

CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

<u>PARAGRAPH</u>	<u>PAGE</u>
Title Page.....	1
Contents.....	2
Referenced Contract Provisions	4
I. Acronyms	5
II. Alteration of Terms.....	7
III. Assignment of Debts.....	7
IV. Compliance	7
V. Confidentiality.....	12
VI. Conflict of Interest	12
VII. Cost Report.....	13
VIII. Debarment and Suspension Certification.....	15
IX. Delegation, Assignment and Subcontracts.....	16
X. Dispute Resolution.....	18
XI. Employee Eligibility Verification	18
XII. Equipment	19
XIII. Facilities, Payments and Services.....	20
XIV. Indemnification and Insurance	20
XV. Inspections and Audits.....	24
XVI. Licenses and Laws	26
XVII. Literature, Advertisements, and Social Media.....	28
XVIII. Maximum Obligation.....	28
XIX. Minimum Wage Laws	28
XX. Nondiscrimination.....	29
XXI. Notices.....	31
XXII. Notification of Death	32
XXIII. Notification of Public Events and Meetings	32
XXIV. Patient’s Rights	33
XXV. Records Management and Maintenance	33
XXVI. Research and Publication.....	35
XXVII. Severability.....	35
XXVIII. Special Provisions	36
XXIX. Status of Contractor	37
XXX. Term	37
XXXI. Termination	37

1	XXXII. Third Party Beneficiary	39
2	XXXIII. Waiver of Default or Breach.....	39
3	Signature Page	40
4		
5	<u>EXHIBIT A</u>	
6	I. Common Terms and Definitions	1
7	II. Budget	8
8	III. Payments	9
9	IV. Reports.....	10
10	V. Services	11
11	VI. Staffing	16
12		
13	<u>EXHIBIT B</u>	
14	I. Business Associate Contract.....	1
15		
16	<u>EXHIBIT C</u>	
17	I. Personal Information Privacy and Security Contract.....	1
18	//	
19	//	
20	//	
21	//	
22	//	
23	//	
24	//	
25	//	
26	//	
27	//	
28	//	
29	//	
30	//	
31	//	
32	//	
33	//	
34	//	
35	//	
36	//	
37	//	

REFERENCED CONTRACT PROVISIONS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

Term: July 1, 2019 through June 30, 2020

Maximum Obligation: \$1,576,574

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 76-602-4966

CONTRACTOR TAX ID Number: 95-2321786

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Children’s Hospital of Orange County
1201 West La Veta Ave,
Orange, California 92868
Contact Name: Kerri Rupert Schiller,
Senior Vice President and Chief Financial Officer
Contact Email: kschiller@choc.org

//
//
//
//
//
//
//
//
//

I. ACRONYMS

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

1		
2		
3		
4	A. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
5	B. AIDS	Acquired Immune Deficiency Syndrome
6	C. ARRA	American Recovery and Reinvestment Act of 2009
7	D. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
8	E. ASI	Addiction Severity Index
9	F. ASRS	Alcohol and Drug Programs Reporting System
10	G. BHS	Behavioral Health Services
11	H. CalOMS	California Outcomes Measurement System
12	I. CalWORKs	California Work Opportunity and Responsibility for Kids
13	J. CAP	Corrective Action Plan
14	K. CCC	California Civil Code
15	L. CCR	California Code of Regulations
16	M. CESI	Client Evaluation of Self at Intake
17	N. CEST	Client Evaluation of Self and Treatment
18	O. CFDA	Catalog of Federal Domestic Assistance
19	P. CFR	Code of Federal Regulations
20	Q. CHPP	COUNTY HIPAA Policies and Procedures
21	R. CHS	Correctional Health Services
22	S. COI	Certificate of Insurance
23	T. CPA	Certified Public Accountant
24	U. CSW	Clinical Social Worker
25	V. DHCS	California Department of Health Care Services
26	W. D/MC	Drug/Medi-Cal
27	X. DPFS	Drug Program Fiscal Systems
28	Y. DRS	Designated Record Set
29	Z. EEOC	Equal Employment Opportunity Commission
30	AA. EHR	Electronic Health Records
31	AB. EOC	Equal Opportunity Clause
32	AC. ePHI	Electronic Protected Health Information
33	AD. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
34	AF. FFS	Fee For Service
35	AG. FSP	Full Service Partnership
36	AH. FTE	Full Time Equivalent
37	AI. GAAP	Generally Accepted Accounting Principles

1	AJ. HCA	County of Orange Health Care Agency
2	AK. HHS	Federal Health and Human Services Agency
3	AL. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
4		Law 104-191
5	AM. HITECH	Health Information Technology for Economic and Clinical Health
6		Act, Public Law 111-005
7	AN. HIV	Human Immunodeficiency Virus
8	AO. HSC	California Health and Safety Code
9	AP. IRIS	Integrated Records and Information System
10	AQ. ITC	Indigent Trauma Care
11	AR. LCSW	Licensed Clinical Social Worker
12	AS. MAT	Medication Assisted Treatment
13	AT. MFT	Marriage and Family Therapist
14	AU. MH	Mental Health
15	AV. MHP	Mental Health Plan
16	AW. MHS	Mental Health Specialist
17	AX. MHSA	Mental Health Services Act
18	AZ. MSN	Medical Safety Net
19	BA. NIH	National Institutes of Health
20	BB. NPI	National Provider Identifier
21	BC. NPPES	National Plan and Provider Enumeration System
22	BD. OCR	Federal Office for Civil Rights
23	BE. OIG	Federal Office of Inspector General
24	BF. OMB	Federal Office of Management and Budget
25	BG. OPM	Federal Office of Personnel Management
26	BH. P&P	Policy and Procedure
27	BI. PA DSS	Payment Application Data Security Standard
28	BJ. PATH	Projects for Assistance in Transition from Homelessness
29	BK. PC	California Penal Code
30	BL. PCI DSS	Payment Card Industry Data Security Standards
31	BM. PCS	Post-Release Community Supervision
32	BN. PHI	Protected Health Information
33	BO. PII	Personally Identifiable Information
34	BP. PRA	California Public Records Act
35	BQ. PSC	Professional Services Contract System
36	BR. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
37	BS. SIR	Self-Insured Retention

- 1 BT. SMA Statewide Maximum Allowable (rate)
- 2 BU. SOW Scope of Work
- 3 BV. SUD Substance Use Disorder
- 4 BW. UMDAP Uniform Method of Determining Ability to Pay
- 5 BX. UOS Units of Service
- 6 BY. USC United States Code
- 7 BZ. WIC Women, Infants and Children

8
9 **II. ALTERATION OF TERMS**

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

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

17
18 **III. ASSIGNMENT OF DEBTS**

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

26
27 **IV. COMPLIANCE**

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

31 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the policies and
32 procedures relating to ADMINISTRATOR's Compliance Program, Code of Conduct and access to
33 General Compliance and Annual Provider Trainings.

34 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
35 compliance program, code of conduct and any compliance related policies and procedures.
36 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall
37 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required

1 elements by ADMINISTRATOR’s Compliance Officer as described in this Compliance Paragraph to
2 this Agreement. These elements include:

- 3 a. Designation of a Compliance Officer and/or compliance staff.
- 4 b. Written standards, policies and/or procedures.
- 5 c. Compliance related training and/or education program and proof of completion.
- 6 d. Communication methods for reporting concerns to the Compliance Officer.
- 7 e. Methodology for conducting internal monitoring and auditing.
- 8 f. Methodology for detecting and correcting offenses.
- 9 g. Methodology/Procedure for enforcing disciplinary standards.

10 3. If CONTRACTOR does not provide proof of its own compliance program to
11 ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR’s Compliance
12 Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within
13 thirty (30) calendar days of execution of this Agreement a signed acknowledgement that
14 CONTRACTOR will internally comply with ADMINISTRATOR’s Compliance Program and Code of
15 Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary complete
16 ADMINISTRATOR’s annual compliance training to ensure proper compliance.

17 4. If CONTRACTOR elects to have its own compliance program, code of conduct and any
18 Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR
19 shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures
20 to ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement.
21 ADMINISTRATOR’s Compliance Officer, or designee, shall review said documents within a reasonable
22 time, which shall not exceed forty-five (45) calendar days, and determine if contractor’s proposed
23 compliance program and code of conduct contain all required elements to the ADMINISTRATOR’s
24 satisfaction as consistent with the HCA’s Compliance Program and Code of Conduct.
25 ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and
26 CONTRACTOR shall revise its compliance program and code of conduct to meet ADMINISTRATOR’s
27 required elements within thirty (30) calendar days after ADMINISTRATOR’s Compliance Officer’s
28 determination and resubmit the same for review by the ADMINISTRATOR.

29 5. Upon written confirmation from ADMINISTRATOR’s compliance officer that the
30 CONTRACTOR’s compliance program, code of conduct and any compliance related policies and
31 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals
32 relative to this Agreement are made aware of CONTRACTOR’s compliance program, code of conduct,
33 related policies and procedures and contact information for the ADMINISTRATOR’s Compliance
34 Program.

35 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or
36 retained to provide services related to this Agreement monthly to ensure that they are not designated as
37 Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General

1 Services Administration's Excluded Parties List System or System for Award Management, the Health
2 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the
3 California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration's Death
4 Master File, and/or any other list or system as identified by ADMINISTRATOR.

