTY HIPAA Policies and Procedures
H.	CHS	Correctional Health Services
I.	D/MC	Drug/Medi-Cal
J.	DHCS	Department of Health Care Services
K.	DMH	Department of Mental Health
L.	DPFS	Drug Program Fiscal Systems
M.	DRS	Designated Record Set
N.	FFP	Federal Financial Participation
O.	FLMG	Fiscal Leveraging Management Group
P.	HCA	Health Care Agency
Q.	HHS	Health and Human Services
R.	HIPAA	Health Insurance Portability and Accountability Act
S.	HSC	California Health and Safety Code
T.	LGA	Local Government Agency
U.	MAA	Medi-Cal Administrative Activities
V.	MHP	Mental Health Plan
W.	MOU	Memorandum of Understanding
X.	OCJS	Orange County Jail System
Y.	OCPD	Orange County Probation Department
Z.	OCR	Office for Civil Rights
AA.	OCSD	Orange County Sheriff's Department
AB.	OIG	Office of Inspector General
AC.	OMB	Office of Management and Budget

<u>1</u>	AD.	OPM	Federal Office of Personnel Management
<u>2</u>	AE.	PADSS	Payment Application Data Security Standard
<u>3</u>	AF.	PC	State of California Penal Code
<u>4</u>	AG.	PCI DSS	Payment Card Industry Data Security Standard
<u>5</u>	AH.	PHI	Protected Health Information
<u>6</u>	AI.	PII	Personally Identifiable Information
<u>7</u>	AJ.	PRA	Public Record Act
<u>8</u>	AK.	USC	United States Code
<u>9</u>	AL.	WIC	State of California Welfare and Institutions Code

II. ALTERATION OF TERMS

12 A. This Agreement, together with ~~Exhibit~~ Exhibits A, and B attached hereto and incorporated
13 herein ~~by reference~~, fully expresses ~~all the complete~~ understanding of COUNTY and CONTRACTOR
14 with respect to the subject matter of this Agreement, ~~and shall constitute the total Agreement between~~
15 ~~the parties for these purposes. No,~~

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

III. COMPLIANCE

22 ~~A. If CONTRACTOR is not a hospital, the following compliance requirements shall apply:~~

23 ~~1. COMPLIANCE PROGRAM~~ A. ADMINISTRATOR has established a Compliance
24 Program for the purpose of ensuring adherence to all rules and regulations related to federal and state
25 health care programs.

26 ~~a1.~~ ADMINISTRATOR shall ~~ensure that~~ provide CONTRACTOR ~~is made aware~~ with a
27 ~~copy~~ of the relevant HCA policies and procedures relating to ADMINISTRATOR's HCA's Compliance
28 Program:

29 ~~b. Covered Individuals includes all contractors, subcontractors, agents, HCA's Code of~~
30 ~~Conduct and other persons who provide health care items or services or who perform billing or coding~~
31 ~~functions on behalf of ADMINISTRATOR. Notwithstanding the above, this term does not include part-~~
32 ~~time or per diem employees, contractors, subcontractors, agents, and other persons who are not~~
33 ~~reasonably expected to work more than one hundred sixty (160) hours per year; except that any such~~
34 ~~individuals shall become Covered Individuals at the point when they work more than one hundred sixty~~
35 ~~(160) hours during the calendar year. CONTRACTOR shall ensure that all Covered Individuals relative~~
36 ~~to this Agreement are made aware of ADMINISTRATOR's Compliance Program and related policies~~
37 ~~and procedures~~ General Compliance Trainings.

2. CONTRACTOR has the option to adhere to ~~ADMINISTRATOR's~~ HCA's Compliance Program and Code of Conduct or establish its own, provided CONTRACTOR's Compliance Program ~~has~~ and Code of Conduct have been verified to include all required elements by ADMINISTRATOR's Compliance Officer as described in ~~Subparagraphs A.4., A.5., A.6., and A.7.~~ subparagraphs below.

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

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

~~4.~~ ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Compliance Program and Code of Conduct contains all required elements. - CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to ~~the~~ ~~ADMINISTRATOR's~~ HCA's Compliance Program and Code of Conduct if the CONTRACTOR's Compliance Program and Code of Conduct does not contain all required elements.

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

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

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

~~1.~~ 1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than one hundred sixty (160) hours per year; except that any such individuals shall become

1 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the
 2 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are
 3 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and
 4 procedures.

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

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

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

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

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

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

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

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

1 overpayment is verified by ADMINISTRATOR.

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

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

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

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

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

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

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

17 ~~1. ADMINISTRATOR shall ensure that CONTRACTOR is made aware of~~
18 ~~ADMINISTRATOR's Code of Conduct.~~

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

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

23 2. CONTRACTOR shall ~~ensure that all Covered Individuals relative to this Agreement are~~
24 ~~made aware of ADMINISTRATOR's Code of Conduct~~ not submit any false, fraudulent, inaccurate
25 and/or fictitious claims for payment or reimbursement of any kind.

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

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

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

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

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

~~8. Failure of CONTRACTOR to timely submit the acknowledgement of ADMINISTRATOR's Code of Conduct shall constitute a material breach of this Agreement, and failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party those eligible services actually rendered which are also fully documented. When such services are coded, CONTRACTOR shall use accurate billing codes which accurately describes the services provided and must ensure:~~

~~E. If CONTRACTOR is a hospital, the following compliance with all billing and documentation requirements shall apply:~~

~~1. COMPLIANCE PROGRAM ADMINISTRATOR has established a Compliance Program for the purpose of ensuring adherence~~ 4. ~~CONTRACTOR shall act promptly to all rules investigate and regulations related to federal correct any problems or errors in coding of claims and state health care programs.~~

~~2. ADMINISTRATOR shall ensure that HOSPITAL is made aware of the relevant policies and procedures~~

~~3. HOSPITAL has the option to adhere to ADMINISTRATOR's Compliance Program or establish its own.~~

~~4. Covered Individuals includes all contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than one hundred sixty (160) hours per year; except that, if and when, any such individuals shall become Covered Individuals at the point when they work more than one hundred sixty (160) hours during the calendar year. If HOSPITAL elects to adopt ADMINISTRATOR's Compliance Program, then HOSPITAL shall ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's Compliance Program and related policies and procedures.~~

~~5. If HOSPITAL elects to have its own Compliance Program then it shall submit a copy of its Compliance Program and relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.~~

~~6. ADMINISTRATOR's Compliance Officer shall determine if HOSPITAL's Compliance Program contains all required elements. HOSPITAL shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the ADMINISTRATOR's Compliance Program if it does not contain all required elements.~~

~~7. Upon written confirmation from ADMINISTRATOR's Compliance Officer that~~

~~HOSPITAL's Compliance Program contains all required elements, HOSPITAL shall acknowledge existence of ADMINISTRATOR's Compliance Program, and ensure that all Covered Individuals relative to this Agreement are made aware of HOSPITAL's Compliance Program and related policies and procedures.~~

~~8. Failure of HOSPITAL to submit its Compliance Program and relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.~~

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

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

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

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

~~2. HOSPITAL shall screen prospective Covered Individuals prior to hire or engagement. HOSPITAL shall not hire or engage any Ineligible Person to provide services relative to this Agreement.~~

~~3. HOSPITAL shall screen all current Covered Individuals and subcontractors semi-annually (January and July) to ensure that they have not become Ineligible Persons. HOSPITAL shall also request that its subcontractors use their best efforts to verify that they are eligible to participate in all federal and State of California health programs and have not been excluded or debarred from participation in any federal or state health care programs, and to further represent to HOSPITAL that they do not have any Ineligible Person in their employ or under contract.~~

~~4. Covered Individuals shall be required to disclose to HOSPITAL immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. HOSPITAL shall notify ADMINISTRATOR immediately upon such disclosure.~~

~~5. HOSPITAL acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with COUNTY in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If HOSPITAL becomes aware that a Covered Individual has become an Ineligible Person, HOSPITAL shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Agreement.~~

~~6. HOSPITAL shall notify ADMINISTRATOR immediately upon becoming aware if a~~

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

~~75. CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the overpayment is verified by the ADMINISTRATOR.~~

~~G. COMPLIANCE TRAINING—ADMINISTRATOR shall make General Compliance Training and Provider Compliance Training, where appropriate, available to Covered Individuals.~~

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

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

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

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

~~H. CODE OF CONDUCT—ADMINISTRATOR has developed a Code of Conduct for adherence by ADMINISTRATOR's employees and contract providers.~~

~~1. ADMINISTRATOR shall ensure that HOSPITAL is made aware of ADMINISTRATOR's Code of Conduct.~~

~~2. HOSPITAL has the option to adhere to ADMINISTRATOR's Code of Conduct or establish its own.~~

