

1 AGREEMENT FOR PROVISION OF  
2 CO-OCCURRING RESIDENTIAL TREATMENT SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 SOCIAL MODEL RECOVERY SYSTEMS, INC.  
7 OCTOBER 1, 2017 THROUGH JUNE 30, 2019  
8

9 THIS AGREEMENT entered into this 1st day of October 2017 (effective date), is by and between  
10 the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and  
11 and SOCIAL MODEL RECOVERY SYSTEMS, INC., a California non-profit corporation  
12 (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually  
13 as "Party" or collectively as "Parties." This Agreement shall be administered by the County of Orange  
14 Health Care Agency (ADMINISTRATOR).  
15

16 **W I T N E S S E T H:**  
17

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of  
19 Co-Occurring Residential Treatment Services described herein to the residents of Orange County; and

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

22 NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained  
23 herein, COUNTY and CONTRACTOR do hereby agree as follows:

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**REFERENCED CONTRACT PROVISIONS****Term:** October 1, 2017 through June 30, 2019

Period One means the period from October 1, 2017 through June 30, 2018

Period Two means the period from July 1, 2018 through June 30, 2019

**Maximum Obligation:**

Period One Maximum Obligation: \$ 725,500

Period Two Maximum Obligation 834,000

TOTAL MAXIMUM OBLIGATION: \$ 1,559,500

**Basis for Reimbursement:** Actual Cost**Payment Method:** Monthly In Arrears**CONTRACTOR DUNS Number:** 62-578-7742**CONTRACTOR TAX ID Number:** 95-4079133**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:** Social Model Recovery Systems, Inc.  
 223 E. Rowland Street  
 Covina, CA 91723  
 Contact Name: Jim O'Connell, CEO  
 Contact Email: jimo@socialmodel.com

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## I. ACRONYMS

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

A.	ADAS	Alcohol and Drug Abuse Services
B.	AES	Advanced Encryption Standards
C.	ARRA	American Recovery and Reinvestment Act
D.	BHS	Behavioral Health Services
E.	CCC	California Civil Code
F.	CCR	California Code of Regulations
G.	CEO	County Executive Office
H.	CFR	Code of Federal Regulations
I.	CHPP	COUNTY HIPAA Policies and Procedures
J.	CMPPA	Computer Matching and Privacy Protection Act
K.	COI	Certificate of Insurance
L.	DHCS	Department of Health Care Services
M.	DoD	US Department of Defense
N.	DRS	Designated Record Set
O.	DSH	Direct Service Hour
P.	GAAP	Generally Accepted Accounting Principles
Q.	HCA	Health Care Agency
R.	HHS	Health and Human Services
S.	HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
T.	HSC	California Health and Safety Code
U.	IEA	Information Exchange Agreement
V.	IRIS	Integrated Records and Information System
W.	ISO	Insurance Services Office
X.	MHSA	Mental Health Services Act
Y.	NPI	National Provider Identifier
Z.	NPP	Notice of Privacy Practices
AA.	OIG	Office of Inspector General
AB.	OMB	Office of Management and Budget
AC.	OPM	Federal Office of Personnel Management
AD.	PC	State of California Penal Code
AE.	PEI	Prevention and Early Intervention
AF.	PHI	Protected Health Information
AG.	PI	Personal Information

1	AH. PII	Personally Identifiable Information
2	AI. P&P	Policy and Procedure
3	AJ. PRA	Public Record Act
4	AK. SFTS	Safe from the Start
5	AL. TOT	Train the Trainer
6	AM. HITECH Act	Health Information Technology for Economic and Clinical Health
7		Act, Public Law 111-005
8	AN. USC	United States Code
9	AO. VPE	Violence Prevention Education
10	AP. WIC	State of California Welfare and Institutions Code

## 11 12 **II. ALTERATION OF TERMS**

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

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

## 20 21 **III. ASSIGNMENT OF DEBTS**

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

## 29 30 **IV. COMPLIANCE**

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

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

37 //

1 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own  
2 Compliance Program, Code of Conduct and any Compliance related policies and procedures.  
3 CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall  
4 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required  
5 elements by ADMINISTRATOR's Compliance Officer as described in this Paragraph IV  
6 (COMPLIANCE). These elements include:

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

14 3. If CONTRACTOR does not provide proof of its own Compliance program to  
15 ADMINISTRATOR, CONTRACTOR shall acknowledge to comply with ADMINISTRATOR's  
16 Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the  
17 ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed  
18 acknowledgement that CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program  
19 and Code of Conduct.

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

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



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

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

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

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

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

34 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any  
 35 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.  
 36 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing  
 37 //



1 services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an  
2 Ineligible Person.

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

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

16 C. GENERAL COMPLIANCE TRAINING – ADMINISTRATOR shall make General  
17 Compliance Training available to Covered Individuals.

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

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

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

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

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

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

33 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered  
34 Individuals relative to this Agreement. This includes compliance with federal and state health care  
35 program regulations and procedures or instructions otherwise communicated by regulatory agencies  
36 including the Centers for Medicare and Medicaid Services or their agents. This  
37 //

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

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

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

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

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

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

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

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

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

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

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

### **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

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1 regulations, including 42 USC §290dd-2 (Confidentiality of Records), as they now exist or may  
2 hereafter be amended or changed.

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

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

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

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

## 22 **VI. COST REPORT**

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

32 B. CONTRACTOR shall submit an individual and/or consolidated Mental Health Cost Report to  
33 COUNTY no later than sixty (60) calendar days following termination of this Agreement.  
34 CONTRACTOR shall prepare the individual and/or consolidated Cost Report in accordance with all  
35 applicable federal, state and COUNTY requirements, GAAP and the Special Provisions Paragraph of  
36 this Agreement. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost  
37 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 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 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 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 Cost Report is delivered to ADMINISTRATOR.

2. CONTRACTOR may request, in advance and in writing, an extension of the due date of the 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 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.

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

D. Final settlement shall be based upon the actual and reimbursable costs for services hereunder, less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set forth in the Referenced Contract Provisions of this Agreement. CONTRACTOR shall not claim expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR, which is subsequently determined to have been for an unreimbursable expenditure or service, shall be

repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30) calendar days of submission of the Cost Report or COUNTY may elect to reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

E. Costs of Medi-Cal services shall not exceed the Drug Medi-Cal rate caps per Medi-Cal Unit of Service, as determined by the California Department of Health Care Services.

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

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

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

"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 \_\_\_\_\_"

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## **VII. 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.

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

## **VIII. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS**

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

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

1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%) of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an

1 assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community  
2 clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal  
3 Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

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

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

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

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

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

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

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

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

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



## **IX. 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 requirements set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees, subcontractors, and consultants performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, subcontractors, and consultants for the period prescribed by the law.

## **X. EQUIPMENT**

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

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

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

D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part with funds paid through this Agreement, including date of purchase, purchase price, serial number, model and type of Equipment. Such inventory shall be available for review by ADMINISTRATOR,

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1 and shall include the original purchase date and price, useful life, and balance of depreciated Equipment  
2 cost, if any.