5 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,
6 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items
7 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.
8 Notwithstanding the above, this term does not include part-time or per-diem employees, contractors,
9 subcontractors, agents, and other persons who are not reasonably expected to work more than one
10 hundred sixty (160) hours per year; except that any such individuals shall become Covered Individuals at
11 the point when they work more than one hundred sixty (160) hours during the calendar year.
12 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of
13 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or
14 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if
15 CONTRACTOR has elected to use its own).

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

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

25 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors monthly to
26 ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that its
27 subcontractors use their best efforts to verify that they are eligible to participate in all federal and State of
28 California health programs and have not been excluded or debarred from participation in any federal or
29 state health care programs, and to further represent to CONTRACTOR that they do not have any
30 Ineligible Person in their employ or under contract.

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

36 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal
37 and state funded health care services by contract with COUNTY in the event that they are currently

1 sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If
2 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,
3 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY
4 business operations related to this Agreement.

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

12 C. GENERAL COMPLIANCE TRAINING - ADMINISTRATOR shall make General Compliance
13 Training available to Covered Individuals.

14 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR’s
15 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;
16 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated
17 representative to complete the General Compliance Training when offered.

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

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

21 4. ADMINISTRATOR will track training completion while CONTRACTOR shall provide
22 copies of training certification upon request.

23 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
24 compliance training. ADMINISTRATOR shall provide instruction on group training completion while
25 CONTRACTOR shall retain the training certifications. Upon written request by ADMINISTRATOR,
26 CONTRACTOR shall provide copies of the certifications.

27 D. SPECIALIZED PROVIDER TRAINING – ADMINISTRATOR shall make Specialized
28 Provider Training, where appropriate, available to Covered Individuals.

29 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
30 Individuals relative to this Agreement. This includes compliance with federal and state healthcare
31 program regulations and procedures or instructions otherwise communicated by regulatory agencies,
32 including the Centers for Medicare and Medicaid Services or their agents as applicable.

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

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

36 4. ADMINISTRATOR will track online completion of training while CONTRACTOR shall
37 provide copies of the certifications upon request.

1 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
2 compliance training. ADMINISTRATOR shall provide instructions on completing the training in a
3 group setting while CONTRACTOR shall retain the certifications. Upon written request by
4 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

5 E. MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

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

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

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

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

21 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
22 participate in the quality improvement activities developed in the implementation of the Quality
23 Management Program.

24 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
25 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
26 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
27 §1810.410.subds.(c)-(d).

28 F. Failure to comply with the obligations stated in this Compliance Paragraph shall constitute a
29 breach of the Agreement on the part of CONTRACTOR and grounds for COUNTY to terminate the
30 Agreement. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty
31 (30) calendar days from the date of the written notice of default to cure any defaults grounded on this
32 Compliance Paragraph prior to ADMINISTRATOR's right to terminate this Agreement on the basis of
33 such default.

34 //
35 //
36 //
37 //

V. CONFIDENTIALITY

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

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

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

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

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

VI. CONFLICT OF INTEREST

CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation shall apply to CONTRACTOR's employees, agents, and subcontractors associated with the provision of goods and services provided under this Agreement. CONTRACTOR's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence COUNTY staff or elected officers in the performance of their duties.

//
//
//
//

VII. COST REPORT

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

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

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

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

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

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

B. The individual and/or consolidated Cost Report shall be the final financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to CONTRACTOR. CONTRACTOR shall document that costs are reasonable and allowable and directly

1 or indirectly related to the services to be provided hereunder. The individual and/or consolidated Cost
2 Report shall be the final financial record for subsequent audits, if any.

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

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

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

25 F. Unless approved by ADMINISTRATOR, costs that exceed the Statewide Maximum Allowance
26 (SMA) rates per Medi-Cal Unit of Services, as determined by the DHCS, shall be unreimbursable to
27 CONTRACTOR.

28 G. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in
29 the Budget Paragraph of Exhibit A to this Agreement, CONTRACTOR shall specify in the individual
30 and/or consolidated Cost Report the services rendered with such revenues.

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

33 //
34 //
35 //
36 //
37 //

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

Signed _____
Name _____
Title _____
Date _____"

VIII. DEBARMENT AND SUSPENSION CERTIFICATION

A. CONTRACTOR certifies that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency.

2. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

3. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state, or local governmental entity with commission of any of the offenses enumerated in Subparagraph A.2. above.

4. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

5. Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR Part 9, Subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction unless authorized by the State of California.

6. Shall include without modification, the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction," (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 2 CFR Part 376.

1 B. The terms and definitions of this paragraph have the meanings set out in the Definitions and
2 Coverage sections of the rules implementing 51 F.R. 6370.

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

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

10 B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR’s
11 business prior to completion of this Agreement, and COUNTY agrees to an assignment of the
12 Agreement, the new owners shall be required under the terms of sale or other instruments of transfer to
13 assume CONTRACTOR’s duties and obligations contained in this Agreement and complete them to the
14 satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder, either in whole or in
15 part, without the prior written consent of COUNTY.

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

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

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

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

37 //

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

5 6. COUNTY reserves the right to immediately terminate the Agreement in the event COUNTY
6 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to
7 COUNTY for the provision of services under the Agreement.

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

13 1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the
14 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor
15 subsequently fails to meet the requirements of this Agreement or any provisions that
16 ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor expenses reported
17 by CONTRACTOR.

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

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

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

25 D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR's status
26 with respect to name changes that do not require an assignment of the Agreement. CONTRACTOR is
27 also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party to any litigation
28 against COUNTY, or a party to litigation that may reasonably affect the CONTRACTOR's performance
29 under the Contract, as well as any potential conflicts of interest between CONTRACTOR and County
30 that may arise prior to or during the period of Agreement performance. While CONTRACTOR will be
31 required to provide this information without prompting from COUNTY any time there is a change in
32 CONTRACTOR's name, conflict of interest or litigation status, CONTRACTOR must also provide an
33 update to COUNTY of its status in these areas whenever requested by COUNTY.

34 //
35 //
36 //
37 //

X. DISPUTE RESOLUTION

A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be brought to the attention of the COUNTY Purchasing Agency by way of the following process:

1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final decision.

2. CONTRACTOR's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Agreement, CONTRACTOR shall include with the demand a written statement signed by an authorized representative indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Agreement adjustment for which CONTRACTOR believes COUNTY is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, CONTRACTOR agrees to proceed diligently with the performance of services secured via this Agreement, including the delivery of goods and/or provision of services. CONTRACTOR's failure to proceed diligently shall be considered a material breach of this Agreement.

C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed a final decision adverse to CONTRACTOR's contentions.

D. This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

XI. EMPLOYEE ELIGIBILITY VERIFICATION

CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees, subcontractors, and consultants performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees, subcontractors, and consultants performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not

1 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist
2 and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
3 covered employees, subcontractors, and consultants for the period prescribed by the law.

4
5 **XII. EQUIPMENT**

6 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all
7 property of a Relatively Permanent nature with significant value, purchased in whole or in part by
8 ADMINISTRATOR to assist in performing the services described in this Agreement. “Relatively
9 Permanent” is defined as having a useful life of one (1) year or longer. Equipment which costs \$5,000 or
10 over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital
11 Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and
12 other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained
13 PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to
14 phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of
15 Equipment purchased, in whole or in part, with funds paid pursuant to this Agreement shall be
16 depreciated according to GAAP.

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

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

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

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

35 F. CONTRACTOR must report any loss or theft of Equipment in accordance with the procedure
36 approved by ADMINISTRATOR and the Notices Paragraph of this Agreement. In addition,
37 //

1 CONTRACTOR must complete and submit to ADMINISTRATOR a notification form when items of
2 Equipment are moved from one location to another or returned to COUNTY as surplus.

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

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

9
10 **XIII. FACILITIES, PAYMENTS AND SERVICES**

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

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

22
23 **XIV. INDEMNIFICATION AND INSURANCE**

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

34 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
35 required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary
36 to satisfy COUNTY that the insurance provisions of this Agreement have been complied with.
37 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on

1 deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors
2 performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance subject
3 to the same terms and conditions as set forth herein for CONTRACTOR.

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

13 D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand
14 dollars (\$50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of
15 CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved,
16 CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this
17 Agreement, agrees to all of the following:

18 1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all
19 liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or
20 subcontractor's performance of this Agreement, CONTRACTOR shall defend the COUNTY at its sole
21 cost and expense with counsel approved by Board of Supervisors against same; and

22 2. CONTRACTOR's duty to defend, as stated above, shall be absolute and irrespective of any
23 duty to indemnify or hold harmless; and

24 3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to
25 which the duty to defend stated above applies, and the CONTRACTOR's SIR provision shall be
26 interpreted as though the CONTRACTOR was an insurer and the COUNTY was the insured.

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

29 F. QUALIFIED INSURER

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

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

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned, and hired vehicles (4 passengers or less)	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims –made
Professional Liability Insurance	\$1,000,000 per claims -made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

23 H. REQUIRED COVERAGE FORMS

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

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

28 I. REQUIRED ENDORSEMENTS

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

31 a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least
 32 as broad naming the *County of Orange, its elected and appointed officials, officers, agents and*
 33 *employees* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY**
 34 **WRITTEN AGREEMENT.**

35 b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at
 36 least as broad evidencing that the CONTRACTOR’s insurance is primary and any insurance or self-
 37 insurance maintained by the County of Orange shall be excess and non-contributing.

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

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

5 b. A primary and non-contributing endorsement evidencing that the Contractor’s insurance
6 is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and
7 non-contributing.

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

11 K. The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving
12 all rights of subrogation against the *County of Orange, its elected and appointed officials, officers,*
13 *agents and employees*, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN**
14 **AGREEMENT**.