~~3. If HOSPITAL elects to have its own Code of Conduct, then it shall submit a copy of its Code of Conduct to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.~~

~~4. ADMINISTRATOR's Compliance Officer shall determine if HOSPITAL's Code of Conduct is accepted. HOSPITAL shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the ADMINISTRATOR's Code of Conduct.~~

~~5. Upon approval of HOSPITAL's Code of Conduct by ADMINISTRATOR, HOSPITAL shall ensure that its employees, subcontractors, interns, volunteers, and members of Board of Directors or duly authorized agents, if appropriate, (Covered Individuals) relative to this Agreement are made aware of HOSPITAL's Code of Conduct.~~

~~6. If HOSPITAL elects to adhere to ADMINISTRATOR's Code of Conduct then HOSPITAL shall submit to ADMINISTRATOR a signed acknowledgement and agreement that HOSPITAL shall comply with ADMINISTRATOR's Code of Conduct.~~

~~7. Failure of HOSPITAL to timely submit the acknowledgement of ADMINISTRATOR's Code of Conduct shall constitute a material breach of this Agreement, and failure to cure such breach~~

~~within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.~~

IV. CONFIDENTIALITY

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

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

V. DELEGATION AND ASSIGNMENT AND SUBCONTRACTS

A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without prior written consent of COUNTY; ~~provided, however, obligations undertaken by~~ CONTRACTOR pursuant to this Agreement may be carried out by means of subcontracts, provided such subcontracts are approved in advance, in writing by shall provide written notification of CONTRACTOR's intent to delegate the obligations hereunder, either in whole or part, to ADMINISTRATOR, ~~meet the requirements of this Agreement as they relate to the service or activity under subcontract, and include any provisions that ADMINISTRATOR may require. ADMINISTRATOR may revoke the approval of a subcontract upon five (5)~~ not less than sixty (60) calendar days written notice to CONTRACTOR if subcontract fails to meet the requirements of this Agreement prior to the effective date of the delegation. Any attempted assignment or ~~any provisions that ADMINISTRATOR has required. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY pursuant to this Agreement. ADMINISTRATOR may disallow, from payments otherwise due CONTRACTOR, amounts claimed for subcontracts not approved in accordance with~~ 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. ~~For CONTRACTORS which are~~

1. If CONTRACTOR is a nonprofit ~~corporations~~ 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

1 ~~paragraph~~ subparagraph shall be void.

2 ~~— C. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the~~
3 ~~prior written consent of COUNTY. For CONTRACTORS which are for-profit organizations~~ 2. If

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

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

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

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

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

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

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

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

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

VI. ~~EMPLOYEE ELIGIBILITY VERIFICATION~~ EMPLOYEE ELIGIBILITY VERIFICATION

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

VII. ~~FACILITIES, PAYMENTS AND SERVICES~~ FACILITIES, PAYMENTS AND SERVICES

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

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

VIII. INDEMNIFICATION AND INSURANCE

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

1 a jury apportionment.

2 B. ~~Without limiting~~ Prior to the provision of services under this Agreement, CONTRACTOR
 3 agrees to purchase all required insurance at CONTRACTOR's ~~indemnification, it is agreed~~ expense and
 4 to submit to COUNTY the COI, including all endorsements required herein, necessary to satisfy
 5 COUNTY that ~~CONTRACTOR shall~~ the insurance provisions of this Agreement have been complied
 6 with and to maintain ~~in force at all times~~ such insurance coverage with COUNTY during the entire term
 7 of this Agreement. In addition, all subcontractors performing work on behalf of
 8 CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and
 9 conditions as set forth herein for CONTRACTOR.

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

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

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

25 F. QUALIFIED INSURER

26 1. The policy; or policies, ~~of insurance covering its operations as specified in the Referenced~~
 27 ~~Contract Provisions of this Agreement.~~ of insurance must be issued by an insurer with a minimum rating
 28 of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current
 29 edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is
 30 preferred, but not mandatory, that the insurer be licensed to do business in the state of California
 31 (California Admitted Carrier).

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

35 G. The policy or policies ~~except~~ of insurance maintained by CONTRACTOR shall provide the
 36 minimum limits and coverage as set forth below:

37 //

<u>1</u>	Coverage	Minimum Limits
<u>2</u>	Commercial General Liability	\$1,000,000 per occurrence
<u>3</u>		\$2,000,000 aggregate
<u>4</u>		
<u>5</u>	Automobile Liability including coverage	\$1,000,000 per occurrence
<u>6</u>	for owned, non-owned and hired vehicles	
<u>7</u>		
<u>8</u>	Workers' Compensation, Employer's	Statutory
<u>9</u>		
<u>10</u>	Employers' Liability, and Insurance	\$1,000,000 per occurrence
<u>11</u>		
<u>12</u>	Professional Liability Insurance	\$1,000,000 per claims made
<u>13</u>		\$1,000,000 aggregate
<u>14</u>		
<u>15</u>	Sexual Misconduct Liability	\$1,000,000 per occurrence
<u>16</u>		
<u>17</u>	Employee Dishonesty	\$1,000,000 per occurrence

18

19 H. REQUIRED COVERAGE FORMS

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

22 2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01, CA
23 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

24 I. REQUIRED ENDORSEMENTS – The Commercial General Liability policy shall contain the
25 following ~~clauses~~ endorsements, which shall accompany the COI:

26 ~~1. "The~~ 1. An Additional Insured endorsement using ISO form CG 2010 or CG 2033
27 or a form at least as broad naming the County of Orange ~~is included as an additional insured with~~
28 ~~respect to the operations of the named insured performed under contract with,~~ its elected and appointed
29 officials, officers, employees, and agents as Additional Insureds.

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

33 ~~J~~ 2. "It is agreed that any insurance maintained by the County of Orange shall apply in
34 excess of, and not contribute with, insurance provided by this policy."

35 ~~3. "This insurance shall not be canceled, limited or non-renewed until after thirty (30)~~
36 ~~calendar days written notice has been given to Orange County HCA/Contract Development and~~
37 ~~Management, 405 West 5th Street, Suite 600, Santa Ana, CA 92701-4637."~~

~~1 — D. Certificates of insurance and endorsements evidencing the above coverages and clauses shall be
2 mailed to COUNTY as referenced in the Referenced Contract Provisions of this Agreement.~~

~~3 — E. All insurance policies required by this contract Agreement shall waive all rights of subrogation
4 against the County of Orange and members of the Board of Supervisors, its elected and appointed
5 officials, officers, agents and employees when acting within the scope of their appointment or
6 employment.~~

~~7 F. Unless waived by ADMINISTRATOR, K. The Workers' Compensation policy shall contain a
8 waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and
9 members of the Board of Supervisors, its elected and appointed officials, officers, agents and
10 employees.~~

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

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

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

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

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

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

33 R. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

37 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding

1 changes to any of the insurance types as set forth in Subparagraph G. of this Agreement.

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

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

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

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

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

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

21 IX. INSPECTIONS AND AUDITS

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

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

36 C. AUDIT RESPONSE

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

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

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

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

X. LICENSES AND LAWS

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

~~B. CONTRACTOR shall comply with all laws, rules or regulations applicable to the services provided hereunder, as any may now exist or be hereafter changed. These laws, rules and regulations shall include, but not be limited to, the following:~~

- ~~1. OMB Circular No. A-87, Cost Principles for State and Local Governments.~~
- ~~2. Federal Single Audit Act of 1984 (31USC 7501.70).~~
- ~~3. OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.~~

~~C.~~ B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

1. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) calendar days

1 of the award of this Agreement:

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

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

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

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

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

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

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

23 Code of Federal Regulations, Title 2, Grants and Agreements

24 Code of Federal Regulations, Title 42, Public Health.

25 XI. NONDISCRIMINATION

26 A. EMPLOYMENT

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

1 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
2 orientation, or military and veteran status.

3 2. CONTRACTOR and its Covered Individuals shall ~~warrant that the evaluation and treatment~~
4 ~~of not discriminate against~~ employees ~~and/or~~ applicants for employment ~~are free from discrimination~~ in
5 the areas of employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff
6 or termination; rate of pay or other forms of compensation; and selection for training, including
7 apprenticeship.

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

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

15 25. All solicitations or advertisements for employees placed by or on behalf of
16 CONTRACTOR ~~and/or subcontractor~~ shall state that all qualified applicants will receive consideration
17 for employment without regard to ~~ethnic group identification, race, religion, ancestry, religious creed,~~
18 ~~color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition,~~
19 ~~or ancestry, physical or disability, mental disability, medical condition, genetic information, marital~~
20 ~~status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran~~
21 ~~status.~~ Such ~~requirement~~ requirements shall be deemed fulfilled by use of the ~~phrase "an equal~~
22 ~~opportunity employer."~~ term EOE.