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

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

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

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

## 16 17 **XI. FACILITIES, PAYMENTS AND SERVICES**

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

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

## 29 30 **XII. INDEMNIFICATION AND INSURANCE**

31 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,  
32 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special  
33 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board  
34 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,  
35 including but not limited to personal injury or property damage, arising from or related to the services,  
36 products or other performance provided by CONTRACTOR pursuant to this Agreement. If judgment is  
37 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the

1 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and  
2 COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall  
3 request a jury apportionment.

4 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all  
5 required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary  
6 to satisfy COUNTY that the insurance provisions of this Agreement have been complied with.  
7 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements  
8 on deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors  
9 performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance  
10 subject to the same terms and conditions as set forth herein for CONTRACTOR.

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

20 D. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply,  
21 indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an  
22 amount in excess of \$50,000 (\$5,000 for automobile liability) shall specifically be approved by the  
23 CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report. If  
24 CONTRACTOR's SIR is approved, CONTRACTOR, in addition to, and without limitation of, any  
25 other indemnity provision(s) in this Agreement, agrees to all of the following:

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

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

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

35 E. If CONTRACTOR fails to maintain insurance as required in this Paragraph XII  
36 (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall

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1 constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate  
2 this Agreement.

### 3 F. QUALIFIED INSURER

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

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

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

14 <u>Coverage</u>	15 <u>Minimum Limits</u>
16 Commercial General Liability	17 \$1,000,000 per occurrence 18 \$2,000,000 aggregate
19 Automobile Liability including coverage 20 for owned, non-owned and hired vehicles	21 \$1,000,000 per occurrence
22 Workers' Compensation	23 Statutory
24 Employers' Liability Insurance	25 \$1,000,000 per occurrence
26 Network Security & Privacy Liability	27 \$1,000,000 per claims made
28 Professional Liability Insurance	29 \$1,000,000 per claims made 30 \$1,000,000 aggregate
31 Sexual Misconduct Liability	32 \$1,000,000 per occurrence

### 34 H. REQUIRED COVERAGE FORMS

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

37 //

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

#### I. REQUIRED ENDORSEMENTS

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

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

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

2. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

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

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

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

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

L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy cancellation and within ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate this Agreement.

M. If CONTRACTOR's Professional Liability and/or Network Security & Privacy Liability are "Claims Made" policy(ies), CONTRACTOR shall agree to maintain coverage for two (2) years following the completion of the Agreement.

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

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

P. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, such failure shall constitute a breach of CONTRACTOR's obligation hereunder and ground for termination of this Agreement by COUNTY.

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

#### R. SUBMISSION OF INSURANCE DOCUMENTS

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

- Prior to the start date of this Agreement.
- No later than the expiration date for each policy.
- Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance types as set forth in Subparagraph G, above.

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

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

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

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

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

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

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### **XIII. INSPECTIONS AND AUDITS**

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

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

#### **C. AUDIT RESPONSE**

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

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

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

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



#### **XIV. 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 agrees to furnish to ADMINISTRATOR within thirty (30) calendar days of the award of this Agreement:

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

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

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

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

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

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

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

1. ARRA of 2009.
2. Title 22, CCR, §51009, Confidentiality of Records.
3. California Welfare and Institutions Code, §14100.2, Medicaid Confidentiality.
4. Drug Medi-Cal Certification Standards for Substance Abuse Clinics, July 2004.

5. Drug Medi-Cal Billing Manual (March 23, 2010).
6. Federal Medicare Cost reimbursement principles and cost reporting standards.
7. State of California-Health and Human Services Agency, Department of Health Care Services, Mental Health Services Division (MHSD), Medi-Cal Billing Manual, October 2013
8. Orange County Medi-Cal Mental Health Managed Care Plan.
9. Short Doyle/Medi-Cal Manual for the Rehabilitation Option and Targeted Case Management.
10. Short-Doyle/Medi-Cal Modifications/Revisions for the Rehabilitation Option and Targeted Case Management Manual, including DMH Letter 94-14, dated July 7, 1994, DMH Letter No. 95-04, dated July 27, 1995, DMH Letter 96-03, dated August 13, 1996.
11. WIC, Division 5, Community Mental Health Services.
12. WIC, Division 6, Admissions and Judicial Commitments.
13. WIC, Division 7, Mental Institutions.
14. HSC, §§1250 et seq., Health Facilities.
15. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
16. CCR, Title 9, Rehabilitative and Developmental Services.
17. CCR, Title 17, Public Health.
18. CCR, Title 22, Social Security.
19. CFR, Title 42, Public Health.
20. CFR, Title 45, Public Welfare.
21. USC Title 42. Public Health and Welfare.
22. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
23. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
24. 42 USC §1857, et seq., Clean Air Act.
25. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
26. 31 USC 7501.70, Federal Single Audit Act of 1984.
27. Policies and procedures set forth in Mental Health Services Act.
28. Policies and procedures set forth in DHCS Letters.
29. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
30. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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

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1 **XV. LITERATURE ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

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

22 E. CONTRACTOR shall also clearly explain through these materials that there shall be no  
23 unlawful use of drugs or alcohol associated with the services provided pursuant to this Agreement, as  
24 specified in HSC, §11999-11999.3.

25  
26 **XVI. MAXIMUM OBLIGATION**

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

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

33  
34 **XVII. MINIMUM WAGE LAWS**

35 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and  
36 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the  
37 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.

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

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

## **XVIII. NONDISCRIMINATION**

### **A. EMPLOYMENT**

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

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

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

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

5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical

1 disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender  
2 identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements  
3 shall be deemed fulfilled by use of the term EOE.

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

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

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

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

- 35 1. Whenever possible, problems shall be resolved informally and at the point of service.
- 36 CONTRACTOR shall establish an internal informal problem resolution process for clients not able to

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1 resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with  
2 CONTRACTOR either orally or in writing.

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

5 b. Throughout the problem resolution and grievance process, client rights shall be  
6 maintained, including access to the Patients' Rights Office at any point in the process. Clients shall be  
7 informed of their right to access the Patients' Rights Office at any time.

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

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

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

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

## 26 **XIX. NOTICES**

27 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements  
28 authorized or required by this Agreement shall be effective:  
29

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

33 2. When faxed, transmission confirmed;

34 3. When sent by Email; or

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

37 //

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

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

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

## **XX. NOTIFICATION OF DEATH**

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

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

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

### **2. WRITTEN NOTIFICATION**

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

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

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

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1                   **XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

9  
10                   **XXII. PAYMENT CARD COMPLIANCE**

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

19  
20                   **XXIII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

37          //

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

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

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

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

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

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

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

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

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

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

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

#### 30 **XXIV. RESEARCH AND PUBLICATION**

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

#### 35 **XXV. REVENUE**

36 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to  
 37 clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other

third party health plans, are provided pursuant to this Agreement, their estates and responsible relatives, according to their ability to pay as determined by the State Department of Health Care Services' "Uniform Method of Determining Ability to Pay" (UMDAP) procedure or by any other payment procedure as approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the California Code of Regulations. Such fee shall not exceed the actual cost of services provided. No client shall be denied services because of an inability to pay.