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

18 M. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy
19 cancellation and within ten (10) days for non-payment of premium and provide a copy of the cancellation
20 notice to COUNTY. Failure to provide written notice of cancellation shall constitute a breach of
21 CONTRACTOR’s obligation hereunder and ground for COUNTY to suspend or terminate this
22 Agreement.

23 N. If CONTRACTOR’s Professional Liability, Technology Errors & Omissions and/or Network
24 Security & Privacy Liability are “Claims-Made” policies, CONTRACTOR shall agree to maintain
25 coverage for two (2) years following the completion of the Agreement.

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

28 P. Insurance certificates should be forwarded to the agency/department address listed on the
29 solicitation.

30 Q. If the Contractor fails to provide the insurance certificates and endorsements within seven (7)
31 days of notification by CEO/Purchasing or the agency/department purchasing division, award may be
32 made to the next qualified vendor.

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

37 //

1 S. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
2 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with
3 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, this
4 Agreement may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled
5 to all legal remedies.

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

9 U. SUBMISSION OF INSURANCE DOCUMENTS

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

- 11 a. Prior to the start date of this Agreement.
- 12 b. No later than the expiration date for each policy.
- 13 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
14 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

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

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

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

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

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

30 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
31 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
32 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.
33

34 **XV. INSPECTIONS AND AUDITS**

35 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
36 of the State of California, the Secretary of the United States Department of Health and Human Services,
37 the Comptroller General of the United States, or any other of their authorized representatives, shall to the

1 extent permissible under applicable law have access to any books, documents, and records, including but
2 not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client
3 records, of CONTRACTOR that are directly pertinent to this Agreement, for the purpose of responding
4 to a beneficiary complaint or conducting an audit, review, evaluation, or examination, or making
5 transcripts during the periods of retention set forth in the Records Management and Maintenance
6 Paragraph of this Agreement. Such persons may at all reasonable times inspect or otherwise evaluate the
7 services provided pursuant to this Agreement, and the premises in which they are provided.

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

12 C. AUDIT RESPONSE

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

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

25 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare an annual
26 Single Audit as required by 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR
27 Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal
28 Awards. CONTRACTOR shall forward the Single Audit to ADMINISTRATOR within fourteen (14)
29 calendar days of receipt.

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

34 //
35 //
36 //
37 //

XVI. 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, regulations and requirements of the United States, the State of California, COUNTY, and 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. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

1. CONTRACTOR certifies it is in full compliance with all applicable federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Agreement with the County of Orange. Failure to comply shall constitute a material breach of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the COUNTY shall constitute grounds for termination of the Agreement.

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

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

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

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

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

1. ARRA of 2009, only to the extent it is deemed to apply.
2. Trafficking Victims Protection Act of 2000.
3. Title 22, CCR, §51009, Confidentiality of Records.
4. California Welfare and Institutions Code, §14100.2, Medicaid Confidentiality.
5. Federal Medicare Cost reimbursement principles and cost reporting standards.
6. State of California-Health and Human Services Agency, Department of Health Care Services, MHSD, Medi-Cal Billing Manual, October 2013.

//

- 1 7. Orange County Medi-Cal Mental Health Managed Care Plan.
- 2 8. Short-Doyle/Medi-Cal Manual for the Rehabilitation Option and Targeted Case
- 3 Management.
- 4 9. Short-Doyle/Medi-Cal Modifications/Revisions for the Rehabilitation Option and Targeted
- 5 Case Management Manual, including DMH Letter 94-14, dated July 7, 1994, DMH Letter No. 95-04,
- 6 dated July 27, 1995, DMH Letter 96-03, dated August 13, 1996.
- 7 10. WIC, Division 5, Community Mental Health Services.
- 8 11. WIC, Division 6, Admissions and Judicial Commitments.
- 9 12. WIC, Division 7, Mental Institutions.
- 10 13. HSC, §§1250 et seq., Health Facilities.
- 11 14. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 12 15. CCR, Title 9, Rehabilitative and Developmental Services.
- 13 16. CCR, Title 17, Public Health.
- 14 17. CCR, Title 22, Social Security.
- 15 18. CFR, Title 42, Public Health.
- 16 19. CFR, Title 45, Public Welfare.
- 17 20. USC Title 42. Public Health and Welfare.
- 18 21. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 19 22. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 20 23. 42 USC §1857, et seq., Clean Air Act.
- 21 24. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 22 25. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 23 26. Policies and procedures set forth in Mental Health Services Act.
- 24 27. Policies and procedures set forth in DHCS Letters.
- 25 28. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 26 29. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 27 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

28 D. CONTRACTOR shall at all times be capable and authorized by the State of California to
 29 provide treatment and bill for services provided to Medi-Cal eligible clients while working under the
 30 terms of this Agreement.

31 E. CONTRACTOR shall make every reasonable effort to obtain appropriate licenses and/or
 32 waivers to provide Medi-Cal billable treatment services at school or other sites requested by
 33 ADMINISTRATOR.

34 //
 35 //
 36 //
 37 //

XVII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

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

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

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

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

XVIII. MAXIMUM OBLIGATION

A. The Total Maximum Obligation of COUNTY for services provided in accordance with this Agreement and the separate Maximum Obligations, are as specified in the Referenced Contract Provisions of this Agreement, except as allowed for in Subparagraph B. below.

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

XIX. MINIMUM WAGE LAWS

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

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

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

8
9 **XX. NONDISCRIMINATION**

10 **A. EMPLOYMENT**

11 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals (as defined
12 in the “Compliance” paragraph of this Agreement) shall not unlawfully discriminate against any
13 employee or applicant for employment because of his/her race, religious creed, color, national origin,
14 ancestry, physical disability, mental disability, medical condition, genetic information, marital status,
15 sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
16 Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall
17 require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or
18 applicant for employment because of his/her race, religious creed, color, national origin, ancestry,
19 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,
20 gender identity, gender expression, age, sexual orientation, or military and veteran status.

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

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

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

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

37 //

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

6 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
7 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
8 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability,
9 medical condition, genetic information, marital status, sex, gender, gender identity, gender expression,
10 age, sexual orientation, or military and veteran status in accordance with Title IX of the Education
11 Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964
12 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6,
13 Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information Nondiscrimination Act of
14 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and regulations promulgated
15 pursuant thereto, and as otherwise provided by state law and regulations, as all may now exist or be
16 hereafter amended or changed. For the purpose of this Nondiscrimination paragraph, discrimination
17 includes, but is not limited to the following based on one or more of the factors identified above:

- 18 1. Denying a Client or potential Client any service, benefit, or accommodation.
- 19 2. Providing any service or benefit to a Client which is different or is provided in a different
20 manner or at a different time from that provided to other Clients.
- 21 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by
22 others receiving any service and/or benefit.
- 23 4. Treating a Client differently from others in satisfying any admission requirement or
24 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
25 any service and/or benefit.
- 26 5. Assignment of times or places for the provision of services.

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

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

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

37 //

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

4 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as
5 to the findings regarding the alleged complaint and, if not satisfied with the decision, has the right to
6 request a State Fair Hearing.

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

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

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

23
24 **XXI. NOTICES**

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

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

30 2. When faxed, transmission confirmed;

31 3. When sent by Email; or

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

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

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

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

7
8 **XXII. NOTIFICATION OF DEATH**

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

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

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

19 2. WRITTEN NOTIFICATION

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

23 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written
24 report hand delivered, faxed, sent via encrypted email, within forty-eight (48) hours of becoming aware
25 of the death due to terminal illness of any person served pursuant to this Agreement.

26 c. When notification via encrypted email is not possible or practical CONTRACTOR may
27 hand deliver or fax to a known number said notification.

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

32
33 **XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

37 //

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

5
6 **XXIV. PATIENT'S RIGHTS**

7 A. CONTRACTOR shall post the current California Department of Mental Health Patients' Rights
8 poster as well as the Orange County HCA Mental Health Plan Grievance and Appeals poster in locations
9 readily available to Clients and staff and have Grievance and Appeal forms in the threshold languages
10 and envelopes readily accessible to Clients to take without having to request it on the unit.

11 B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have an
12 internal grievance processes approved by ADMINISTRATOR, to which the beneficiary shall have
13 access.

14 1. CONTRACTOR's grievance processes shall incorporate COUNTY's grievance, patients'
15 rights, and/or utilization management guidelines and procedures. The patient has the right to utilize
16 either or both grievance process simultaneously in order to resolve their dissatisfaction.

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

22 C. The parties agree that Clients have recourse to initiate an expression of dissatisfaction to
23 CONTRACTOR, appeal to the County Patients' Rights Office, file a grievance, and file a Title IX
24 complaint. The Patients' Advocate shall advise and assist the Client, investigate the cause of the
25 grievance, and attempt to resolve the matter.

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

28
29 **XXV. RECORDS MANAGEMENT AND MAINTENANCE**

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

33 1. CONTRACTOR shall maintain records that are adequate to substantiate the services for
34 which claims are submitted for reimbursement under this Agreement and the charges thereto. Such
35 records shall include, but not be limited to, individual patient charts and utilization review records.

36 //
37 //

1 2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN
2 Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was
3 rendered, and such additional information as ADMINISTRATOR or DHCS may require.

4 3. CONTRACTOR shall maintain books, records, documents, accounting procedures and
5 practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature
6 claimed to have been incurred in the performance of this Agreement and in accordance with Medicare
7 principles of reimbursement and GAAP.