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

28 B. SERVICES, BENEFITS, AND FACILITIES – CONTRACTOR ~~and/or subcontractor~~ shall not
29 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
30 on the basis of ~~ethnic group identification, race, religion, ancestry, religious creed, color, creed, sex,~~
31 ~~marital status, national origin, age (40 and over), sexual orientation, medical condition, or ancestry,~~
32 ~~physical or disability, mental disability, medical condition, genetic information, marital status, sex,~~
33 ~~gender, gender identity, gender expression, age, sexual orientation, or military and veteran status~~ in
34 accordance with Title IX of the Education Amendments of 1972; ~~as they relate to 20 USC §1681 -~~
35 ~~§1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975~~
36 ~~(42 USC §6101); and Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR~~ California
37 Code of Regulations; and Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC

1 2000ff, et seq. as applicable, and all other pertinent rules and regulations promulgated pursuant thereto,
 2 and as otherwise provided by state law and ~~regulations, as all may now exist or be hereafter amended or~~
 3 ~~changed.~~

4 regulations, as all may now exist or be hereafter amended or changed. ~~1.~~ For the purpose of this
 5 ~~Subparagraph B.,~~ Nondiscrimination paragraph, Discrimination includes, but is not limited to the
 6 following based on one or more of the factors identified above:

7 ~~a~~1. Denying a client or potential client any service, benefit, or accommodation.

8 ~~b~~2. Providing any service or benefit to a client which is different or is provided in a
 9 different manner or at a different time from that provided to other clients.

10 ~~c~~3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed
 11 by others receiving any service or benefit.

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

15 ~~e~~5. Assignment of times or places for the provision of services.

16 ~~2. Complaint Process~~ C. COMPLAINT PROCESS – CONTRACTOR shall establish
 17 procedures for advising all clients through a written statement that CONTRACTOR's and/or
 18 subcontractor's clients may file all complaints alleging discrimination in the delivery of services with
 19 CONTRACTOR, ADMINISTRATOR, ~~or~~ the
 20 ~~U.S. Department of Health and Human Services' OCR. CONTRACTOR's statement shall advise clients~~
 21 ~~of the following:~~ subcontractor, and ADMINISTRATOR.

22 ~~a. In those cases where the client's complaint is filed initially with the OCR, the OCR may~~
 23 ~~proceed to investigate the client's complaint, or the OCR may request COUNTY to conduct the~~
 24 ~~investigation.~~

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

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

32 CD. PERSONS WITH DISABILITIES – CONTRACTOR agrees and/or subcontractor agree to
 33 comply with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq.,
 34 as implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended
 35 (42 USC 12101; et seq.), as implemented in 29 CFR 1630, as applicable, pertaining to the prohibition
 36 of discrimination against qualified persons with disabilities in all programs or activities; and if
 37 applicable, as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter

1 amended together with succeeding legislation.

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

7 **EF.** In the event of non-compliance with this paragraph or as otherwise provided by federal and
 8 state law, this Agreement may be canceled, terminated or suspended in whole or in part and
 9 ~~CONTRACTOR may be declared ineligible for further contracts involving federal, state or county~~
 10 ~~funds.~~

11 CONTRACTOR or subcontractor may be declared ineligible for further contracts involving federal,
 12 state or county funds.

13 **XII. NOTICES**

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

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

19 2. When faxed, transmission confirmed;

20 3. When sent by ~~electronic mail~~ Email; or

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

23 B. Termination Notices shall be addressed as specified ~~on Page 3~~ in the Referenced Contract
 24 Provisions of this Agreement or as otherwise directed by ADMINISTRATOR and shall be effective
 25 when faxed, transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal
 26 Express, United Parcel Service, or any other expedited delivery service.

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

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

33 **XIII. ~~RECORDS MANAGEMENT AND MAINTENANCE~~ RECORDS MANAGEMENT** 34 **AND MAINTENANCE**

35 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
 36
 37

1 of this Agreement, prepare, maintain and manage records appropriate to the services provided and in
2 accordance with this Agreement and all applicable requirements.

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

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

8 D. CONTRACTOR shall retain all financial records ~~in support of allowable MAA activities~~ for a
9 minimum of seven (7) years ~~after~~ from the ~~end~~ commencement of the ~~quarter in which the expenditures~~
10 ~~incurred~~ contract, unless a longer period is ~~requested in writing by ADMINISTRATOR~~ required due to
11 ~~legal proceedings such as litigations and/or settlement of claims.~~

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

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

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

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

22 **XIV. SEVERABILITY**

23 If a court of competent jurisdiction declares any provision of this Agreement or application thereof
24 to any person or circumstances to be invalid or if any provision of this Agreement contravenes any
25 federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or
26 the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain
27 in full force and effect, and to that extent the provisions of this Agreement are severable.
28

29 **XV. STATUS OF CONTRACTOR**

30 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be
31 wholly responsible for the manner in which it performs the services required of it by the terms of this
32 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and
33 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the
34 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR
35 or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR
36 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or
37

subcontractors as they relate to the services to be provided during the course and scope of their employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be entitled to any rights or privileges of COUNTY COUNTY'S employees and shall not be considered in any manner to be COUNTY COUNTY'S employees.

XVI. TERM

A. ~~A.~~ This specific Agreement with CONTRACTOR is only one of several agreements to which the term of this ~~Master~~ Agreement applies. ~~The term of this Master~~ This specific Agreement shall commence ~~on July 1, 2012 and~~ as specified in the Reference Contract Provisions of this Agreement or the execution date, whichever is later. This specific Agreement shall terminate ~~June 30, 2015;~~ as specified in the Referenced Contract Provisions of this Agreement; ~~and, unless otherwise sooner terminated as provided further that the parties shall continue to~~ in this Agreement; provided, however, CONTRACTOR shall be obligated to ~~comply with the requirements and~~ perform the such duties ~~specified in~~ as would normally extend beyond this Agreement. ~~Such duties include;~~ term, including but are not limited to, obligations with respect to confidentiality, indemnification, audits, reporting, and accounting.

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

XVII. TERMINATION

A. Either party may terminate this Agreement, without cause, upon [thirty (30), ninety (90), one hundred eighty (180)] calendar ~~days~~ days' written notice given the other party.

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

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

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

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

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

D. CONTINGENT FUNDING

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

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

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

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

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

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

F. In the event this Agreement is terminated by either party, ~~after receiving a Notice of Termination~~ pursuant to Subparagraphs B., C. or D. above, CONTRACTOR shall do the following:

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

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

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

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

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

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

~~F~~ 7. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment

1 and supplies purchased with funds provided by COUNTY.

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

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

10
11 **XVIII. THIRD PARTY BENEFICIARY**

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

15
16 **XIX. WAIVER OF DEFAULT OR BREACH**

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

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IN WITNESS WHEREOF, the parties have executed this {____ Amendment to} Agreement, in the County of Orange, State of California.

«CONTRACT_LEGAL_NAMES_UC»

«MAA»

BY: _____

DATED: _____

TITLE: _____

BY: _____

DATED: _____

TITLE: _____

COUNTY OF ORANGE

BY: _____

DATED: _____

-HEALTH CARE AGENCY

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

BY: _____

DATED: _____

DEPUTY

If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. 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
MEDI-CAL ADMINISTRATIVE ACTIVITIES

WITH
«CONTRACT_LEGAL_NAMES_UC»
JULY 1, ~~2012~~2015 THROUGH JUNE 30, ~~2015~~2018

I. DEFINITIONS

A. Claiming Unit means part of an LGA such as a public agency or subcontractor to an LGA to perform MAA, whose costs can be segregated as a separate budget unit.

B. DHCS means a branch of the California Health and Human Services Agency which administers state and federal programs for health care, social services, public assistance, job training, and rehabilitation.

C. Detailed Invoice means the set of claim forms submitted by a county to DHCS to obtain reimbursement for the cost of allowable MAA.

D. FFP means the proportion of allowable cost to be reimbursed by the federal government.

E. MAA means a program or set of activities that allows ~~LGA's~~ Local Governmental Agencies to claim federal reimbursement for activities necessary for the proper and efficient administration of the Medi-Cal State Plan.

F. MAA Claiming Plan means a description of activities claimed as allowable MAA. There must be a DHCS approved Claiming Plan for each Claiming Unit participating in the MAA program.

G. MAA Time Survey means the approved methodology to determine the percentage of costs that are allocable to each MAA claimed.

H. Targeted Case Management (TCM) means services furnished to assist individuals, eligible under California's State Plan, in gaining access to needed medical, social, educational, and other services.

I. Quarter means a three (3) month period, beginning July 1st. For the purposes of this Agreement, the first quarter is the combined months of July, August and September; the second quarter is October, November, and December; the third quarter is January, February, and March; and the fourth quarter is April, May, and June.