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

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

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

## **XXVI. SEVERABILITY**

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

## **XXVII. SPECIAL PROVISIONS**

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.

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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](http://www.opm.gov).

8. Severance pay for separating employees.

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

10. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.

11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).

12. Contracting or subcontracting with any entity other than an individual or nonprofit entity.

13. Producing any information that promotes responsible use, if the use is unlawful, of drugs or alcohol.

14. Promoting the legalization of any drug or other substance included in Schedule 1 of the Controlled Substance Act (21 USC 812).

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

16. Assisting, promoting, or deterring union organizing.

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

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

6. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.

7. Providing inpatient hospital services or purchasing major medical equipment.
8. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).

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

## XXVIII. STATUS OF CONTRACTOR

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

## XXIX. TERM

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

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

### XXX. TERMINATION

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

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

//



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

3 C. COUNTY may terminate this Agreement immediately, upon written notice, on the occurrence  
4 of 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.
- 11 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of  
12 this Agreement.
- 13 6. The continued incapacity of any physician or licensed person to perform duties required  
14 pursuant to this Agreement.
- 15 7. Unethical conduct or malpractice by any physician or licensed person providing services  
16 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR  
17 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
18 Agreement.

19 D. CONTINGENT FUNDING

- 20 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - 21 a. The continued availability of federal, state and county funds for reimbursement of  
22 COUNTY's expenditures, and
  - 23 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)  
24 approved by the Board of Supervisors.
- 25 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,  
26 terminate or renegotiate this Agreement upon thirty (30) calendar days' written notice given  
27 CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated  
28 funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

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

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

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

37 //

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

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

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

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

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

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

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

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

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

### **XXXI. THIRD PARTY BENEFICIARY**

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

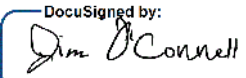
### **XXXII. WAIVER OF DEFAULT OR BREACH**

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



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

3  
4 SOCIAL MODEL RECOVERY SYSTEMS, INC.

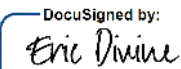
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6 BY:  \_\_\_\_\_ DATED: 7/20/2017  
7 DocuSigned by:  
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9 TITLE: CEO  
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14  
15 COUNTY OF ORANGE  
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17  
18 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
19 HEALTH CARE AGENCY  
20

21  
22  
23  
24 APPROVED AS TO FORM  
25 OFFICE OF THE COUNTY COUNSEL  
26 ORANGE COUNTY, CALIFORNIA  
27

28  
29 BY:  \_\_\_\_\_ DATED: 7/19/2017  
30 DocuSigned by:  
C4E3686C1E6D4FD...  
31  
32  
33

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

EXHIBIT A  
TO AGREEMENT FOR PROVISION OF  
CO-OCCURRING RESIDENTIAL TREATMENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
SOCIAL MODEL RECOVERY SYSTEMS, INC.  
OCTOBER 1, 2017 THROUGH JUNE 30, 2019

**I. COMMON TERMS AND DEFINITIONS**

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

1. ASAM Criteria is a comprehensive set of guidelines for placement, continued stay and transfer/discharge of clients with addiction and co-occurring conditions.

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

3. CalOMS is a statewide Client-based data collection and outcomes measurement system as required by the State to effectively manage and improve the provision of alcohol and drug treatment services at the State, COUNTY, and provider levels.

4. CESI/CEST are self-administered survey instruments designed to assess Clients' motivation for change, engagement in treatment, social and peer support, and other psychosocial indicators of progress in recovery.

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

6. CSU means a psychiatric crisis stabilization program that operates 24 hours a day that serves Orange County residents, aged 18 and older, who are experiencing a psychiatric crisis and need immediate evaluation. Clients receive a thorough psychiatric evaluation, crisis stabilization treatment, and referral to the appropriate level of continuing care. As a designated outpatient facility, the CSU may evaluate and treat Clients for no longer than 23 hours.

7. DATAR is the DHCS system used to collect data on SUD treatment capacity and waiting lists.

8. Graduation or Client Completion means the completion of the Residential Treatment Services program (recovery) whereby the Client has successfully completed all goals and objectives documented in the Client's treatment plan within the maximum authorized length of stay authorized by ADMINISTRATOR.

9. Intake means the initial face-to-face meeting between a Client and CONTRACTOR staff in which information is gathered to inform the evaluation or analysis of co-occurring disorders; the diagnosis of co-occurring disorders; and the assessment of treatment needs to provide medically necessary services pursuant to the Agreement and CCR, Title 22.

10. IRIS is a collection of applications and databases that serve the needs of programs within HCA and includes functionality such as registration and scheduling, laboratory information system, invoices and reporting capabilities, compliance with regulatory requirements, electronic medical records and other relevant applications.

11. Linkage means to assist an individual to connect with a referral such as outpatient and/or residential treatment and supportive services which may include self-help groups, social services, rehabilitation services, vocational services, job training services, or other appropriate services.

12. Licensed Practitioner of the Healing Arts (LPHA) means a Physician, Nurse Practitioner, Physician Assistant, Registered Nurse, Registered Pharmacist, Licensed Clinical Psychologist, Licensed Clinical Social Worker, Licensed Professional Clinical Counselor, Licensed Marriage and Family Therapist, License Eligible Practitioner working under the supervision of Licensed Clinicians

13. Medication means those medications that are needed to maintain Client's health, and without which there could be medical or mental health consequences to the Client.

14. NIATX is a set of objectives used to measure the effectiveness of the treatment program.

15. Client means a person who has a co-occurring substance use disorder and mental health disorder, for whom a COUNTY approved intake and admission for residential services as appropriate have been completed pursuant to this Agreement.

16. Residential Treatment means alcohol and other drug treatment services that are provided to Clients at a twenty-four (24)-hour residential program. Services are provided in an alcohol and drug free environment and support recovery from alcohol and/or other drug related problems. These services are provided in a non-medical, residential setting that has been licensed and certified by DHCS.

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

18. Structured Therapeutic Activities means organized program activities that are designed to meet treatment goals and objectives for increased social responsibility, self-motivation, and integration into the larger community. Such activities would include participation in the social structure of the residential program. It also includes the client's progression, with increasing levels of responsibility and independence.

19. SUD means a condition in which the use of one or more substances leads to a clinically significant impairment or distress per the DSM-5.

20. Token means the security device which allows an individual user to access IRIS.

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21. Unit of Service means one (1) calendar day during which services are provided to a Client pursuant to this Agreement.