8 4. CONTRACTOR shall ensure the maintenance of medical records required by §70747
9 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical
10 necessity of the service, and the quality of care provided. Records shall be maintained in accordance
11 with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

12 B. CONTRACTOR shall implement and maintain administrative, technical and physical safeguards
13 to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of PHI in
14 violation of the HIPAA, federal and state regulations. CONTRACTOR shall mitigate to the extent
15 practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal or state
16 regulations and/or COUNTY policies.

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

20 D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the
21 termination of the contract, unless a longer period is required due to legal proceedings such as litigations
22 and/or settlement of claims.

23 E. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years following
24 discharge of the participant, client and/or patient.

25 F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,
26 billings, and revenues available at one (1) location within the limits of the County of Orange. If
27 CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide
28 written approval to CONTRACTOR to maintain records in a single location, identified by
29 CONTRACTOR.

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

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

37 //

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

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

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

6 I. CONTRACTOR may retain client, and/or patient documentation electronically in accordance
7 with the terms of this Agreement and common business practices. If documentation is retained
8 electronically, upon reasonable notice and during normal business hours, CONTRACTOR shall, in the
9 event of an audit or site visit:

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

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

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

15 J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and
16 security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or security
17 of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law or
18 regulation, and copy ADMINISTRATOR on such notifications.

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

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

24
25 **XXVI. RESEARCH AND PUBLICATION**

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

29
30 **XXVII. SEVERABILITY**

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

36 //

37 //

XXVIII. SPECIAL PROVISIONS

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

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

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

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

//

1 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
2 CONTRACTOR's Clients.

3
4 **XXIX. STATUS OF CONTRACTOR**

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

16
17 **XXX. TERM**

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

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

26
27 **XXXI. TERMINATION**

28 A. Either Party may terminate this Agreement, without cause, upon ninety (90) calendar days'
29 written notice given the other Party.

30 B. CONTRACTOR shall be responsible for meeting all programmatic and administrative
31 contracted objectives and requirements as indicated in this Agreement. CONTRACTOR shall be subject
32 to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not
33 meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe as
34 determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is resolved
35 and/or the Agreement could be terminated.

36 C. Unless otherwise specified in this Agreement, COUNTY may terminate this Agreement upon
37 five (5) calendar days' written notice if CONTRACTOR fails to perform any of the terms of this

1 Agreement. At ADMINISTRATOR’s sole discretion, CONTRACTOR may be allowed up to thirty (30)
2 calendar days for corrective action.

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

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

9 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
10 required pursuant to this Agreement; provided, however, that the Parties may agree to remove an
11 individual physician or licensed person in lieu of termination the Agreement.

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

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

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

20 E. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

5 4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR,
6 upon request, all Client information and records deemed necessary by ADMINISTRATOR to effect an
7 orderly transfer.

8 5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with
9 Client's best interests.

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

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

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

20 9. Provide written notice of termination of services to each Client being served under this
21 Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of
22 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars
23 day period.

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

26
27 **XXXII. THIRD PARTY BENEFICIARY**

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

31
32 **XXXIII. WAIVER OF DEFAULT OR BREACH**

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

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

3
4 CHILDREN'S HOSPITAL OF ORANGE COUNTY
5 DBA CHOC CHILDREN'S

6
7 DocuSigned by:
8 BY: Kerri Ruppert Schiller DATED: 4/23/2019
9 EA733E343C6A473...

10
11 TITLE: Executive Vice President & Chief Financial Officer

12
13
14
15
16
17 COUNTY OF ORANGE

18
19
20 BY: _____ DATED: _____
21 HEALTH CARE AGENCY

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

29
30 DocuSigned by:
31 BY: Massoud Shamel DATED: 4/24/2019
32 79055CA571A94F8...
33
34

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

1 EXHIBIT A
2 AGREEMENT FOR PROVISION OF
3 BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH
4 WITH
5 CHILDREN’S HOSPITAL OF ORANGE COUNTY
6 DBA CHOC CHILDREN’S
7 JULY 1, 2019 THROUGH JUNE 30, 2020
8

9 **I. COMMON TERMS AND DEFINITIONS**

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

12 A. Administrative Support means individual(s) who is/are responsible for providing a broad range
13 of office support to program and management staff that includes: answering and directing phone calls,
14 writing correspondences, entering data in spreadsheets, preparing invoices for payment, maintaining
15 tracking reports and files, and working on special projects, as assigned.

16 B. Admission means documentation, by CONTRACTOR, for completion of entry and evaluation
17 services provided to Clients into IRIS.

18 C. Client means any individual, referred or enrolled, for services under the Agreement who is
19 living with mental, emotional, or behavioral disorders.

20 D. Crisis Intervention means a service, lasting less than twenty-four (24) hours that is provided to
21 or on the behalf of a Client for a condition that requires more timely response than a regularly scheduled
22 visit. Service activities may include, but are not limited to: assessment, individual therapy, collateral
23 therapy, family therapy, case management, and psychiatric evaluation.

24 E. Diagnosis means identifying the nature of a Client's disorder. When formulating the diagnosis
25 of Client, CONTRACTOR shall use the diagnostic codes and axes as specified in the most current
26 edition of the Diagnostic and DSM published by the American Psychiatric Association or the
27 international Classification of Diseases (ICD) as directed by the Administrator. Diagnoses will be
28 recorded on all IRIS documents, as appropriate.

29 F. Direct Service Hour (DSH) means the time, measured in hours and portions of hours, that a
30 clinician spends providing services to Clients or others on behalf of Clients. DSH credit, both billable
31 and non-billable minutes, is obtained by providing mental health, case management, medication support,
32 and crisis intervention services to Clients open in IRIS.

33 G. Engagement means the process where a trusting relationship between CONTRACTOR’s staff
34 and Client is developed over a short period of time, so CONTRACTOR and Client can develop a plan to
35 link the Client to appropriate services within the community. Engagement of the Client is the objective
36 of a successful outreach.

37 //

1 H. Face-to-Face Contact means, as it pertains to a FSP, a direct encounter between
2 CONTRACTOR's staff and Client(s)/parent(s)/guardian(s). This does not include contact by phone,
3 email, etc. For the purpose of completing an Encounter Document, Face-to-Face Contact means a direct
4 encounter between staff and Client(s), regardless if another individual(s) is/are present or not.

5 I. Family Team means a group formed to meet the needs of a FSP eligible Client through
6 whatever means possible, and this team includes a program staff, the eligible Client, the Client's family
7 members, and other support individual(s) the family agrees to include on the team.

8 J. Full Service Partnership Program (FSP) means a program model described in COUNTY's
9 MHSA plan that has been approved by the state. The MHSA plan describes how COUNTY will utilize
10 MHSA funds to develop and implement treatment plans for mental health Clients through FSPs. A FSP
11 is an evidence-based and strength-based model with the focus on the individual rather than the disease.

12 K. Group Home means a facility for housing youth and is licensed by Community Care Licensing
13 under the provisions of CCR, Title 22, Division 6, et seq.

14 L. Head of Service means an individual ultimately responsible for overseeing the program and is
15 required to be licensed as a mental health professional.

16 M. Intake means the initial meeting between a Client and CONTRACTOR's staff, and includes an
17 evaluation of the Client to determine if the Client meets program criteria and is willing to seek services.

18 N. Integrated Records Information System (IRIS) means the ADMINISTRATOR's database
19 system that collects Clients' information such as registration, scheduled appointments, laboratory
20 information system, invoice and reporting capabilities, compliance with regulatory requirements,
21 electronic medical records, and other relevant applications.

22 O. Pathways to Wellbeing (PWB) subclass means the lawsuit, Katie A. et al. v. Bonta et al., a class
23 action lawsuit filed in Federal District Court concerning the availability of intensive mental health
24 services to children in California who are either in foster care or at imminent risk of coming into care,
25 created this Subclass.

26 P. Licensed Clinical Social Worker (LCSW) means a licensed individual, pursuant to the
27 provisions of Chapter 14 of the California Business and Professions Code, who can provide clinical
28 services to Clients. The license must be current and in force, and has not been suspended or revoked.
29 Also, it is preferred that the individual has at least one (1) year of experience treating children and TAY.

30 Q. Licensed Marriage Family Therapist (MFT) means a licensed individual, pursuant to the
31 provisions of Chapter 13 of the California Business and Professions Code, pursuant to the provisions of
32 Chapter 14 of the California Business and Professions Code, who can provide clinical services to
33 Clients. The license must be current and in force, and has not been suspended or revoked. Also, it is
34 preferred that the individual has at least one (1) year of experience treating children and TAY.

35 R. Licensed Professional Clinical Counselor (LPCC) means a licensed individual, pursuant to the
36 provisions of Chapter 13 of the California Business and Professions Code, pursuant to the provisions of
37 Chapter 16 of the California Business and Professions Code, who can provide clinical service to Clients.

1 The license must be current and in force, and has not been suspended or revoked. Also, it is preferred
2 that the individual has at least one (1) year of experience treating children and TAY.

3 S. Licensed Psychiatric Technician (LPT) means a licensed individual, pursuant to the provisions
4 of Chapter 10 of the California Business and Professions Code, who can provide clinical services to
5 Clients. The license must be current and in force, and has not been suspended or revoked. Also, it is
6 preferred that the individual has at least one (1) year of experience treating children and TAY.

7 T. Licensed Psychologist means a licensed individual, pursuant to the provisions of Chapter 6.6 of
8 the California Business and Professions Code, who can provide clinical services to Clients. The license
9 must be current and in force, and has not been suspended or revoked. Also, it is preferred that the
10 individual has at least one (1) year of experience treating children and TAY.