J. State Plan means a comprehensive written statement submitted by the State to the federal Centers for Medicare and Medicaid Services. It describes the nature and the scope of its Medi-Cal Program and gives assurance that it will be administered in conformity with specific federal requirements. The State Plan serves as a basis for FFP in the program.

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II. PAYMENTS

1 A. In compliance with all provisions pursuant to this Agreement, COUNTY shall claim
2 reimbursement to DHCS for eligible MAA activities performed by CONTRACTOR. CONTRACTOR
3 shall provide the invoice detail specified below within the time limits specified by ADMINISTRATOR.
4

5 1. CONTRACTOR shall submit a complete and accurate quarterly Detailed Invoice,
6 including, but not limited to, expenditure information, with CONTRACTOR's MAA summary invoice
7 within forty-five (45) calendar days after the end of each quarter, or as requested by
8 ADMINISTRATOR, for which the claim is being submitted. Invoices received after the forty-five (45)
9 days shall be deemed late and may not be processed by ADMINITRATOR until the next invoice cycle,
10 unless the next invoice cycle exceeds the State filing limits. CONTRACTOR shall submit information
11 to ADMINISTRATOR on a standardized Detailed Invoice and MAA summary invoice as specified by
12 ADMINISTRATOR.

13 a. COUNTY's paid eligible MAA activities performed by CONTRACTOR shall be
14 eligible for FFP reimbursement only when CONTRACTOR is identified in a MAA Claiming Plan
15 approved by the State. CONTRACTOR shall claim MAA claimable activities in accordance with the
16 list of definitions provided by ADMINISTRATOR, and outlined in Subparagraph IV.A. of this
17 Exhibit A to the Agreement.

18 b. The Detailed Invoice shall identify the claiming categories to which expenditure data
19 must adhere for insertion into the State claim for FFP reimbursement for the cost of allowable MAA.
20 Elements of the detailed invoice for the program being claimed shall correspond to the description of
21 staff and allowable activities outlined in CONTRACTOR's MAA Claiming Plan.

22 c. CONTRACTOR shall ensure COUNTY that all invoices containing non-federal funds
23 are allowable under federal law and regulation, for Title XIX funds claimed for MAA performed
24 pursuant to ~~WIC~~ Welfare and Institution (W&I) Code Section 14132.47. A certification statement,
25 prescribed by the state and issued by ADMINISTRATOR shall be a requirement on each invoice
26 submitted to the County. The State and/or County shall deny payment of any claim submitted under this
27 Agreement if it is determined that the certification is not adequately supported for purposes of FFP.

28 2. CONTRACTOR's fiscal staff shall attend MAA Invoice training conducted by
29 ADMINISTRATOR.

30 B. COUNTY shall distribute to CONTRACTOR funds received from State for Medi-Cal
31 reimbursement claimed for MAA activities in accordance with the MOU for Fiscal Leveraging and
32 Support Services between COUNTY and Commission.

33 1. Distributions shall be reduced by an amount determined by ADMINISTRATOR to cover
34 program administration costs and risk mitigation. The percentage to be withheld shall be twenty percent
35 (20%) of the reimbursement upon commencement of this Agreement. ADMINISTRATOR shall
36 provide CONTRACTOR thirty (30) calendar day written notice of any change in this administrative
37 percentage.

1 2. If at the time of distribution CONTRACTOR does not hold a current signed Agreement
 2 with the Commission for the provision of MAA, TCM, or other health access related activities,
 3 distributions shall be withheld permanently.

4 3. COUNTY agrees to remit to CONTRACTOR any such reimbursement due, less the
 5 percentage referenced in Subparagraph B.1. to this Exhibit A to the Agreement and any other applicable
 6 reduction, provided all the requirements for the expenditure of public funds eligible for federal
 7 reimbursement and of this Agreement are met.

8 C. All payments to CONTRACTOR are subject to final approval by ADMINISTRATOR and
 9 State, of CONTRACTOR's claims. Approval will also be based on the amount of available funding and
 10 compliance with state, federal and county regulations.

11 D. CONTRACTOR shall ensure that there is no duplication of claiming for same activities to both
 12 MAA and other Medi-Cal claimable programs within the CONTRACTOR's organization.

13 E. CONTRACTOR shall assume responsibility for any audit disallowances or penalties imposed
 14 on COUNTY by the State related to services claimed by COUNTY on behalf of CONTRACTOR.
 15 CONTRACTOR shall reimburse COUNTY for any such disallowances or penalties within sixty (60)
 16 calendar days of written notification by COUNTY.

17 F. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply
 18 with any provision of this Agreement.

19 G. CONTRACTOR may not invoice for MAA provided beyond the expiration and/or termination
 20 of this Agreement.

21 **III. REPORTS**

22 CONTRACTOR shall submit, on forms provided or approved by ADMINISTRATOR, financial
 23 and/or programmatic reports as requested by ADMINISTRATOR concerning CONTRACTOR's
 24 activities as they relate to this Agreement. ADMINISTRATOR will be specific as to the nature of the
 25 information requested and allow thirty (30) calendar days for CONTRACTOR to respond unless
 26 required sooner by DHCS or CMS.
 27

28 **IV. SERVICES**

29 **A. CONTRACTOR RESPONSIBILITIES:**

30 1. Contractor shall perform MAA eligible activities as prescribed by the State and in
 31 conjunction with the contract signed by CONTRACTOR with Commission. Allowable costs may
 32 include the actual expenses of staff, applicable operating expenses, and appropriate overhead expenses
 33 for providing administrative activities necessary for the proper and efficient administration of the Medi-
 34 Cal program as outlined in this Agreement.
 35

36 2. Prior to claiming for eligible activities, CONTRACTOR shall provide required information
 37 to ADMINISTRATOR for the purpose of developing a MAA Claiming Plan. The Claiming Plan must

1 include all of CONTRACTOR's staff positions that will be participating in MAA. CONTRACTOR
 2 shall claim MAA eligible activities only when CONTRACTOR is identified in a MAA Claiming Plan
 3 approved by the DHCS and COUNTY, and submit any necessary data as required by COUNTY for the
 4 administration of this program. CONTRACTOR shall notify ADMINISTRATOR within 30 days of
 5 changes in staffing, performance of MAA, and program funding in order for ADMINISTRATOR to
 6 amend CONTRACTOR's MAA Claiming Plan with DHCS. Revisions to CONTRACTOR's MAA
 7 Claiming Plan must be submitted by ADMINISTRATOR to DHCS prior to the beginning of the
 8 claiming quarter in which the changes occur. Changes made to CONTRACTOR's MAA Claiming Plan
 9 during or after the claiming quarter has begun must not be included in the MAA Detailed Invoice.

10 3. CONTRACTOR shall designate an employee to act as the liaison with ADMINISTRATOR
 11 for issues concerning this Agreement, including CONTRACTOR's MAA Claiming Plan. Any change
 12 in designated liaison shall be communicated to ADMINISTRATOR in writing by CONTRACTOR.

13 4. CONTRACTOR shall attend MAA Time Survey training as required and provided by
 14 ADMINISTRATOR, conduct MAA Time Surveying as determined necessary by DHCS, using the
 15 State form distributed through policy directives to ADMINISTRATOR and complete other secondary
 16 MAA Time Survey documentation identified by State, and as directed by ADMINISTRATOR, for all
 17 applicable staff identified on CONTRACTOR's approved MAA Claiming Plan. The MAA Time
 18 Survey shall identify all time spent on each of the allowable MAA activities, non-MAA related
 19 activities, general administration and paid time off as directed by ADMINISTRATOR and based on
 20 policy directives from DHCS.

21 a. CONTRACTOR must ensure that all staff participating in the performance of MAA for
 22 whom CONTRACTOR is claiming, attend MAA Time Survey training as determined necessary by
 23 ADMINISTRATOR.

24 b. CONTRACTOR shall maintain a MAA audit file(s) containing the original signed
 25 MAA Time Surveys and required secondary documentation; copies of time sheets for the MAA Time
 26 Survey period of all staff that participated in the MAA Time Survey; documentation to support the
 27 Medi-Cal percentage claimed, if other than the County-Wide Average; copy of the signed State invoice;
 28 copy of all invoice claiming worksheets; back-up or copy of back-up fiscal documentation for invoicing
 29 worksheets; copy of all correspondence between ADMINISTRATOR and CONTRACTOR related to
 30 invoice preparation; this signed Agreement with COUNTY; and any other documents as directed by
 31 ADMINISTRATOR.

32 c. CONTRACTOR shall comply with enabling legislation, regulations, administrative
 33 claiming process directives, policies, and procedure letters of the State, as well as directives from the
 34 County, which define program specific allowable MAA and processes for appropriate MAA claiming.
 35 ~~CONTRACTOR shall provide ADMINISTRATOR with specific data as may be requested by~~
 36 ~~ADMINISTRATOR.~~

37 CONTRACTOR shall provide ADMINISTRATOR with specific data as may be requested by

ADMINISTRATOR.