## II. BUDGET

A. The following budget for Period One and Period Two is set forth for informational purposes only.

	<u>Period One</u>	<u>Period Two</u>	<u>Total</u>
ADMINISTRATIVE COSTS			
Indirect	\$ 61,302	\$ 81,736	\$ 143,038
SUBTOTAL	\$ 61,302	\$ 81,736	\$ 143,038
PROGRAM COSTS			
Salaries	\$ 347,412	\$ 463,216	\$ 810,628
Benefits	95,174	126,898	222,072
Services and Supplies	121,612	162,150	283,762
Subcontracts	0	0	0
Start Up Costs	\$ 100,000	\$ 0	\$ 100,000
SUBTOTAL	\$ 664,198	\$ 752,264	\$1,416,462
GROSS COST	\$ 725,500	\$ 834,000	\$1,559,500
NET COST (TOTAL MAXIMUM OBLIGATION)	\$ 725,500	\$ 834,000	\$1,559,500
FUNDING SOURCES			
MEDI-CAL	\$ 0	\$ 0	\$ 0
MHSA	725,500	834,000	1,559,500
TOTAL FUNDS	\$ 725,500	\$ 834,000	\$1,559,500

B. Any increases or decreases to the budget must be approved in advance and in writing, by ADMINISTRATOR.

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

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### **III. PAYMENTS**

A. BASIS FOR REIMBURSEMENT – COUNTY shall pay CONTRACTOR for the actual costs of providing the services described hereunder, less revenues which are actually received by CONTRACTOR; provided, however, that CONTRACTOR's costs are allowable pursuant to county, state, and federal regulations. Non-compliance will require the completion of CAP by CONTRACTOR. If CAPs are not completed within timeframes as determined by ADMINISTRATOR, payments may be reduced accordingly. Furthermore, if CONTRACTOR is ineligible to provide services due to non-compliance with licensure and/or certification standards of the State, ADMINISTRATOR may elect to reduce County's maximum obligation proportionate to the length of time that CONTRACTOR is ineligible to provide services.

1. For Medi-Cal services provided pursuant to the Agreement, COUNTY shall claim reimbursement to the State Medi-Cal unit on behalf of CONTRACTOR to the extent these services are eligible.

2. CONTRACTOR shall submit appropriate Medi-Cal billing to ADMINISTRATOR on a monthly basis. ADMINISTRATOR shall review billing and remit to Accounting for submission to the State Medi-Cal unit.

3. CONTRACTOR shall assume responsibility for any audit disallowances or penalties imposed on COUNTY by the State related to amounts or services claimed by COUNTY on behalf of CONTRACTOR. CONTRACTOR shall reimburse COUNTY for any such disallowances or penalties within thirty (30) days of written notification by COUNTY.

B. PAYMENT METHOD – COUNTY shall pay CONTRACTOR monthly in arrears the actual cost of the services, less revenues that are actually received by CONTRACTOR provided, however, that the total of such payments shall not exceed the COUNTY's Maximum Obligation. CONTRACTOR's invoices shall be on a form approved or provided by ADMINISTRATOR and shall provide such information as is required by ADMINISTRATOR. Invoices are due by the twentieth (20th) calendar day of each month, and payments to CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days after receipt of the correctly completed invoice form.

C. Monthly payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report Paragraph of this Exhibit A to the Agreement. Invoices received after the due date may not be paid in accordance with Subparagraph III.B. above.

D. All invoices to COUNTY shall be supported, at CONTRACTOR's facility, by source documentation including, but not limited to, ledgers, books, vouchers, journals, time sheets, payrolls, appointment schedules, schedules for allocating costs, invoices, bank statements, canceled checks, receipts, receiving records, and records of services provided.

E. In support of the monthly billing, CONTRACTOR shall submit an Expenditure and Revenue Report as specified in the Reports Paragraph of this Exhibit A to the Agreement. ADMINISTRATOR may use the Expenditure and Revenue Report to determine payment to CONTRACTOR.



1 F. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply  
2 with any provision of the Agreement.

3 G. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration  
4 and/or termination of the Agreement.

5 H. In conjunction with Subparagraph III.A. of this Exhibit A to the Agreement, CONTRACTOR  
6 shall not enter units of service into the County IRIS system for services not rendered. If such  
7 information has been entered, CONTRACTOR shall make corrections within ten (10) calendar days  
8 from notification by ADMINISTRATOR.

9 I. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
10 Payments Paragraph of this Exhibit A to the Agreement.

#### 11 **IV. RECORDS**

12 A. CLIENT RECORDS – CONTRACTOR shall maintain adequate records in accordance with the  
13 licensing authority, DHCS, the COUNTY Guidelines, and CCR, Title 22, related to DRUG MEDI-CAL  
14 on each individual Client in sufficient detail to permit an evaluation of services, which shall include, but  
15 need not be limited to:

16 1. Documentation of ADMINISTRATOR's Treatment Authorization for Residential  
17 Treatment Services.

18 2. Documentation that residential treatment services for substance use disorders are  
19 appropriate for the Client. This shall include initial medical necessity determination for the DRUG  
20 MEDI-CAL-ODS benefit performed through a face-to-face review by a Medical Director, licensed  
21 physician, or Licensed Practitioner of the Healing Arts (LPHA). Additionally the ASAM Criteria  
22 assessment will be applied to determine placement into the level of assessed services and documented in  
23 the client record.

24 3. Intake and admission data, including, if applicable, a physical examination.

25 4. Treatment plans.

26 5. Progress notes.

27 6. Continuing services justifications.

28 7. Laboratory test orders and results.

29 8. Referrals.

30 9. Counseling notes.

31 10. Discharge plan.

32 11. Discharge summary.

33 12. Compliance with the multiple billing requirements specified in CCR Title 22, Section  
34 51490.1(b).

35 13. Any other information relating to the treatment services rendered to the client.

36 14. A sign-in sheet for every group counseling session.  
37

1 B. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete  
 2 financial records of its costs and operating expenses. Such records shall reflect the actual costs of the  
 3 type of service for which payment is claimed in accordance with generally accepted accounting  
 4 principles.

5 1. Any apportionment of or distribution of costs, including indirect costs, to or between  
 6 programs or cost centers of CONTRACTOR shall be documented, and shall be made in accordance with  
 7 generally accepted accounting principles.

8 2. CONTRACTOR shall account for funds provided through the Agreement separately from  
 9 other funds, and maintain a clear audit trail for the expenditure of funds.

10 3. CLIENT FEES – Proof of eligibility for Drug Medi-Cal is payment in full for treatment  
 11 services rendered for Medi-Cal clients. For all other clients the Client eligibility determination and fee  
 12 charged to and collected from Client, shall be according to the COUNTY approved sliding scale fee  
 13 schedule, together with a record of all invoice rendered and revenues received from any source on  
 14 behalf of Client treated pursuant to the Agreement, must be reflected in CONTRACTOR's financial  
 15 records.

16 C. COUNTY SLIDING FEE SCALE – CONTRACTOR shall utilize the sliding fee scale  
 17 provided by ADMINISTRATOR for non Medi-Cal eligible clients CONTRACTOR must have a policy  
 18 describing the collection of Client fees. No Client shall be denied access to services due to an inability  
 19 to pay; however, Clients are responsible for paying their fees according to the provided fee scale once an  
 20 ability to pay is secured. The Client's failure to make a reasonable effort to pay the assessed fee is cause  
 21 for termination of services.