11 U. Licensed Vocational Nurse (LVN) means a licensed individual, pursuant to the provisions of
12 Chapter 6.5 of the California Business and Professions Code, who can provide clinical services to
13 Clients. The license must be current and in force, and has not been suspended or revoked. Also, it is
14 preferred that the individual has at least one (1) year of experience treating children and TAY.

15 V. Live Scan means an inkless, electronic fingerprint which is transmitted directly to the
16 Department of Justice (DOJ) for the completion of a criminal record check, typically required of
17 employees who have direct contact with Clients.

18 W. Medi-Cal means the State of California’s implementation of the federal Medicaid health care
19 program which pays for a variety of medical services for children and adults who meet eligibility
20 criteria.

21 X. Medical Necessity means Diagnosis, impairment, and intervention related criteria as defined in
22 the COUNTY’s MHP under Medical Necessity for Medi-Cal reimbursed Specialty Mental Health
23 Services.

24 Y. Mental Health Services means an individual or a group therapy and intervention being provided
25 to Clients that is designed to reduce mental disability and restores or improves daily functioning. These
26 Mental Health Services must be consistent with goals of learning and development, as well as
27 independent living and enhanced self-sufficiency. In addition, these services cannot be provided as a
28 component of adult residential services, crisis residential treatment services, Crisis Intervention, crisis
29 stabilization, day rehabilitation, or day treatment intensive. Service activities may include, but are not
30 limited to: Assessment, plan development, rehabilitation, and collateral. Also, Mental Health Services
31 may be either Face-to-Face Contact, or by telephone with Clients or significant support individuals, and
32 services may be provided anywhere in the community.

33 1. Assessment means a service activity, which may include a clinical analysis of the history
34 and current status of a Client’s mental, emotional, behavioral disorder, and relevant cultural issues. The
35 Assessment also needs to include history of services being provided, Diagnosis, and use of testing
36 procedures.

37 //

1 2. Collateral means significant support individual(s) in a Client’s life and is/are used to define
2 services provided to the Client with the intent of improving or maintaining the mental health status of
3 the Client. The Client may or may not be present for this service activity.

4 3. Co-Occurring can refer dual diagnoses of different conditions occurring within the same
5 individuals. In this case, it refers to clients who have substance use disorders and/or medical conditions
6 as well as mental health disorders.

7 4. Intensive Care Coordination (ICC) means a medically necessary service provided to Medi-
8 Cal beneficiaries under the EPSDT benefit. ICC includes assessment, care planning and coordination of
9 services across child services systems and providers, including intensive services for children/youth who
10 meet thePWB Subclass criteria.

11 5. IHBS Service means intensive, individualized and strength-based interventions, with
12 children and youth that qualify under the Katie A. Subclass, to assist the child/youth and his/her
13 significant support persons to develop skills to achieve the goals and objectives of the child/youth’s
14 treatment plan. IHBS only includes Individual Rehabilitation and Collateral services. Mental Health
15 Services other than Individual Rehabilitation and Collateral will be claimed separately from IHBS.

16 6. Medication Support Services means services provided by licensed physicians, registered
17 nurses, or other qualified medical staff, which include: prescribing, administering, dispensing and
18 monitoring of psychiatric medications or biologicals that are necessary to alleviate symptoms of mental
19 illness. These services also include evaluation and documentation of the clinical justification and
20 effectiveness of medication, dosage, side effects, compliance, and response to medication. In addition,
21 the licensed physicians, registered nurses, or other qualified medical staff must obtain informed consent
22 from Clients prior to providing medication education and plan development related to the delivery of
23 these services and/or Assessment to Clients.

24 7. Rehabilitation Service means an activity which includes assistance to improving,
25 maintaining, or restoring a Client’s or group of Clients’ functional skills, daily living skills, social and
26 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or
27 medication education.

28 8. Targeted Case Management (TCM) means services that assist a Client to access needed
29 medical, educational, social, prevocational, vocational, rehabilitative, or other community services.
30 These service activities may include, but are not limited to: communicating and coordinating services
31 through referral; monitoring service delivery to ensure Clients’ access to service and the service delivery
32 system; and tracking of Clients’ progress and plan development.

33 9. Therapeutic Behavioral Services (TBS) means one-on-one behavioral interventions with a
34 Client, which is designed to reduce or eliminate targeted behaviors as identified in the Client’s treatment
35 plan. Collateral services are also provided to parent(s)/guardian(s) as part of TBS. Clients must be
36 Medi-Cal eligible and meet TBS class membership and service need requirements. Documentation in
37 the medical record must support Medical Necessity for these intensive services. Cases in which Clients

1 are receiving more than twenty (20) hours per week of TBS or those who are expected to receive more
2 than four months (120 days) of TBS must be approved by ADMINISTRATOR. ADMINISTRATOR
3 has to approve individuals that are delivering these intervention services to ensure they are qualified to
4 deliver these services.

5 10. Therapy means a therapeutic intervention that focuses primarily on symptom reduction as a
6 means to improve functional impairments. Therapy may be delivered to a Client or a group of Clients,
7 which may include family Therapy with Client being present.

8 Z. Mental Health Services Act (MHSA) means the State of California law that provides funding
9 for expanded community Mental Health Services. It is also known as “Proposition 63.”

10 AA. Mental Health Worker means an individual who has obtained a Bachelor's degree in a mental
11 health field or has a high school diploma along with two (2) years of experience delivering services in a
12 mental health field.

13 AB. Mentoring Services means a service that provides support to Clients by building a structured
14 and trusting relationship over a prolonged period of time between a Client and a mentor. The mentor is
15 a peer or older individual who provides one-to-one contact and support in the following areas to assist
16 Client(s)/parent(s)/guardian(s): consistent support, guidance, and coaching in life skills; concrete help
17 and/or other relationship-building activities to the Client(s)/parent(s)/guardian(s); and linking the
18 Client(s)/parent(s)/guardian(s) to other services within the COUNTY and contract operated programs.

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

23 AD. Notice of Adverse Benefit Determination-BD (NOA-BD) means a Medi-Cal requirement that
24 informs the beneficiary that she/he is not entitled to any specialty mental health service. The COUNTY
25 has expanded the requirement for an NOA-BD to all beneficiaries requesting an Assessment for services
26 and found not to meet the Medical Necessity criteria for specialty Mental Health Services.

27 AE. Notice of Privacy Practices (NPP) means a document that notifies Clients of uses and
28 disclosures of PHI. The NPP may be made by, or on behalf of, the health plan or health care provider as
29 set forth in the of 1996 HIPAA.

30 AF. Nurse Practitioner means a medical professional with an advanced degree in nursing that
31 performs a variety of duties in care settings focused around a nursing model.

32 AG. Outreach means linking potential Clients to appropriate Mental Health Services within the
33 community. Outreach activities will include educating the community about the services offered and
34 requirements for participation in the various mental health programs within the community. Such
35 activities may result in the CONTRACTOR developing Referral sources for Clients from programs
36 being offered within the community.

37 //

1 AH. Pharmacy Benefit Management (PBM) Company means a company contracted by the
2 COUNTY that manages the medication benefits for Clients that are qualified for medication benefits.

3 AI. Pre-Licensed Psychologist means an individual who has a Ph.D. or Psy.D. in Clinical
4 Psychology and is registered with the Board of Psychology as a Registered Psychologist or
5 Psychological Assistant, while acquiring hours for licensing and providing services under a waiver in
6 accordance with WIC section 575.2. The waiver may not exceed five (5) years.

7 AJ. Pre-Licensed Therapist means an individual who has a Master’s Degree in social work or MFT,
8 PCC and is registered with the BBS as an associate clinical social worker, PCC intern, or MFT intern,
9 while acquiring hours for licensing. Registration is subject to regulations adopted by BBS.

10 AK. Program Director means an individual who is responsible for all aspects of administration and
11 clinical operations of the mental health program, including development and adherence to the annual
12 budget. This individual will also be responsible for the following: hiring, development and
13 performance management of professional and support staff, and ensuring mental health treatment
14 services are provided in concert with COUNTY and state rules and regulations.

15 AL. Protected Health Information (PHI) means individually identifiable health information usually
16 transmitted through electronic media. PHI can be maintained in any medium as defined in the
17 regulations, or for an entity such as a health plan, transmitted or maintained in any other medium. It is
18 created or received by a covered entity and is related to the past, present, or future physical or mental
19 health or condition of an individual, provision of health care to an individual, or the past, present, or
20 future payment for health care provided to an individual.

21 AM. Psychiatrist means an individual who meets the minimum professional and licensure
22 requirements set forth in Title 9, CCR, Section 623, and, preferably, has at least one (1) year of
23 experience treating children and TAY.

24 AN. Psychology Fellow means an individual who has earned their Ph.D. or Psy.D. and are accruing
25 supervised clinical hours towards Licensure as a Psychologist. .

26 AO. Pre-doctoral Psychology Student or Psychology Intern means an individual who is in school
27 pursuing a Ph.D. or Psy.D. in Clinical Psychology, and may or may not meet the criteria for a DHCS
28 Waiver in order to provide services in accordance with DHCS Information Letter No. 10-03. The waiver
29 may not exceed (5) years.

30 AP. Quality Improvement and Compliance (QIC) means a committee that meets quarterly to review
31 one percent (1%) of all “high-risk” Medi-Cal Clients in order to monitor and evaluate the quality and
32 appropriateness of services provided. At a minimum, the committee is comprised of one (1)
33 ADMINISTRATOR, one (1) clinician, and one (1) physician who are not involved in the clinical care of
34 the cases.