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

6. Funds received as a result of this Agreement are intended to fund health access and related services, including MAA activities.

B. COUNTY RESPONSIBILITIES – COUNTY shall designate an individual(s) who shall:

1. Provide, or cause to be provided, training, technical support and ongoing consultation to CONTRACTOR's staff to ensure compliance with the State's MAA Program, including invoicing procedures.

2. Provide CONTRACTOR with standardized formats for MAA invoicing as provided by the ADMINISTRATOR.

3. Review and monitor CONTRACTOR's compliance with respect to MAA program requirements.

4. Submit ADMINISTRATOR approved MAA Claiming Plans and amendments to the State for review and approval.

5. Monitor CONTRACTOR's completion of corrective action plans filed in response to Medi-Cal and other State or COUNTY reviews.

6. Notify CONTRACTOR of any disallowed MAA invoice and/or claimed expenditure, with a written explanation of the basis for disallowance and/or required revisions for re-submittal of invoice.

C. CONTRACTOR shall provide a Data Universal Number System (DUNS): A unique 9-digit identification number required by the federal government as part of their financial request and reporting process, which can be obtained free of charge from Dun and Bradstreet's website (www.dnb.com) or by calling (866) 705-5711. CONTRACTOR is required to provide a DUNS number regardless of the funding source.

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

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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
TARGETED CASE MANAGEMENT SERVICES
WITH
«MAA»
JULY 1, 2015 THROUGH JUNE 30, 2018

I. GENERAL PROVISIONS AND RECITALS

A. The Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the HITECH Act), 42 U.S.C. section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 (the HIPAA regulations).

B. As set forth in this Exhibit B to the Agreement, CONTRACTOR, here and after, is the Business Associate of COUNTY acting on COUNTY's behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of COUNTY and creates, receives, maintains, transmits, uses or discloses PHI, ePHI and PI. COUNTY and CONTRACTOR, as COUNTY's Business Associate are each a party to this Exhibit B to the Agreement and are collectively referred to as the parties.

C. COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (PHI), including protected health information in electronic media (ePHI), under federal law, and personal information (PI) under state law.

D. The purpose of this Exhibit B to the Agreement is to protect the privacy and security of the PHI, ePHI and PI that may be created, received, maintained, transmitted, used or disclosed pursuant to the Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that COUNTY must enter into a contract containing specific requirements with CONTRACTOR prior to the disclosure of PHI to CONTRACTOR, as set forth in 45 CFR Parts 160 and 164, and the HITECH Act.

E. The terms used in this Exhibit B, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

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II. DEFINITIONS

The parties agree to the following terms and definitions and to those terms and definitions that, for convenience, are set forth elsewhere in this Exhibit B.

A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations, and under the Information Practices Act, Civil Code section 1798.29.

B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

D. COUNTY PHI or PI shall mean Protected Health Information, Electronic Protected Health Information or Personal Information, as defined below, received from COUNTY or DHCS, accessed in a database maintained by COUNTY or DHCS, or acquired or created by CONTRACTOR for purposes connected with the administration of the Targeted Case Management Services and in the performance of the functions, activities and services specified in the Agreement.

E. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.

F. Electronic Protected Health Information (ePHI) shall mean individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.

G. Individually Identifiable Health Information shall mean health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.

H. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.

I. Personal Information (PI) shall have the meaning given to such term in California Civil Code section 1798.29.

J. Protected Health Information (PHI) shall mean individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103 and as defined under HIPAA.

K. Required by law, as set forth under 45 CFR section 164.103 shall mean a mandate contained in law that compels an entity to make a use or disclosure of PHI 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

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

5 L. Secretary shall mean the Secretary of the U.S. Department of Health and Human Services
 6 (HHS) or the Secretary's designee.

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

11 N. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.

12 O. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C.
 13 section 17932(h), or in any guidance issued by the Secretary pursuant to such Act and the HIPAA
 14 regulations.

15 **III. PERMITTED USES AND DISCLOSURES OF PHI BY CONTRACTOR**

16 A. Permitted Uses and Disclosures. Except as otherwise indicated in this Exhibit B,
 17 CONTRACTOR may use or disclose PHI only to perform functions, activities or services specified in
 18 the Agreement, for, or on behalf of COUNTY, provided that such use or disclosure would not violate
 19 the HIPAA regulations, if done by COUNTY. Any such use or disclosure must, to the extent
 20 practicable, be limited to the limited data set, as defined in 45 CFR section 164.514(e)(2), or, if needed,
 21 to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance
 22 with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.
 23

24 B. Specific Use and Disclosure Provisions. Except as otherwise indicated in this Exhibit B,
 25 CONTRACTOR may:

26 1. Use and disclose for management and administration. Use and disclose PHI for the proper
 27 management and administration of CONTRACTOR or to carry out the legal responsibilities of
 28 CONTRACTOR, provided that all such disclosures are required by law, or CONTRACTOR obtains
 29 reasonable assurances from the person to whom the information is disclosed that it will remain
 30 confidential and will be used or further disclosed only as required by law or for the purpose for which it
 31 was disclosed to the person, and the person notifies CONTRACTOR of any instances of which it is
 32 aware that the confidentiality of the information has been breached.

33 2. Provision of Data Aggregation Services. Use PHI to provide data aggregation services to
 34 COUNTY. Data aggregation means the combining of PHI created or received by CONTRACTOR on
 35 behalf of COUNTY with PHI received by CONTRACTOR in its capacity as the Business Associate of
 36 another Covered Entity, to permit data analyses that relate to the health care operations of COUNTY.
 37 //

IV. PROHIBITED USES AND DISCLOSURES OF PHI BY CONTRACTOR

A. CONTRACTOR shall not disclose PHI about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. section 17935(a) and 45 CFR section 164.522(a).

B. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of COUNTY and DHCS and as permitted by 42 U.S.C. section 17935(d)(2)

V. RESPONSIBILITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

CONTRACTOR agrees:

A. Nondisclosure: Not to use or disclose Protected Health Information (PHI) other than as permitted or required by the Agreement or as required by law.

B. Safeguards: To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of COUNTY, in compliance with 45 CFR sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of PHI other than as provided for by the Agreement. CONTRACTOR shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR section 164, subpart C, in compliance with 45 CFR section 164.316. CONTRACTOR shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the CONTRACTOR's operations and the nature and scope of its activities, and which incorporates the requirements of Paragraph C, Security, below. CONTRACTOR will provide COUNTY with its current and updated policies upon request.

C. Security: To ensure the continuous security of all computerized data systems containing COUNTY PHI, ePHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

1. Complying with all of the data system security precautions listed in Paragraph X, CONTRACTOR's Data Security Requirements.

2. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of COUNTY under the Agreement.

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

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4. If applicable to CONTRACTOR, complying with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS) and in the Agreement between the Social Security Administration and DHCS, known as the Information Exchange Agreement (IEA Agreement), which are appended as Exhibit B to the IEA Agreement and incorporated into the COUNTY's Agreement with DHCS for Targeted Case Management Services. The specific sections of the IEA Agreement with substantive privacy and security requirements which are to be complied with are in the following sections, E, Security Procedures, F. CONTRACTOR/Agent Responsibilities, and G, Safeguarding and Reporting Responsibilities for Personally Identifiable Information (PII), and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the Social Security Administration.

5. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, CONTRACTOR must comply within a reasonable period of time with changes to these standards that occur after the effective date of the Agreement.

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

D. Mitigation of Harmful Effects: To mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of PHI by CONTRACTOR or its subcontractors in violation of the requirements of this Exhibit B.

E. For CONTRACTOR's Agents and Subcontractors:

1. To enter into written agreements with any agents, including subcontractors and vendors, to whom CONTRACTOR provides PHI or PI received from or created or received by CONTRACTOR on behalf of COUNTY, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to CONTRACTOR with respect to such PHI and PI under this Exhibit B, and that comply with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI and PI. CONTRACTOR shall incorporate, when applicable, the relevant provisions of this Exhibit B into each subcontract or sub award to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI or PI be reported to CONTRACTOR.