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

## 24 V. REPORTS

### 25 A. MONTHLY PROGRAMMATIC

26 1. CONTRACTOR shall submit a monthly programmatic report to ADMINISTRATOR,  
 27 including information required and on a form approved or provided by ADMINISTRATOR, These  
 28 monthly programmatic reports should be received by ADMINISTRATOR no later than the tenth (10th)  
 29 calendar day of the month following the report month.

30 2. CONTRACTOR shall be responsible to include in the monthly programmatic report any  
 31 problems in implementing the provisions of the Agreement, pertinent facts or interim findings, staff  
 32 changes, status of license(s) and/or certification(s), changes in population served, and reasons for any  
 33 changes. Additionally, a statement that the CONTRACTOR is or is not progressing satisfactorily in  
 34 achieving all the terms of the Agreement shall be included.

35 3. FOLLOW-UPS – CONTRACTOR shall conduct follow-ups with Clients after discharge at  
 36 intervals designated by ADMINISTRATOR. ADMINISTRATOR shall provide information/questions  
 37

1 to CONTRACTOR for follow up. CONTRACTOR shall track data on client functioning which at  
2 minimum shall include current substance use. CONTRACTOR shall provide referrals for services  
3 needed.

4 B. FISCAL

5 1. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to  
6 ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by  
7 ADMINISTRATOR and shall report actual costs and revenues for each of the CONTRACTOR's  
8 program(s) or cost center(s) described in the Services Paragraph of this Exhibit A to the Agreement.  
9 The reports shall be received by ADMINISTRATOR no later than fifteen (15) calendar days following  
10 the end of the month reported.

11 2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These  
12 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report  
13 anticipated year-end actual costs and revenues for CONTRACTOR's program(s) or cost center(s)  
14 described in the Services Paragraph of this Exhibit A to the Agreement. Such reports shall include  
15 actual monthly costs and revenue to date and anticipated monthly costs and revenue to the end of the  
16 fiscal year. Year-End Projection Reports shall be submitted at the same time as the monthly  
17 Expenditure and Revenue Reports.

18 C. MONTHLY IRIS – CONTRACTOR shall participate in COUNTY's IRIS and input all IRIS  
19 and CalOMS data for the preceding month no later than the fifth (5th) calendar day of the month  
20 following the report month.

21 D. CALOMS – CONTRACTOR shall complete a CalOMS encounter and a CalOMS admission  
22 record in IRIS within seven (7) calendar days of client admission. CONTRACTOR shall complete a  
23 CalOMS discharge record in IRIS within seven (7) calendar days of client discharge. CONTRACTOR  
24 shall run a CalOMS error report and correct any errors within two (2) business days of submitting the  
25 CalOMS admission or discharge, and continue to recheck until error free.

26 E. MONTHLY DATAR – CONTRACTOR shall provide reports under the DATAR, and/or any  
27 other State Reporting System in a manner prescribed by ADMINISTRATOR, no later than the fifth  
28 (5th) calendar day of the month following the report month.

29 F. ADDITIONAL REPORTS – CONTRACTOR shall make additional reports as required by  
30 ADMINISTRATOR concerning CONTRACTOR's activities as they affect the services hereunder.  
31 ADMINISTRATOR will be specific as to the nature of the information requested and the timeframe the  
32 information is needed.

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

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## **VI. GENERAL REQUIREMENTS**

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

### **B. ALCOHOL AND/OR DRUG SCREENING**

1. CONTRACTOR shall have a written policy and procedure statement regarding drug screening that includes random drug and/or alcohol screen at a minimum of one (1) time per month for the first thirty (30) calendar days and two (2) times per month for the remaining term of the agreement for all Clients. All urine specimen collections shall be observed by same sex staff. This policy shall be approved by ADMINISTRATOR. A Client shall not be denied admittance to treatment for a positive alcohol and/or drug screen at admission if they meet all other criteria for admission. CONTRACTOR shall:

- a. Establish procedures that protect against the falsification and/or contamination of any body specimen sample collected for drug screening; and,
- b. Assure that all urine specimen collections shall be observed by same sex staff.
- c. Document results of the drug screening in the Client's record.

2. In the event CONTRACTOR wishes to utilize a COUNTY-contracted laboratory for drug screening purposes, CONTRACTOR shall collect and label samples from Clients. Such testing shall be provided at COUNTY’s expense.

3. In the event that any Client of CONTRACTOR receives a drug test result indicating any substance abuse, CONTRACTOR shall formulate and implement a plan of corrective action which shall be documented in the Client record. CONTRACTOR shall notify ADMINISTRATOR within two (2) business days of receipt of such test results via incident report and the corrective action to be taken by the Resident or Client if the Client is allowed to remain in the program.

C. CESI/CEST – CONTRACTOR shall have all Clients complete the CESI at the time of intake. The CEST shall be completed at mid-point and at completion, and information incorporated in the formulation of treatment plan.

1. CONTRACTOR shall ensure that surveys are completed timely and accurately by designated Clients. This includes, but is not limited to, ensuring surveys contain provider number, Client ID number, responses to all psychosocial questions, along with other important Client and CONTRACTOR information, and fields filled and/or marked appropriately.

2. CONTRACTOR shall photocopy the CESI and CEST surveys, place them in Client files, and submit the originals to ADMINISTRATOR once a month, by the tenth (10th) calendar day of each month.

3. CONTRACTOR shall adhere to all COUNTY CESI and CEST, reporting, and any other guidelines, as stipulated by ADMINISTRATOR, as they may now exist or as they may be revised and/or amended in the future, for the review, use and analysis of the CESI and CEST.

D. CULTURAL COMPETENCY – CONTRACTOR shall provide culturally competent services. Providers must ensure that their policies, procedures, and practices are consistent with the principles

outlined and are embedded in the organizational structure, as well as being upheld in day-to-day operations. Translation services must be available for clients, as needed. CONTRACTOR shall maintain documentation of such efforts which may include; but not be limited to: records of participation in COUNTY-sponsored or other applicable training; recruitment and hiring policies and procedures; copies of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity to, individuals who are physically challenged.

E. POSTINGS - CONTRACTOR shall post the following in a prominent place within the facility:

1. State Licensure and Certification
2. Business License
3. Conditional Use Permit (if applicable)
4. Fire clearance
5. Client rights
6. Grievance procedure
7. Employee Code of Conduct
8. Evacuation floor plan
9. Equal Employment Opportunity notices
10. Name, address, telephone number for fire department, crisis program, local law enforcement, and ambulance service.
11. List of resources within community which shall include medical, dental, mental health, public health, social services and where to apply for determination of eligibility for State, Federal or county entitlement programs.
12. Information on self-help meetings. AA, NA, and non-12 step meetings shall be included.