35 AQ. Rate Classification Level Group Home (RCL) means a Group Home reviewed by the State
36 Department of Social Services, Foster Care Rates Bureau, which meets the requirements for a RCL of 1
37 to 14, to provide eligible minors room and board and supervision.

1 AR. Referral means effectively linking Clients to other services within the community and
2 documenting follow-up provided within five (5) business days to assure that Clients have made contact
3 with the referred service(s).

4 AS. RN means a licensed individual, pursuant to the provisions of Chapter 6 of the California
5 Business and Professions Code, who can provide clinical services to Clients. The license must be
6 current and in force, and has not been suspended or revoked. Also, it is preferred that the individual has
7 at least one (1) year of experience treating children and TAY.

8 AT. Short-Term Residential Therapeutic Program (STRTP) means a residential facility operated by a
9 public agency or private organization and licensed by the California Department of Social Services pursuant
10 to Section 1562.01 that provides an integrated program of specialized and intensive care and supervision,
11 services and supports, treatment, and short-term 24-hour care and supervision to children with the aim of
12 moving the youth to a less restrictive environment within six months. The care and supervision provided by
13 a short-term residential therapeutic program shall be nonmedical, except as otherwise permitted by law.
14 Private short-term residential therapeutic programs shall be organized and operated on a nonprofit basis.

15 AU. Student Intern means student(s) currently enrolled in an accredited graduate or undergraduate
16 program and is/are accumulating supervised work experience hours as part of field work, internship, or
17 practicum requirements. Acceptable programs include all programs that assist students in meeting the
18 educational requirements to be a Licensed MFT, a LCSW, a Licensed Clinical Psychologist, a Licensed
19 PCC, or to obtain a Bachelor’s degree. Individuals with graduate degrees and have two (2) years of
20 full-time experience in a mental health setting, either post-degree or as part of the program leading to the
21 graduate degree, are not considered as students.

22 AV. Supervisory Review means ongoing clinical case reviews in accordance with procedures
23 developed by the COUNTY to determine the appropriateness of the Diagnosis and treatment plan for
24 Clients, as well as to monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting
25 standards. Supervisory Review is conducted by the program/clinic director or designee.

26 AW. Token means the security device which allows an end-user to access ADMINISTRATOR’s
27 computer based IRIS.

28 AX. Uniform Method of Determining Ability to Pay (UMDAP) means the method used for
29 determining the annual Client liability for mental health services received from the COUNTY’s mental
30 health system and is set by the State of California.

31 AY. Wraparound Orange County means the wraparound program administered by COUNTY’s SSA
32 and is available to children and TAY who are returning from or being considered for placement in group
33 homes.

34 //
35 //
36 //
37 //

II. BUDGET

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

ADMINISTRATIVE	TOTAL
Indirect	\$ <u>128,848</u>
SUBTOTAL ADMINISTRATIVE COST	\$ 128,848
 PROGRAM	
Salaries	\$1,059,628
Benefits	226,831
Services and Supplies	<u>161,267</u>
SUBTOTAL PROGRAM COST	\$1,447,726
TOTAL GROSS COST	\$1,576,574
 REVENUE	
Federal Medi-Cal	\$ 600,000
MHSA	<u>976,574</u>
TOTAL REVENUE	\$1,576,574
 TOTAL MAXIMUM OBLIGATION	 \$1,576,574

B. CONTRACTOR agrees the total cost of services provided for in the Agreement are based upon projected revenue generation and shall be reimbursed by federal Medi-Cal and COUNTY MHSA revenues. CONTRACTOR agrees that if actual federal Medi-Cal reimbursement, based upon the completed Cost Report, as specified in the Cost Report Paragraph of the Agreement, for each Fiscal Year is less than budgeted, the Maximum Obligation may, at ADMINISTRATOR’s sole discretion, be adjusted down by the amount of under generated federal Medi-Cal revenue. CONTRACTOR further agrees that MHSA revenue shall be used to cover the cost of non-Medi-Cal Clients and/or non-Medi-Cal billable services and shall not exceed the amounts specified in the Budget Paragraph of this Exhibit A to the Agreement, unless authorized, in writing, by ADMINISTRATOR.

C. In the event CONTRACTOR collects fees and insurance, including Medicare, for services provided pursuant to the Agreement, CONTRACTOR may make written application to ADMINISTRATOR to retain such revenues; provided, however, the application must specify that the fees and insurance shall be utilized exclusively to provide Mental Health Services. ADMINISTRATOR may, at its sole discretion, approve any such retention of revenues. Approval by ADMINISTRATOR

1 shall be in writing to CONTRACTOR and shall specify the amount of said revenues to be retained and
2 the quantity of services to be provided by CONTRACTOR.

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

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

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

21
22 **III. PAYMENTS**

23 A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amounts of
24 \$131,381 per month, as specified in the Referenced Contract Provisions of the Agreement. All
25 payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report
26 Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of
27 providing the services hereunder; provided, however, the total of such payments does not exceed
28 COUNTY’s Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement
29 and, provided further, CONTRACTOR’s costs are reimbursable pursuant to COUNTY, state, and
30 federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for any
31 month for which the provisional amount specified above has not been fully paid.

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

36 2. If, at any time, CONTRACTOR’s Expenditure and Revenue Reports indicate that the
37 provisional amount payments exceed the actual cost of providing services, ADMINISTRATOR may

1 reduce payments to CONTRACTOR by an amount not to exceed the difference between the year-to-
2 date provisional amount payments to CONTRACTOR's and the year-to-date actual cost incurred by
3 CONTRACTOR.

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

9 B. CONTRACTOR's invoices shall be on a form approved or supplied by ADMINISTRATOR
10 and provide such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th)
11 day of each month. Invoices received after the due date may not be paid within the same month.
12 Payments to CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days
13 after receipt of the correctly completed invoice.

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

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

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

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

24
25 **IV. REPORTS**

26 **A. FISCAL**

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

35 2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These
36 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report
37 anticipated year-end actual costs and revenues for CONTRACTOR's program described in the Services

1 Paragraph of this Exhibit A to the Agreement. Such reports shall include actual monthly costs and
2 revenue to date and anticipated monthly costs and revenue to the end of the fiscal year, and shall include
3 a projection narrative justifying the year-end projections. Year-End Projection Reports shall be
4 submitted in conjunction with the Monthly Expenditure and Revenue Reports.

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

9 C. PROGRAMMATIC – CONTRACTOR shall submit monthly Programmatic reports to
10 ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall
11 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings
12 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the
13 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not
14 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve
15 satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth
16 (20th) calendar day following the end of the month being reported.

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

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

23
24 **V. SERVICES**

25 **A. FACILITIES**

26 1. CONTRACTOR shall maintain a minimum of one (1) fully licensed and appropriate
27 facility for the provision of Behavioral Health Outpatient Services for Children and Youth which
28 meet(s) the minimum requirements for Medi-Cal eligibility at the following location or any other
29 location(s) approved by ADMINISTRATOR, as specified below:

30
31 1120 West La Veta Ave., #470
32 Orange, CA 92868
33

34 2. CONTRACTOR shall maintain regularly scheduled service hours Monday through Friday
35 9:00 a.m. to 6:00 p.m. throughout the year and maintain the capability to provide services in the evening
36 hours and on weekends in order to accommodate Clients unable to participate during regular business
37 hours.

1 a. CONTRACTOR’s administrative staff holiday schedule shall be consistent with
2 COUNTY’s holiday schedule unless otherwise approved, in advance and in writing, by
3 ADMINISTRATOR.

4 b. CONTRACTOR shall develop with each Client and/or Client’s family a plan for Crisis
5 Intervention services which includes whom to contact for emergency services.

6 3. Upon ADMINISTRATOR’s certification of the provider's existing site, the
7 CONTRACTOR shall be responsible for making any necessary changes to meet and maintain Medi-Cal
8 site standards.

9 B. BEHAVIORAL HEALTH OUTPATIENT SERVICES

10 1. CONTRACTOR shall coordinate with ADMINISTRATOR and provide behavioral health
11 services to children and youth with co-occurring behavioral health and physical health issues in a
12 medical setting. Early identification and intervention has been shown to enhance the overall recovery
13 process. Family involvement is an essential component. Emphasis will be placed on those clients
14 where behavioral health issues may be interfering with engagement in medical treatment. Services shall
15 be provided at a level and frequency and duration that is consistent with each Client’s level of
16 dysfunction and treatment goals, and consistent with individualized, solution-focused, evidenced-based
17 practices. The population to whom services are to be provided shall include, but may not be limited to:

18 a. Children and youth with co-occurring medical diagnoses served in the
19 CONTRACTOR’S Specialty clinics including but not limited to neurology, endocrinology,
20 gastroenterology, cardiology, oncology, metabolic, urology, pulmonology, and orthopedics.

21 b. Children and youth with co-occurring medical diagnoses who are transitioning to home
22 and adjusting to their physical health issues in the community.

23 c. Children and youth with co-occurring medical diagnoses who are at risk of psychiatric
24 hospitalization or other out of home placement because of their behavioral health issues.

25 d. Children with co-occurring medical diagnosis who are having difficulty in school and
26 are at risk of being placed in special education or other restrictive programs.

27 e. Parents, caregivers and family members of children with co-occurring medical
28 conditions who require mental health support as a result of a child’s co-occurring conditions.