2. In accordance with 45 CFR section 164.504(e)(1)(ii), upon CONTRACTOR's knowledge of a material breach or violation by its subcontractor of the agreement between CONTRACTOR and the subcontractor, CONTRACTOR shall:

1 a. Provide an opportunity for the subcontractor to cure the breach or end the violation and
2 terminate the agreement if the subcontractor does not cure the breach or end the violation within the
3 time specified by COUNTY; or

4 b. Immediately terminate the agreement if the subcontractor has breached a material term
5 of the agreement and cure is not possible

6 F. Availability of Information to COUNTY and Individuals: To provide access and information:

7 1. To provide access as COUNTY may require, and in the time and manner designated by
8 COUNTY (upon reasonable notice and during CONTRACTOR's normal business hours) to PHI in a
9 Designated Record Set, to COUNTY in accordance with 45 CFR section 164.524. Designated Record
10 Set means the group of records maintained for COUNTY that includes medical, dental and billing
11 records about individuals; enrollment, payment, claims adjudication, and case or medical management
12 systems maintained for COUNTY health plans; or those records used to make decisions about
13 individuals on behalf of COUNTY. CONTRACTOR shall use the forms and processes developed by
14 COUNTY for this purpose and shall respond to requests for access to records transmitted by COUNTY
15 within ten (10) calendar days of receipt of the request by producing the records or verifying that there
16 are none. CONTRACTOR may request an extension of time to respond in writing and COUNTY will
17 not unreasonably deny it, taking into account the time requirements set out in 45 C.F.R. 164.524.

18 2. If CONTRACTOR maintains an Electronic Health Record with PHI, and an individual
19 requests a copy of such information in an electronic format, CONTRACTOR shall provide such
20 information in an electronic format to enable COUNTY to fulfill its obligations under the HITECH Act,
21 including but not limited to, 42 U.S.C. section 17935(e). This section shall be effective as of the date
22 that 42 U.S.C. section 17935(e) and its implementing regulations apply to COUNTY.

23 3. If CONTRACTOR receives data from COUNTY or DHCS that was provided to COUNTY
24 or DHCS by the Social Security Administration, upon request by COUNTY, CONTRACTOR shall
25 provide COUNTY with a list of all employees, contractors and agents who have access to the Social
26 Security data, including employees, contractors and agents of its subcontractors and agents.

27 G. Amendment of PHI: To make any amendment(s) to PHI that are requested by a patient and that
28 COUNTY and DHCS directs or agrees to in compliance with 45 CFR section 164.526, in the time and
29 manner designated by COUNTY, with CONTRACTOR being given a minimum of twenty (20) days
30 within which to make the amendment.

31 H. Internal Practices: To make CONTRACTOR's internal practices, books and records relating to
32 the use and disclosure of PHI received from COUNTY, or created or received by CONTRACTOR on
33 behalf of COUNTY, available to COUNTY, DHCS, or to the Secretary of the U.S. Department of
34 Health and Human Services in a time and manner designated by COUNTY, DHCS, or by the Secretary,
35 for purposes of determining COUNTY's compliance with the HIPAA regulations. If any information
36 needed for this purpose is in the exclusive possession of any other entity or person and the other entity
37 //

1 or person fails or refuses to furnish the information to CONTRACTOR, CONTRACTOR shall provide
2 written notification to COUNTY and shall set forth the efforts it made to obtain the information.

3 I. Documentation of Disclosures: To document and make available to COUNTY such disclosures
4 of PHI, and information related to such disclosures, necessary to respond to a proper request by the
5 subject Individual for an accounting of disclosures of PHI, in accordance with the HITECH Act and its
6 implementing regulations, including but not limited to 45 CFR section 164.528 and 42 U.S.C. section
7 17935(c). If CONTRACTOR maintains electronic health records for COUNTY as of January 1, 2009,
8 CONTRACTOR must provide an accounting of disclosures, including those disclosures for treatment,
9 payment or health care operations, effective with disclosures on or after January 1, 2014. If
10 CONTRACTOR acquires electronic health records for COUNTY after January 1, 2009,
11 CONTRACTOR must provide an accounting of disclosures, including those disclosures for treatment,
12 payment or health care operations, effective with disclosures on or after the date the electronic health
13 record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of
14 disclosures shall be for disclosures during the three years prior to the request for an accounting. This
15 section shall be effective as of the date that 42 U.S.C. section 17935(c) and its implementing regulations
16 apply to COUNTY.

17 J. Breaches and Security Incidents: During the term of the Agreement, CONTRACTOR agrees to
18 implement reasonable systems for the discovery and prompt reporting of any breach or security incident,
19 and to take the following steps:

20 1. Initial Notice to COUNTY:

21 a.. To notify COUNTY immediately by telephone call plus email or fax upon the
22 discovery of a breach of unsecured PHI or PI in electronic media or in any other media if the PHI or PI
23 was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, or upon
24 the discovery of a suspected security incident that involves data provided to COUNTY or DHCS by the
25 Social Security Administration.

26 b. To notify COUNTY within twelve (12) hours by email or fax of the discovery of any
27 suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI in violation
28 of the Agreement and this Exhibit B, or potential loss of confidential data affecting the Agreement. A
29 breach shall be treated as discovered by CONTRACTOR as of the first day on which the breach is
30 known, or by exercising reasonable diligence would have been known, to any person (other than the
31 person committing the breach) who is an employee, officer or other agent of CONTRACTOR.

32 c. Notice shall be provided to the MSI or BHS Program Manager as appropriate, the HCA
33 Administrator, the COUNTY Privacy Officer and the COUNTY Information Security Officer. If the
34 incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall
35 be provided by calling the COUNTY ITSD Service Desk. Notice shall be made using the DHCS
36 Privacy Incident Report form, including all information known at the time. CONTRACTOR shall use
37 the most current version of this form, which is posted on the DHCS Privacy Office website

1 (www.dhcs.ca.gov, then select Privacy in the left column and then Business Use near the middle of the
2 page) or use of this link

3 <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

4 d. Upon discovery of a breach or suspected security incident, intrusion or unauthorized
5 access, use or disclosure of PHI or PI, CONTRACTOR shall take:

6 1) Prompt corrective action to mitigate any risks or damages involved with the breach
7 and to protect the operating environment; and

8 2) Any action pertaining to such unauthorized disclosure required by applicable
9 Federal and State laws and regulations

10 2. Investigation and Investigation Report: To immediately investigate such suspected security
11 incident, security incident, breach, or unauthorized access, use or disclosure of PHI or PI. Within sixty
12 (60) hours of the discovery, CONTRACTOR shall submit an updated COUNTY Privacy Incident
13 Report containing the information marked with an asterisk and all other applicable information listed on
14 the form, to the extent known at that time, to the MSI or BHS Program Manager as appropriate, the
15 HCA Administrator, the COUNTY Privacy Officer and the COUNTY Information Security Officer.

16 3. Complete Report: To provide a complete report of the investigation to the MSI or BHS
17 Program Manager as appropriate, the HCA Administrator, the COUNTY Privacy Officer and the HCA
18 Information Security Officer within seven (7) working days of the discovery of the breach or
19 unauthorized use or disclosure. The report shall be submitted on the DHCS Privacy Incident Report
20 form and shall include an assessment of all known factors relevant to a determination of whether a
21 breach occurred under applicable provisions of HIPAA, the HITECH Act, the HIPAA regulations
22 and/or state law. The report shall also include a full, detailed corrective action plan, including
23 information on measures that were taken to halt and/or contain the improper use or disclosure. If
24 COUNTY requests information in addition to that listed on the DHCS Privacy Incident Report form,
25 CONTRACTOR shall make reasonable efforts to provide COUNTY with such information. If, because
26 of the circumstances of the incident, CONTRACTOR needs more than seven (7) working days from the
27 discovery to submit a complete report, COUNTY may grant a reasonable extension of time, in which
28 case CONTRACTOR shall submit periodic updates until the complete report is submitted. If necessary,
29 a Supplemental Report may be used to submit revised or additional information after the completed
30 report is submitted, by submitting the revised or additional information on an updated DHCS Privacy
31 Incident Report form. COUNTY will review and approve the determination of whether a breach
32 occurred and individual notifications are required, and the corrective action plan.

33 4. Notification of Individuals:

34 a. If the cause of a breach of PHI or PI is attributable to CONTRACTOR or its
35 subcontractors, agents or vendors, COUNTY shall notify individuals of the breach or unauthorized use
36 or disclosure when notification is required under state or federal law and shall pay any costs of such
37 notifications. CONTRACTOR shall be responsible for the cost of any other actions required by any law

1 or regulation specified in Paragraph I.A to this Exhibit B which are in effect at the time of the breach,
2 including, but not limited to any civil money penalties associated with the breach as may be imposed by
3 the Secretary against CONTRACTOR in accordance with 45 CFR Subtitle A section 160.400 through
4 160.426. CONTRACTOR shall not be responsible for any civil money penalties imposed by the
5 Secretary on COUNTY.

6 b. If the cause of a breach of PHI or PI is attributable to COUNTY or its subcontractors,
7 agents or vendors which are not CONTRACTOR, COUNTY shall notify individuals of the breach or
8 unauthorized use or disclosure when notification is required under state or federal law and shall pay any
9 costs of such notifications, as well as any costs associated with the breach.