F. NO PROSELYTIZING POLICY – CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources, with respect to any person who has been referred to CONTRACTOR by COUNTY under the terms of this Agreement. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian institution, or religious belief.

G. AUTHORITY – CONTRACTOR shall recognize the authority of OCPD as officers of the court, and shall extend cooperation to OCPD within the constraints of CONTRACTOR's program of substance use disorder residential services.

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

I. CLIENT SIGN IN/OUT LOG AND SCHEDULE – CONTRACTOR shall maintain a resident sign in/out log for all residents, which shall include, but not be limited to, the following:



1. Client's schedule for treatment, work, education or other activities;
2. Location and telephone number where the Client may be reached; and
3. Requirement for all Clients to notify the program of any change in his/her schedule.

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

K. VISITATION POLICY - CONTRACTOR shall establish a written Visitation Policy, which shall be reviewed and approved by ADMINISTRATOR, which shall include, but not be limited to, the following:

1. Sign in logs;
2. Visitation hours; and
3. Designated visiting areas at the Facility.

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

1. Admission
2. Housing arrangement
3. Bathroom privacy
4. Drug testing

M. MEDICATION POLICY – CONTRACTOR shall establish a written Medication Policy, which shall be reviewed and approved by ADMINISTRATOR. The policy shall include but not be limited to the securing, handling, and administration of medication(s) prescribed to the Client. The policy shall address Medications that are prescribed for substance and mental health disorders and medications disallowed by CONTRACTOR. Clients shall be allowed to have Medications during their stay with the program, and/or to have the ability to get refill(s).

N. OPIOID OVERDOSE EMERGENCY TREATMENT – CONTRACTOR shall have available at each program site at minimum one (1) Naloxone Nasal Spray for the treatment of known or suspected opioid overdose. At least one (1) staff per shift shall be trained in administering the Naloxone Nasal Spray. Naloxone Nasal Spray is not a substitute for emergency medical care. CONTRACTOR shall always seek emergency medical assistance in the event of a suspected, potentially life-threatening opioid emergency.

O. TOKENS – ADMINISTRATOR will provide CONTRACTOR the necessary number of Tokens for appropriate individual staff to access IRIS at no cost to the CONTRACTOR.

1. CONTRACTOR recognizes that a Token is assigned to a specific individual staff member with a unique password. Tokens and passwords shall not be shared with anyone.

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

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

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

- a. Token of each staff member who no longer supports this Agreement.
- b. Token of each staff member who no longer requires access to IRIS.
- c. Token of each staff member who leaves employment of CONTRACTOR.
- d. Tokens malfunctioning.

5. ADMINISTRATOR will issue Tokens for CONTRACTOR's staff members who require access to the IRIS upon initial training or as a replacement for malfunctioning Tokens. CONTRACTOR shall reimburse the COUNTY for Tokens lost, stolen, or damaged through acts of negligence.

P. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the General Requirements Paragraph of this Exhibit A to the Agreement.

## **VII. SERVICES**

A. FACILITY – CONTRACTOR shall operate a licensed and certified Residential Substance Use Disorder Residential Treatment program to include services in accordance with the standards established by the County and the State within the specifications stated below, unless otherwise authorized by the Administrator. CONTRACTOR shall provide Co-occurring Residential Treatment Services within a licensed and certified SUD residential treatment facility of six (6) or more beds. CONTRACTOR must obtain ASAM designation and apply for DRUG MEDI-CAL certification for the facility from DHCS by December 31, 2017; deadline may be extended only with authorization from ADMINISTRATOR. CONTRACTOR shall maintain service hours, seven (7) days a week, twenty-four hours per day throughout the year. The facility will have, at a minimum: a kitchen, dining room, and laundry facilities, with enough space for leisure time and group activities. Services shall be provided at a location approved in advance, in writing, by ADMINISTRATOR:

### **B. LENGTH OF STAY**

1. Adults, ages 21 and over, may receive up to two (2) continuous short-term residential regimens per 365 day period. A short-term residential regimen is defined as one (1) residential stay in a DHCS licensed facility for a maximum of ninety (90) days per 365 day period. An adult client may receive one thirty (30) day extension, if that extension is medically necessary, per 365 day period. Extensions must be pre-authorized by the ADMINISTRATOR.

C. PERSONS TO BE SERVED – Co-Occurring residential treatment services shall be provided to Orange County residents who are 18 years of age and older; who are diagnosed with severe and persistent mental health disorder and a co-occurring SUD; priority will be for those who meet the severe level of functioning in dimension 3, Emotional, Behavioral, or Cognitive Conditions and Complications, on the ASAM criteria for admission to residential treatment. In order to receive services through the DRUG MEDI-CAL-ODS, the client must be enrolled in Medi-Cal and meet the medical necessity

criteria outlined below. CONTRACTOR may serve clients who are not eligible for Drug-Medical and will be reimbursed through alternative funding.

#### D. UNITS OF SERVICE

1. CONTRACTOR shall provide a minimum of three thousand four hundred and sixty (3,460) co-occurring residential treatment Units of Service (bed days) annually.

2. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to adjust the units of service set forth in Subparagraph VI.C.1. and VI.C.2. above.

#### E. MEDI-CAL ELIGIBILITY

1. CONTRACTOR shall evaluate Client for Medi-Cal eligibility. All Medi-Cal eligible Clients shall be enrolled in Medi-Cal and services shall be billed to Medi-Cal, as directed in Subparagraph III.A. of this Exhibit A.

2. Contractor shall verify the Medi-Cal eligibility of each client for each month of service prior to billing for DRUG MEDI-CAL services to that client for that month.

3. The initial medical necessity determination must be performed through a face-to-face review or telehealth by a Medical Director, licensed physician, or Licensed Practitioner of the Healing Arts (LPHA). The individual must have received at least one diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) for Substance-Related and Addictive Disorders with the exception of Tobacco-Related Disorders and Non-Substance-Related Disorders. After establishing a diagnosis, the American Society of Addiction Medicine (ASAM) Criteria shall be applied by the diagnosing individual to determine placement into the level of assessed services.

4. Individuals under age 21 are eligible to receive Medicaid services pursuant to the Early Periodic Screening, Diagnostic and Treatment (EPSDT) mandate. Under the EPSDT mandate, clients under the age 21 are eligible to receive all appropriate and medically necessary services needed to correct and ameliorate health conditions that are coverable under section 1905(a) Medicaid authority. Nothing in the DRUG MEDI-CAL-ODS Pilot overrides any EPSDT requirements.

5. Medical necessity for an adolescent individual (an individual under the age of 21) is determined using the following criteria:

- a. The adolescent individual must be assessed to be at risk for developing a SUD; and
- b. The adolescent individual must meet the ASAM adolescent treatment criteria.

#### F. ADMISSIONS

1. CONTRACTOR shall accept any person who is physically and mentally able to comply with the program's rules and regulations. Said persons shall include persons with a concurrent diagnosis of mental illness, i.e., those identified as having a co-occurring disorder. Persons with co-occurring disorders and others who require prescribed medication, including methadone, shall not be precluded from acceptance or admission solely based on their licit use of prescribed medications.