29 f. CONTRACTOR’s program shall be in compliance with all federal, state and COUNTY
30 laws, rules, guidelines and regulations.

31 2. CONTRACTOR shall collect and input all data about characteristics and progress of the
32 Clients into a Data Collection System or other database as mandated by the state and/or
33 ADMINISTRATOR.

34 3. CONTRACTOR shall confer with ADMINISTRATOR prior to recommending a Client for
35 discharge. Planning for discharge or transition to an appropriate alternative service shall be initiated at
36 Admission to behavioral health services and be incorporated into the service plan.

37 //

1 4. CONTRACTOR shall develop and maintain an advisory committee for their services,
2 which shall meet periodically to review and comment on the progress of the program. Clients, former
3 Clients, and/or their family members shall be represented on the committee, as well as relevant
4 community representatives mutually agreed upon by ADMINISTRATOR and CONTRACTOR.

5 5. CONTRACTOR shall participate in any clinical case review and implement any
6 recommendations made by ADMINISTRATOR to improve Client care.

7 6. CONTRACTOR shall conduct thirty (30)-day review of open cases, or previously opened
8 with another provider. CONTRACTOR shall ensure that all chart documentation complies with all
9 federal, state, and COUNTY guidelines and standards.

10 7. CONTRACTOR shall ensure that all clinical documentation is completed promptly and is
11 reflected on the Client’s chart within twenty-four (24) hours after the completion of services maintained
12 by CONTRACTOR.

13 C. CONTRACTOR RESPONSIBILITIES

14 1. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of
15 CONTRACTOR’s administrative and program P&Ps. CONTRACTOR shall provide signature
16 confirmation of its P&P training for each staff member and place in their personnel files.

17 2. CONTRACTOR shall ensure that all staff complete the COUNTY’s Annual Provider
18 Training, and staff responsible for input into IRIS complete IRIS New User Training.

19 3. CONTRACTOR shall ensure that Annual Compliance Training is completed as set forth in
20 Subparagraph C. of the Compliance Paragraph of the Agreement.

21 4. CONTRACTOR shall regularly review their charting, IRIS data input, and invoice systems
22 to ensure compliance with COUNTY and State P&Ps and establish mechanisms to prevent inaccurate
23 claim submissions.

24 D. PERFORMANCE OUTCOMES

25 1. CONTRACTOR shall complete Performance Outcome Measures as required by State
26 and/or COUNTY.

27 2. CONTRACTOR shall cooperate in data collection in order to develop baseline figures for
28 future evaluation and report performance in terms of Client satisfaction, length of stay, and duration of
29 services.

30 E. TOKENS - ADMINISTRATOR shall provide CONTRACTOR the necessary number of
31 Tokens for appropriate individual staff to access IRIS at no cost to the CONTRACTOR.

32 1. CONTRACTOR recognizes Tokens are assigned to a specific individual staff member with
33 a unique password. Tokens and passwords will not be shared with anyone.

34 2. CONTRACTOR shall maintain an inventory of the Tokens, by serial number and the staff
35 member to whom each is assigned.

36 3. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the
37 Token for each staff member assigned a Token.

1 4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following
2 conditions:

- 3 a. Token of each staff member who no longer supports the Agreement;
- 4 b. Token of each staff member who no longer requires access to IRIS;
- 5 c. Token of each staff member who leaves employment of CONTRACTOR; or
- 6 d. Token is malfunctioning;
- 7 e. Termination of the Agreement.

8 5. ADMINISTRATOR shall issue Tokens for CONTRACTOR’s staff members who require
9 access to IRIS upon initial training or as a replacement for malfunctioning Tokens.

10 6. CONTRACTOR shall reimburse the COUNTY for Tokens lost, stolen, or damaged through
11 acts of negligence.

12 7. CONTRACTOR shall input all IRIS data following COUNTY procedure and practice. All
13 statistical data used to monitor CONTRACTOR shall be compiled using only COUNTY IRIS reports, if
14 available, and if applicable.

15 F. CONTRACTOR shall obtain a NPI.

16 1. All HIPAA covered healthcare providers, individuals and organizations must obtain a NPI
17 for use to identify themselves in HIPAA standard transactions.

18 2. CONTRACTOR, including each employee that provides services under the Agreement,
19 will obtain a NPI upon commencement of the Agreement or prior to providing services under the
20 Agreement. CONTRACTOR shall report to ADMINISTRATOR, on a form approved or supplied by
21 ADMINISTRATOR, all NPI as soon as they are available.

22 G. CONTRACTOR shall provide the NPP for the COUNTY, as the MHP, at the time of the first
23 service provided under the Agreement to individuals who are covered by Medi-Cal and have not
24 previously received services at a COUNTY operated clinic. CONTRACTOR shall also provide, upon
25 request, the NPP for the COUNTY, as the MHP, to any individual who received services under the
26 Agreement.

27 H. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,
28 with respect to any individual(s) who have been referred to CONTRACTOR by COUNTY under the
29 terms of the Agreement. Further, CONTRACTOR agrees that the funds provided hereunder will not be
30 used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian
31 institution, or religious belief.

32 I. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to
33 conduct research activity on COUNTY Clients without obtaining prior written authorization from
34 ADMINISTRATOR.

35 J. CONTRACTOR shall provide effective Administrative management of the budget, staffing,
36 recording, and reporting portion of the Agreement with the COUNTY. If administrative responsibilities
37 are delegated to subcontractors, CONTRACTOR must ensure that any subcontractor(s) possess the

1 qualifications and capacity to perform all delegated responsibilities. These responsibilities include, but
2 are not limited, to the following:

- 3 1. Designate the responsible position(s) in your organization for managing the funds allocated
- 4 to the program;
- 5 2. Maximize the use of the allocated funds;
- 6 3. Ensure timely and accurate reporting of monthly expenditures;
- 7 4. Maintain appropriate staffing levels;
- 8 5. Request budget and/or staffing modifications to the Agreement;
- 9 6. Effectively communicate and monitor the program for its success;
- 10 7. Track and report expenditures electronically;
- 11 8. Maintain electronic and telephone communication between CONTRACTOR and
- 12 ADMINISTRATOR; and
- 13 9. Act quickly to identify and solve problems.

14 K. CONTRACTOR shall document all adverse incidents affecting the physical and/or emotional
15 welfare of Clients, including but not limited to serious physical harm to self or others, serious
16 destruction of property, developments, etc., and which may raise liability issues with COUNTY.
17 CONTRACTOR shall notify COUNTY within twenty-four (24) hours of any such serious adverse
18 incident.

19 L. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues
20 that adversely affect the quality or accessibility of Client-related services provided by, or under contract
21 with, the COUNTY as identified in the ADMINISTRATOR's P&Ps.

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

24 //
25 //
26 //
27 //
28 //
29 //
30 //
31 //
32 //
33 //
34 //
35 //
36 //
37 //

VI. STAFFING

A. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in Full-Time Equivalent (FTEs) continuously throughout the term of the Agreement. One (1) FTE shall be equal to an average of forty (40) hours work per week.

PROGRAM

Program Director	0.15
Assistant Program Director	0.65
Administrative Assistant/Billing	0.75
Front Office Supervisor/Medical Assistant	0.50
Billing Representative	1.80
PS/Medical Assistant	0.75
Quality Assurance Representative	0.50
Child Adolescent Psychiatrist	0.60
Licensed Psychologist	1.93
Psychology Fellow	2.45
Social Worker	<u>2.90</u>
TOTAL FTEs	12.98

B. CONTRACTOR shall have as Head of Service; a licensed mental health professional, in conformance to one of the following staff categories: Psychiatrist, Licensed Psychologist, LCSW, LPCC, Licensed MFT, RN, LVN, or LPT.

C. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold languages as determined by ADMINISTRATOR. Whenever possible, bilingual/bicultural staff should be retained. Any clinical vacancies occurring at a time when bilingual and bicultural composition of the clinical staffing does not meet the above requirement must be filled with bilingual and bicultural staff unless ADMINISTRATOR consents, in advance and in writing, to the filling of those positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be used to cover costs other than salaries and employees benefits unless otherwise authorized, in advance and in writing, by ADMINISTRATOR.

D. CONTRACTOR shall maintain personnel files for each staff person, including management and other administrative positions, both direct and indirect to the Agreement, which shall include, but not be limited to, an application for employment, qualifications for the position, applicable licenses, Live Scan results, waivers, registrations, documentation of bicultural/bilingual capabilities (if applicable), pay rate and evaluations justifying pay increases.

E. CONTRACTOR shall make its best effort to provide services pursuant to the Agreement in a manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR

1 shall maintain documents of such efforts which may include; but not be limited to: records of
 2 participation in COUNTY-sponsored or other applicable Training; recruitment and hiring P&Ps; copies
 3 of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to
 4 enhance accessibility for, and sensitivity to, individuals who are physically challenged.

5 F. CONTRACTOR shall develop a policy governing supervision of staff that will be approved by
 6 the ADMINISTRATOR. That policy will address the training needs of all staff and ensure that direct
 7 service staff are trained in: suicide assessment and crisis intervention, developing safety plans,
 8 maintaining healthy boundaries, reporting child abuse, dealing with difficult Clients, and medication,
 9 confidentiality, identification of strengths, promoting life skills, meeting facilitation and such other
 10 topics identified by the ADMINISTRATOR.

11 G. CONTRACTOR shall maintain a current signature list including each supervisor and provider
 12 of direct services who signs chart documentation. The list shall include the printed/type staff name and
 13 title, followed by the legal signature with title as it appears on all chart documents. For licensed or
 14 registered clinical staff, the name must match the name on the license or registration.