10 c. All notifications shall comply with the requirements set forth in 42 U.S.C. section
11 17932 and its implementing regulations, including, but not limited to, the requirement that the
12 notifications be made without unreasonable delay and in no event later than 60 calendar days.

13 5. If the cause of a breach of PHI or PI is attributable to CONTRACTOR or its agents,
14 subcontractors or vendors, CONTRACTOR is responsible for reporting of the breach as specified in 42
15 U.S.C. section 17932 and it's implementing regulations to the COUNTY Privacy Officer immediately
16 upon discovery. If a breach of unsecured PHI involves more than 500 residents of the State of
17 California or its jurisdiction, CONTRACTOR shall notify the COUNTY Privacy Officer of the breach
18 immediately upon discovery of the breach as specified in 42 U.S.C. section 17932 and COUNTY shall
19 immediately report the breach to the Secretary. If CONTRACTOR has reason to believe that duplicate
20 reporting of the same breach or incident may occur because its subcontractors, agents or vendors may
21 report the breach or incident to COUNTY and/or Secretary in addition to CONTRACTOR,
22 CONTRACTOR shall notify COUNTY, and COUNTY and CONTRACTOR may take appropriate
23 action to prevent duplicate reporting. The breach reporting requirements of this paragraph are in
24 addition to the reporting requirements set forth in subparagraph J.4, above.

25 6. COUNTY Contact Information: To direct communications to the above referenced
26 COUNTY staff, the CONTRACTOR shall initiate contact as indicated herein. COUNTY reserves the
27 right to make changes to the contact information below by giving written notice to the CONTRACTOR.
28 Said changes shall not require an amendment to this Exhibit B or the Agreement to which it is
29 incorporated.

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<u>County Privacy Officer</u>	<u>County Deputy Privacy Officer</u>	<u>HCA Information Security Officer</u>
<p><u>County Privacy Officer</u> <u>c/o: Office of Compliance</u> <u>405 W. 5th Street, Ste. 778</u> <u>Santa Ana, CA 92701</u></p> <p><u>Office: (714) 834-3154</u> <u>Cell: (714) 824-9028</u> <u>Fax: (714) 834-6595</u> <u>Email: tbullock@ochca.com</u></p>	<p><u>County Deputy Privacy Officer</u> <u>c/o: Office of Compliance</u> <u>405 W. 5th Street, Ste. 676</u> <u>Santa Ana, CA 92701</u></p> <p><u>Office: (714) 834-4082</u> <u>Fax: (714) 834-6595</u> <u>Email: HIPAA@ochca.com</u></p>	<p><u>Health Care Agency</u> <u>Information Security Officer</u> <u>200 W. Santa Ana Blvd, 10th FL</u> <u>Santa Ana, CA 92701</u></p> <p><u>Office: (714) 834-3433</u> <u>Email: dcastellanos@ochca.com</u></p>

K. Termination of Contract: In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if CONTRACTOR knows of a material breach or violation by COUNTY of this Exhibit B, it shall take the following steps:

1. Provide an opportunity for COUNTY to cure the breach or end the violation and terminate the Agreement if COUNTY does not cure the breach or end the violation within the time specified by CONTRACTOR; or

2. Immediately terminate the Agreement if COUNTY has breached a material term of this Exhibit B and cure is not possible.

L. Due Diligence: CONTRACTOR shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Exhibit B and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as they relate to the Agreement, as required by this Exhibit B.

M. Sanctions and/or Penalties: CONTRACTOR understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to CONTRACTOR may result in the imposition of sanctions and/or penalties on CONTRACTOR under HIPAA, the HITECH Act and the HIPAA regulations.

VI. RESPONSIBILITIES OF COUNTY

COUNTY agrees to:

A. Notice of Privacy Practices: Provide CONTRACTOR with the Notice of Privacy Practices that COUNTY produces in accordance with 45 CFR section 164.520, as well as any changes to such notice.

B. Permission by Individuals for Use and Disclosure of PHI: Provide CONTRACTOR with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect CONTRACTOR's permitted or required uses and disclosures.

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1 C. Notification of Restrictions: Notify CONTRACTOR of any restriction to the use or disclosure
 2 of PHI that COUNTY has agreed to in accordance with 45 CFR section 164.522, to the extent that such
 3 restriction may affect CONTRACTOR's use or disclosure of PHI.

4 D. Requests Conflicting with HIPAA Rules: Not request CONTRACTOR to use or disclose PHI
 5 in any manner that would not be permissible under the HIPAA regulations if done by COUNTY.

6 VII. AUDITS, INSPECTION AND ENFORCEMENT

8 A. From time to time, COUNTY and DHCS may inspect the facilities, systems, books and records
 9 of CONTRACTOR to monitor compliance with the Agreement and this Exhibit B. CONTRACTOR
 10 shall promptly remedy any violation of any provision of this Exhibit B and shall certify the same to the
 11 COUNTY's Privacy Officer in writing. The fact that COUNTY and DHCS inspects, or fails to inspect,
 12 or has the right to inspect, CONTRACTOR's facilities, systems and procedures does not relieve
 13 CONTRACTOR of its responsibility to comply with this Exhibit B, nor does COUNTY's:

14 1. Failure to detect or

15 2. Detection, but failure to notify CONTRACTOR or require CONTRACTOR's remediation
 16 of any unsatisfactory practices constitute acceptance of such practice or a waiver of COUNTY's
 17 enforcement rights under the Agreement and this Exhibit B.

18 B. If CONTRACTOR is the subject of an audit, compliance review, or complaint investigation by
 19 the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is
 20 related to the performance of its obligations pursuant to this Exhibit B, CONTRACTOR shall notify
 21 COUNTY. CONTRACTOR is responsible for any civil penalties assessed as a result of an audit or
 22 investigation of CONTRACTOR, in accordance with 42 U.S.C. section 17934(c).

23 VIII. TERMINATION

24 A. Term: The Term of this Exhibit B shall commence as of the effective date of the Agreement
 25 and shall extend beyond the termination of the Agreement and shall terminate when all the PHI provided
 26 by COUNTY to CONTRACTOR, or created or received by CONTRACTOR on behalf of COUNTY, is
 27 destroyed or returned to COUNTY, in accordance with 45 CFR 164.504(e)(2)(ii)(I).

28 B. Termination for Cause: In accordance with 45 CFR section 164.504(e)(1)(ii), upon COUNTY's
 29 knowledge of a material breach or violation of this Exhibit B by CONTRACTOR, COUNTY shall:

30 1. Provide an opportunity for CONTRACTOR to cure the breach or end the violation and
 31 terminate the Agreement if CONTRACTOR does not cure the breach or end the violation within the
 32 time specified by COUNTY; or

33 2. Immediately terminate the Agreement if CONTRACTOR has breached a material term of
 34 this Exhibit B and cure is not possible.

35 3. Judicial or Administrative Proceedings: CONTRACTOR will notify COUNTY if it is
 36 named as a defendant in a criminal proceeding for a violation of HIPAA. COUNTY may terminate the
 37

1 Agreement if CONTRACTOR is found guilty of a criminal violation of HIPAA. COUNTY may
2 terminate the Agreement if a finding or stipulation that CONTRACTOR has violated any standard or
3 requirement of the privacy or security provisions of HIPAA, or other security or privacy laws is made in
4 any administrative or civil proceeding in which CONTRACTOR is a party or has been joined.
5 COUNTY will consider the nature and seriousness of the violation in deciding whether or not to
6 terminate the Agreement.

7 4. Effect of Termination: Upon termination or expiration of the Agreement for any reason,
8 CONTRACTOR shall return or destroy all PHI received from COUNTY (or created or received by
9 CONTRACTOR on behalf of COUNTY) that CONTRACTOR still maintains in any form, and shall
10 retain no copies of such PHI. If return or destruction is not feasible, CONTRACTOR shall notify
11 COUNTY of the conditions that make the return or destruction infeasible, and COUNTY and
12 CONTRACTOR shall determine the terms and conditions under which CONTRACTOR may retain the
13 PHI. CONTRACTOR shall continue to extend the protections of this Exhibit B to such PHI, and shall
14 limit further use of such PHI to those purposes that make the return or destruction of such PHI
15 infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of
16 CONTRACTOR.

17
18 **IX. MISCELLANEOUS PROVISIONS**

19 A. Disclaimer: COUNTY makes no warranty or representation that compliance by
20 CONTRACTOR with this Exhibit B, HIPAA or the HIPAA regulations will be adequate or satisfactory
21 for CONTRACTOR's own purposes or that any information in CONTRACTOR's possession or control,
22 or transmitted or received by CONTRACTOR, is or will be secure from unauthorized use or disclosure.
23 CONTRACTOR is solely responsible for all decisions made by CONTRACTOR regarding the
24 safeguarding of PHI.