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2. CONTRACTOR shall have a policy that requires Client who shows signs of any communicable disease, or through medical disclosure during the intake process, admit to a health related problem that would put others at risk, to be cleared medically before services are provided.

3. Admission Policy – CONTRACTOR shall establish and make available to the public a written Admission Policy which shall include, but not be limited to the following treatment priorities:

- a. First priority for admission shall be given to pregnant injection drug users.
- b. Second priority for admission is pregnant substance abusers.
- c. Third priority for admission is injection drug users.

4. CONTRACTOR's Admission Policy shall reflect all applicable federal, state, and county regulations. CONTRACTOR shall have the right to refuse admission of a person only in accordance with its written Admission Policy; provided, however, CONTRACTOR complies with the Nondiscrimination provisions of this Agreement. CONTRACTOR shall not admit any client with outstanding warrants. Staff shall review OC Sheriff Department website for any warrants in Orange County, prior to admission.

#### G. TREATMENT AUTHORIZATION

1. All residential treatment admissions require prior authorization from the ADMINISTRATOR.

2. Prior to requesting authorization CONTRACTOR shall conduct a brief ASAM screening provided by ADMINISTRATOR to predetermine level of care needed.

3. CONTRACTOR will notify the HCA BHS Residential Placement Coordinator (RPC) if the initial screening indicates residential treatment is appropriate. HCA BHS maintains a centralized referral list and a daily count of available beds. The RPC will ensure the individual enters treatment as quickly as possible by designating placement at the program with an appropriate available bed (unless the individual is requesting a specific program). CONTRACTOR shall maintain a list of individuals who have been screened with the brief ASAM and are appropriate for residential treatment.

4. Admission into a residential bed shall require a physician, medical director, or LPHA to verify medical necessity once placed with CONTRACTOR. CONTRACTOR shall complete the DSM diagnosis and ASAM criteria assessment level of care determination to ensure that the client meets the requirements for residential treatment.

5. If it is determined during the ASAM criteria assessment that a different level or type of treatment is more appropriate to meet a client's needs, a warm hand-off or referral will be made to an appropriate provider by CONTRACTOR. Information will be shared between programs in compliance with 42 CFR Part 2 requirements.

6. Within three (3) days of admission, upon verifying ASAM level of care, CONTRACTOR will FAX or email via secure email to RPC:

- a. A copy of a legible individualized treatment authorization request with DSM diagnosis indicated,

- b. Proof of Drug Medi-Cal eligibility (as applicable),
- c. And, a completed ASAM assessment tool for client.

7. The RPC will make a determination for admission authorization within twenty-four (24) hours of the request, excluding weekends and holidays. In those instances, authorization will be provided the following business day.

8. Provider must meet standards for timely access to care and services, considering the urgency of the service needed. Medical attention for emergency and crisis medical conditions must be provided immediately.

H. INFORMING MATERIALS – CONTRACTOR is responsible to distribute informing materials and provider lists that meet the content requirements of 42 CRF 438.100 to clients when they first access SUD services through the DRUG MEDI-CAL-ODS and on request. Informing materials will be provided by ADMINISTRATOR.

I. INTERIM SERVICES – All persons who are not immediately admitted into Residential Treatment Services shall be provided or referred to Interim Services by CONTRACTOR. Interim Services shall be provided until an individual is admitted to a substance abuse treatment program. The purposes of the services are to reduce the adverse health effects of such abuse, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, Interim Services include counseling and education about HIV and TB, about the risks of needle-sharing, the risks of transmission to sexual partners and infants, and about steps that can be taken to ensure that HIV and TB transmission does not occur, as well as referral for HIV or TB treatment services if necessary. CONTRACTOR shall provide Clients, especially opiate users, with drug overdose education/information. For pregnant women, Interim Services also includes counseling on the effects of alcohol and drug use on the fetus, as well as referral for prenatal care. Provision of Interim Services shall be documented on the DATAR and reported monthly to the State.

J. RESIDENTIAL TREATMENT SERVICES – CONTRACTOR shall provide a non-institutional, 24-hour non-medical, short-term residential program that provides rehabilitation services to clients in accordance with an individualized treatment plan. These services are intended to be individualized to treat the functional deficits identified in the ASAM Criteria. In the residential treatment environment, an individual's functional cognitive deficits may require treatment that is primarily slower paced, more concrete and repetitive in nature. The daily regimen and structured patterns of activities are intended to restore cognitive functioning and build behavioral patterns within a community. Each client shall live on the premises and shall be supported in their efforts to restore, maintain and apply interpersonal and independent living skills and access community support systems. Providers and residents work collaboratively to define barriers, set priorities, establish goals, create treatment plans, and solve problems. Goals include sustaining abstinence, preparing for relapse triggers, improving personal health and social functioning, and engaging in continuing care. Services furnished

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1 under this agreement will be safe, effective, efficient and equitable, as defined by the Institute of  
2 Medicine. Residential Treatment program shall consist of the following:

3 1. Intake: The process of determining that a client meets the medical necessity criteria and a  
4 client is admitted into a substance use disorder treatment program. Intake includes the evaluation or  
5 analysis of substance use disorders; the diagnosis of substance use disorders; and the assessment of  
6 treatment needs to provide medically necessary services. Intake may include a physical examination and  
7 laboratory testing necessary for substance use disorder treatment.

8 2. Individual Counseling: Contacts between a client and a therapist or counselor. Services  
9 provided in-person, by telephone or by telehealth qualify as Medi-Cal reimbursable units of service, and  
10 are reimbursed without distinction.

11 3. Group Counseling: Face-to-face contacts in which one or more therapists or counselors  
12 treat two or more clients at the same time with a maximum of 12 in the group, focusing on the needs of  
13 the individuals served.

14 4. Family Therapy: The effects of addiction are far-reaching and client's family members and  
15 loved ones also are affected by the disorder. By including family members in the treatment process,  
16 education about factors that are important to the client's recovery as well as their own recovery can be  
17 conveyed. Family members can provide social support to the client, help motivate their loved one to  
18 remain in treatment, and receive help and support for their own family recovery as well.

19 5. Client Education: Provide research based education on addiction, treatment, recovery and  
20 associated health risks.

21 6. Safe guarding medications: Facilities will store all resident medication and facility staff  
22 members may assist with resident's self-administration of medication

23 7. Collateral Services: Sessions with therapists or counselors and significant persons in the life  
24 of the client, focused on the treatment needs of the client in terms of supporting the achievement of the  
25 client's treatment goals. Significant persons are individuals that have a personal, not official or  
26 professional, relationship with the client.

27 8. Crisis Intervention Services: Contact between a therapist or counselor and a client in crisis.  
28 Services shall focus on alleviating crisis problems. "Crisis" means an actual relapse or an unforeseen  
29 event or circumstance which presents to the client an imminent threat of relapse. Crisis intervention  
30 services shall be limited to the stabilization of the client's emergency situation.