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

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

22 I. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of
 23 any staffing vacancies that occur during the term of the Agreement. CONTRACTOR's notification
 24 shall include at a minimum the following information: employee name(s), position title(s), date(s) of
 25 resignation, date(s) of hire, and a description of recruitment activity.

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

29 K. CONTRACTOR shall ensure that all staff, albeit paid or unpaid, complete necessary training
 30 prior to discharging duties associated with their titles and any other training necessary to assist the
 31 CONTRACTOR and COUNTY to be in compliance with prevailing standards of practice as well as
 32 State and Federal regulatory requirements.

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

1 M. WORKLOAD STANDARDS - CONTRACTOR understands and agrees that at any given time
2 the standards referenced below are minimum standards, and shall make every effort to exceed these
3 minimums.

4 1. One (1) DSH shall be equal to sixty (60) minutes of direct Client service.

5 2. CONTRACTOR shall, during the term of the Agreement, provide a minimum of seven
6 thousand seven hundred seventy six (7,776) DSH for Client related services, which shall include mental
7 health, case management, Crisis Intervention, and other support services and is inclusive of both billable
8 and non-billable services.

9 3. CONTRACTOR shall, at a minimum, provide the following DSH per position title:

10 a. Child and Adolescent Psychiatrists (as a group) shall provide twenty five (25) DSH per
11 month or three hundred (300) DSH per year.

12 b. Licensed Psychologists (as a group) shall provide one hundred eighty seven (187) DSH
13 per month or two thousand two hundred forty four (2,244) DSH per year.

14 c. Psychology Fellows (as a group) shall provide one hundred fifty seven (157) DSH per
15 month or one thousand eight hundred eighty seven (1,887) DSH per year.

16 d. Social Worker (as a group) shall provide two hundred seventy nine (279) DSH per
17 month or three thousand three hundred forty eight (3,348) DSH per year.

18 e. CONTRACTOR understands and agrees that this is a minimum standard and shall
19 make every effort to exceed this minimum.

20 4. CONTRACTOR shall provide Face-to-Face Contact within three (3) business days of
21 Client's Referral for services.

22 5. CONTRACTOR shall not refuse Client referrals if any of CONTRACTOR's staff are
23 below workload standards, as defined in the Staffing Paragraph of this Exhibit A to the Agreement,
24 unless otherwise approved by ADMINISTRATOR.

25 N. STUDENT INTERNS

26 1. CONTRACTOR may augment the above paid staff with volunteers or interns upon written
27 approval of ADMINISTRATOR.

28 a. CONTRACTOR shall meet minimum requirements for supervision of each Student
29 Intern as required by the State Licensing Board and/or school program descriptions or work contracts.

30 b. Student Intern services shall not comprise more than twenty percent (20%) of total
31 services provided.

32 2. CONTRACTOR shall provide a minimum of two (2) hours per week supervision to each
33 Student Intern providing Mental Health Services and one (1) hour of supervision for each ten (10) hours
34 of treatment for Student Interns providing substance abuse services. CONTRACTOR shall provide
35 supervision to volunteers as specified in the respective job descriptions or work contracts.

36 O. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
37 Staffing Paragraph of this Exhibit A to the Agreement.

1 EXHIBIT B
2 AGREEMENT FOR PROVISION OF
3 BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH
4 WITH
5 CHILDREN’S HOSPITAL OF ORANGE COUNTY
6 DBA CHOC CHILDREN’S
7 JULY 1, 2019 THROUGH JUNE 30, 2020
8

9 **I. BUSINESS ASSOCIATE CONTRACT**

10 A. GENERAL PROVISIONS AND RECITALS

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

15 2. The parties agree that a business associate relationship under HIPAA, the HITECH Act,
16 and the HIPAA regulations between the CONTRACTOR and COUNTY arises if and only to the extent
17 that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on
18 behalf of COUNTY pursuant to, and as set forth in, the Agreement that meet the statutory definition of
19 “Business Associate” in 45 CFR § 160.103. It is further understood and agreed to that in the absence of
20 a Business Associate relationship as defined by HIPAA, between CONTRACTOR and COUNTY, any
21 and all terms contained within Exhibit B and Exhibit C shall have no legal force or binding effect.
22 Irrespective of Exhibit B and Exhibit C’s applicability, CONTRACTOR and COUNTY shall maintain
23 appropriate safeguards to protect their Protected Health Information in full compliance with all
24 applicable State and Federal privacy laws, including but not limited to HIPAA and the HITECH Act, as
25 is required of both parties in their roles as Covered Entities.

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

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

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

37 //

1 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
2 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the
3 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
4 terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to
5 CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the
6 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and
7 electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

8 B. DEFINITIONS

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

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

14 a. Breach excludes:

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

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

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

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

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

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

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

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

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

37 //

1 4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in
2 45 CFR § 164.501.

3 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in
4 45 CFR § 160.103.

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

7 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in
8 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
9 with 45 CFR § 164.502(g).

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

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

15 10. "PHI" shall have the meaning given to such term under the HIPAA regulations in
16 45 CFR § 160.103.

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

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

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

25 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of ePHI at
26 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

27 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in
28 45 CFR § 160.103.

29 16. "Technical safeguards" means the technology and the P&Ps for its use that protect
30 electronic PHI and control access to it.

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

34 18. "Use" shall have the meaning given to such term under the HIPAA regulations in
35 45 CFR § 160.103.

36 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

37 //

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

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

8 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of
9 45 CFR Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR
10 creates, receives, maintains, or transmits on behalf of COUNTY.

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

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

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

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

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

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

35 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to
36 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
37 and to make information related to such Disclosures available as would be required for COUNTY to

1 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with
2 45 CFR § 164.528.

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

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

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

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

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

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

37 //

1 applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the
2 event:

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

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

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

11 D. SECURITY RULE

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

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

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

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

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

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

36 //

37 //

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

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

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

10 E. DATA SECURITY REQUIREMENTS

11 1. Personal Controls

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

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

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

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

37 //

2. Technical Security Controls

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

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

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

d. Removable media devices. All electronic files that contain PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY 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. Such PHI 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.

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

f. Patch Management. All workstations, laptops and other systems that process and/or store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY 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.

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. 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 twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight

1 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the
2 computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days.
3 Passwords must be changed if revealed or compromised. Passwords must be composed of characters
4 from at least three (3) of the following four (4) groups from the standard keyboard:

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

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

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

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

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

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

33 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
34 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
35 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
36 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files

37 //

1 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
2 website access, file transfer, and E-Mail.

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

7 3. Audit Controls

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

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

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

21 4. Business Continuity/Disaster Recovery Control

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

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

34 5. Paper Document Controls

35 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
36 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left
37 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means

1 that information is not being observed by an employee authorized to access the information. Such PHI
2 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
3 baggage on commercial airplanes.

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

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

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

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

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

25 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

2 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably

3 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

4 b. Any other information that COUNTY is required to include in the notification to

5 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or

6 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day

7 period set forth in 45 CFR § 164.410 (b) has elapsed, including:

8 1) A brief description of what happened, including the date of the Breach and the date

9 of the discovery of the Breach, if known;

10 2) A description of the types of Unsecured PHI that were involved in the Breach (such

11 as whether full name, social security number, date of birth, home address, account number, diagnosis,

12 disability code, or other types of information were involved);

13 3) Any steps Individuals should take to protect themselves from potential harm

14 resulting from the Breach;

15 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to

16 mitigate harm to Individuals, and to protect against any future Breaches; and

17 5) Contact procedures for Individuals to ask questions or learn additional information,

18 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

19 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in

20 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the

21 COUNTY.

22 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation

23 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that

24 CONTRACTOR made all notifications to COUNTY consistent with this Subparagraph F and as

25 required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or

26 disclosure of PHI did not constitute a Breach.

27 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or

28 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

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

30 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit

31 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as

32 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR’s initial report of

33 the Breach to COUNTY pursuant to Subparagraph F.2. above.

34 8. CONTRACTOR shall continue to provide all additional pertinent information about the

35 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after

36 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable

37 //

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

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

7 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

17 1) The Disclosure is required by law; or

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

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

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

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

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

32 H. PROHIBITED USES AND DISCLOSURES

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

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

5 I. OBLIGATIONS OF COUNTY

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

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

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

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

17 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

37 //

1 3. The obligations of this Business Associate Contract shall survive the termination of the
2 Agreement.
3 //
4 //
5 //
6 //
7 //
8 //
9 //
10 //
11 //
12 //
13 //
14 //
15 //
16 //
17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //
29 //
30 //
31 //
32 //
33 //
34 //
35 //
36 //
37 //

1 EXHIBIT C
2 AGREEMENT FOR PROVISION OF
3 BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH
4 WITH
5 CHILDREN'S HOSPITAL OF ORANGE COUNTY
6 DBA CHOC CHILDREN'S
7
8 JULY 1, 2019 THROUGH JUNE 30, 2020
9

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

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

13 A. DEFINITIONS

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

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

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

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

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

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

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

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

31 9. "Required by law" means a mandate contained in law that compels an entity to make a use
32 or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court
33 orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental
34 or tribal inspector general, or an administrative body authorized to require the production of
35 information, and a civil or an authorized investigative demand. It also includes Medicare conditions of
36 participation with respect to health care providers participating in the program, and statutes or
37 //

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

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

6 B. TERMS OF AGREEMENT

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

11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

34 //
35 //
36 //
37 //