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

34 1. CONTRACTOR does not promptly enter into negotiations to amend this Exhibit B when
35 requested by COUNTY pursuant to this Section; or

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1 2. CONTRACTOR does not enter into an amendment providing assurances regarding the
2 safeguarding of PHI that COUNTY deems is necessary to satisfy the standards and requirements of
3 HIPAA and the HIPAA regulations.

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

11 D. No Third-Party Beneficiaries: Nothing express or implied in the terms and conditions of this
12 Exhibit B is intended to confer, nor shall anything herein confer, upon any person other than COUNTY
13 or CONTRACTOR and their respective successors or assignees, any rights, remedies, obligations or
14 liabilities whatsoever.

15 E. Interpretation: The terms and conditions in this Exhibit B shall be interpreted as broadly as
16 necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and
17 applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Exhibit B
18 shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act
19 and the HIPAA regulations.

20 F. Regulatory References: A reference in the terms and conditions of this Exhibit B to a section in
21 the HIPAA regulations means the section as in effect or as amended.

22 G. Survival: The respective rights and obligations of CONTRACTOR under Subparagraph
23 VIII.B.4 of this Exhibit B shall survive the termination or expiration of the Agreement.

24 H. No Waiver of Obligations: No change, waiver or discharge of any liability or obligation
25 hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or
26 other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

27 I. CONTRACTOR agrees to timely gather, preserve, and provide to COUNTY and DHCS, any
28 records in CONTRACTOR's possession in accordance with the Terms and Conditions of the
29 Agreement.

30 J. CONTRACTOR shall report to COUNTY and DHCS all cases of suspected abuse where there
31 is reason to believe that an incident of fraud and/or abuse has occurred by enrollees, providers, or
32 employees. CONTRACTOR shall conduct, and report to COUNTY and DHCS the preliminary results
33 of an investigation of suspected fraud and/or abuse within five (5) working days of the date the
34 CONTRACTOR first becomes aware of such activity. Fraud reports to COUNTY and DHCS must, at a
35 minimum, include:

36 1. Number of complaints of fraud and/or abuse submitted that warranted investigation;

37 2. For each complaint provide:

- a. Name and/or SSN or CIN
- b. Source of complaint
- c. Type of provider (if applicable)
- d. Nature of complaint
- e. Approximate dollars involved
- f. Legal and administrative disposition of the case

X. CONTRACTOR’S DATA SECURITY REQUIREMENTS

A. Personnel Controls:

1. Employee Training. All workforce members who assist in the performance of functions or activities on behalf of COUNTY, or access or disclose COUNTY PHI or PI must complete information privacy and security training, at least annually, at CONTRACTOR’s expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member’s name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following Agreement termination.

2. Employee Discipline: Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.

3. Confidentiality Statement: All persons that will be working with COUNTY PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to COUNTY PHI or PI. The statement must be renewed annually. CONTRACTOR shall retain each person’s written confidentiality statement for COUNTY inspection for a period of six (6) years following Agreement termination.

4. Background Check: Before a member of the workforce may access COUNTY PHI or PI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. CONTRACTOR shall retain each workforce member’s background check documentation for a period of three (3) years.

B. Technical Security Controls:

1. Workstation/Laptop encryption: All workstations and laptops that store COUNTY PHI or PI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the COUNTY’s Information Security Office.

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2. Server Security: Servers containing unencrypted COUNTY PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

3. Minimum Necessary: Only the minimum necessary amount of COUNTY PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.

4. Removable media devices: All electronic files that contain COUNTY PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. DHCS PHI or PI shall not be considered removed from the premises if it is only being transported from one of CONTRACTOR's locations to another of CONTRACTOR's locations.

5. Antivirus software: All workstations, laptops and other systems that process and/or store COUNTY PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

6. Patch Management: All workstations, laptops and other systems that process and/or store COUNTY PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within thirty (30) days of vendor release. Applications and systems that cannot be patched due to operational reasons must have compensatory controls implemented to minimize risk, where possible.

7. User IDs and Password Controls: All users must be issued a unique user name for accessing COUNTY PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- a. Upper case letters (A-Z)
- b. Lower case letters (a-z)
- c. Arabic numerals (0-9)
- d. Non-alphanumeric characters (punctuation symbols)

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1 Data Destruction: When no longer needed, all COUNTY PHI or PI must be wiped using the Gutmann
 2 or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also
 3 be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require
 4 prior written permission of the COUNTY Information Security Office.

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6 9. System Timeout: The system providing access to COUNTY PHI or PI must provide an
 7 automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of
 8 inactivity.

9 10 Warning Banners: All systems providing access to COUNTY PHI or PI must display a
 10 warning banner stating that data is confidential, systems are logged, and system use is for business
 11 purposes only by authorized users. User must be directed to log off the system if they do not agree with
 12 these requirements.

13 11. System Logging: The system must maintain an automated audit trail which can identify the
 14 user or system process which initiates a request for COUNTY PHI or PI, or which alters COUNTY PHI
 15 or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must
 16 be read only, and must be restricted to authorized users. If COUNTY PHI or PI is stored in a database,
 17 database logging functionality must be enabled. Audit trail data must be archived for at least 3 years
 18 after occurrence.

19 12. Access Controls: The system providing access to COUNTY PHI or PI must use role based
 20 access controls for all user authentications, enforcing the principle of least privilege.

21 13. Transmission encryption. All data transmissions of COUNTY PHI or PI outside the secure
 22 internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher,
 23 such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be
 24 encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file
 25 transfer, and E-Mail.

26 14. Intrusion Detection: All systems involved in accessing, holding, transporting, and
 27 protecting COUNTY PHI or PI that are accessible via the Internet must be protected by a
 28 comprehensive intrusion detection and prevention solution.

29 C. Audit Controls:

30 1. System Security Review: CONTRACTOR must ensure audit control mechanisms that
 31 record and examine system activity are in place. All systems processing and/or storing COUNTY PHI
 32 or PI must have at least an annual system risk assessment/security review which provides assurance that
 33 administrative, physical, and technical controls are functioning effectively and providing adequate levels
 34 of protection. Reviews should include vulnerability scanning tools.

35 2. Log Reviews: All systems processing and/or storing COUNTY PHI or PI must have a
 36 routine procedure in place to review system logs for unauthorized access.

37 3. Change Control: All systems processing and/or storing COUNTY PHI or PI must have a

1 documented change control procedure that ensures separation of duties and protects the confidentiality,
2 integrity and availability of data.

3 D. Business Continuity / Disaster Recovery Controls:

4 1. Emergency Mode Operation Plan: CONTRACTOR must establish a documented plan to
5 enable continuation of critical business processes and protection of the security of COUNTY PHI or PI
6 kept in an electronic format in the event of an emergency. Emergency means any circumstance or
7 situation that causes normal computer operations to become unavailable for use in performing the work
8 required under the Agreement for more than 24 hours.

9 2. Data Backup Plan: CONTRACTOR must have established documented procedures to
10 backup COUNTY PHI to maintain retrievable exact copies of COUNTY PHI or PI. The plan must
11 include a regular schedule for making backups, storing backups offsite, an inventory of backup media,
12 and an estimate of the amount of time needed to restore COUNTY PHI or PI should it be lost. At a
13 minimum, the schedule must be a weekly full backup and monthly offsite storage of COUNTY data.
14 Business Continuity Plan (BCP) for CONTRACTOR and COUNTY (e.g. the application owner) must
15 merge with the DRP.

16 E. Paper Document Controls:

17 1. Supervision of Data. COUNTY PHI or PI in paper form shall not be left unattended at any
18 time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is
19 not being observed by an employee authorized to access the information. Such COUNTY PHI or PI in
20 paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
21 baggage on commercial airplanes.

22 2. Escorting Visitors: Visitors to areas where COUNTY PHI or PI is contained shall be
23 escorted and COUNTY PHI or PI shall be kept out of sight while visitors are in the area.

24 3. Confidential Destruction. COUNTY PHI or PI must be disposed of through confidential
25 means, such as cross cut shredding and pulverizing.

26 4. Removal of Data: COUNTY PHI or PI must not be removed from the premises of the
27 CONTRACTOR except with express written permission of COUNTY.

28 5. Faxing: Faxes containing COUNTY PHI or PI shall not be left unattended and fax
29 machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons
30 receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient
31 before sending the fax.

32 6. Mailing: Mailings containing COUNTY PHI or PI shall be sealed and secured from
33 damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or
34 more individually identifiable records containing COUNTY PHI or PI in a single package shall be sent
35 using a tracked mailing method which includes verification of delivery and receipt, unless the prior
36 written permission of COUNTY to use another method is obtained.

37 //