31 9. Treatment Planning: The provider shall prepare an individualized written treatment plan,  
32 based upon information obtained in the intake and assessment process. The treatment plan will be  
33 completed within 10 days of admission and then updated every subsequent 90 days unless there is a  
34 change in treatment modality or significant event that would then require a new treatment plan. The  
35 treatment plan shall include:

- 36 a. A statement of problems to be addressed,  
37 b. Goals to be reached which address each problem

- c. Action steps which will be taken by the provider and/or client to accomplish identified goals,
- d. Target dates for accomplishment of action steps and goals, and a description of services including the type of counseling to be provided and the frequency thereof.
- e. Treatment plans have specific quantifiable goal/treatment objectives related the client's substance use disorder diagnosis and multidimensional assessment.
- f. The treatment plan will identify the proposed type(s) of interventions/modality that includes a proposed frequency and duration.
- g. The treatment plan will be consistent with the qualifying diagnosis and will be signed by the client and the Medical Director or LPHA.

10. Structured Therapeutic Activities: Residential Treatment Services shall consist of a minimum of twenty (20) hours of structured activity per week.

11. Psychiatric Services: CONTRACTOR shall assist the client in accessing mental health services through County operated or contacted mental health providers. With consent of client, Contractor will collaborate closely with the treatment team and psychiatrist including case conferencing and allowing field visits by mental health staff at the facility.

12. Evidenced Based Practices: Providers will implement at least two of the following evidenced based treatment practices (EBPs) based on the timeline established in the county implementation plan. The two EBPs are per provider per service modality. Counties will ensure the providers have implemented EBPs. The State will monitor the implementation of EBP's during reviews. The required EBP include:

- a. Motivational Interviewing: A client-centered, empathic, but directive counseling strategy designed to explore and reduce a person's ambivalence toward treatment. This approach frequently includes other problem solving or solution-focused strategies that build on clients' past successes.
- b. Cognitive-Behavioral Therapy: Based on the theory that most emotional and behavioral reactions are learned and that new ways of reacting and behaving can be learned.
- c. Relapse Prevention: A behavioral self-control program that teaches individuals with substance addiction how to anticipate and cope with the potential for relapse. Relapse prevention can be used as a stand-alone substance use treatment program or as an aftercare program to sustain gains achieved during initial substance use treatment.
- d. Trauma-Informed Treatment: Services must take into account an understanding of trauma, and place priority on trauma survivors' safety, choice and control.
- e. Psycho-Education: Psycho-educational groups are designed to educate clients about substance abuse, and related behaviors and consequences. Psycho-educational groups provide information designed to have a direct application to clients' lives; to instill self- awareness, suggest options for growth and change, identify community resources that can assist clients in recovery, develop an understanding of the process of recovery, and prompt people using substances to take action on their own behalf.

13. Case Management: services that assist a client to access needed medical, educational, social, prevocational, vocational, rehabilitative, or other community services. Case management services may be provided by a Licensed Practitioner of the Healing Arts or certified counselor. Provider shall provide case management services for the client during treatment, transition to other levels of care and follow ups, to encourage the client to engage and participate in an appropriate level of care or Recovery Services after discharge. Case management becomes the responsibility of the next treating provider after successful transition to a different level of care.

a. Contractor shall ensure that case management services focus on coordination of SUD care, integration around primary care especially for clients with a chronic SUD, and interaction with the criminal justice system, if needed. Case management services may be provided face-to-face, by telephone, or by telehealth with the client and may be provided anywhere in the community.

14. Medication Assisted Treatment: Providers will have procedures for linkage/integration for clients requiring medication assisted treatment. Provider staff will regularly communicate with physicians of clients who are prescribed these medications unless the client refuses to consent to sign a 42 CFR part 2 compliant release of information for this purpose.

15. Physician Consultation: Physician Consultation Services include DRUG MEDI-CAL physicians' consulting with addiction medicine physicians, addiction psychiatrists or clinical pharmacists. Physician consultation services are designed to assist DRUG MEDI-CAL physicians by allowing them to seek expert advice with regards to designing treatment plans for specific DRUG MEDI-CAL-ODS clients. Physician consultation services may address medication selection, dosing, side effect management, adherence, drug-drug interactions, or level of care considerations. ADMINISTRATOR will provide one or more physicians or pharmacists to provide consultation services.

16. Discharge Services: The process to prepare the client for referral into another level of care, post treatment return or reentry into the community, and/or the linkage of the individual to essential community treatment, housing and human services. CONTRACTOR shall begin discharge planning immediately after enrollment. CONTRACTOR shall develop a formal discharge plan with the Client no later than fourteen (14) calendar days prior to Client's successful completion of the program. The exit plan shall be completed and signed by CONTRACTOR staff and Client. The exit plan shall be documented in the Client's chart – see records section.

17. Recovery Services: Clients may access recovery services on a limited basis with Contractor after completing their course of treatment whether they are triggered, have relapsed or as a preventative measure to prevent relapse. Recovery services may be provided face-to-face, by telephone, or by telehealth with the client and may be provided anywhere in the community. Contracted should work towards transitioning client to community recovery services. The components of Recovery Services are:

a. Outpatient counseling services in the form of individual or group counseling to stabilize the client and then reassess if the client needs further care;

b. Recovery Monitoring: Recovery coaching, monitoring via telephone and internet;

- 1 c. Substance Abuse Assistance: Peer-to-peer services and relapse prevention;  
 2 d. Education and Job Skills: Linkages to life skills, employment services, job training, and  
 3 education services;
- 4 18. Family Support: Linkages to childcare, parent education, child development support  
 5 services, family/marriage education;
- 6 19. Support Groups: Linkages to self-help and support, spiritual and faith- based support;  
 7 CONTRACTOR shall ensure that clients are afforded every opportunity to participate in self-help  
 8 recovery groups. Contractor may provide meeting space in the facility if deemed appropriate.
- 9 20. Food and Other Services: CONTRACTOR shall provide a clean, safe environment,  
 10 toiletries, clean linen, and food service.
- 11 21. Support Services: CONTRACTOR shall provide housekeeping, which may be done by  
 12 Clients; laundry access; and maintenance.
- 13 22. Health, Medical, and Emergency Services: CONTRACTOR shall ensure that all persons  
 14 admitted for Residential Treatment services have a health questionnaire completed using form DHCS  
 15 5103 form, or may develop their own form provided it contains, at a minimum, the information  
 16 requested in the DHCS 5103 form.
- 17 a. The health questionnaire is a Client's self-assessment of his/her current health status  
 18 and shall be completed by Client.
- 19 1). CONTRACTOR shall review and approve the health questionnaire form prior to  
 20 Client's admission to the program. The completed health questionnaire shall be signed and dated by  
 21 CONTRACTOR and Client.
- 22 2). A copy of the questionnaire shall be filed in the Client's record.
- 23 b. CONTRACTOR shall, based on information provided by Client on the health  
 24 questionnaire form, refer Client to licensed medical professionals for physical and laboratory  
 25 examinations as appropriate.
- 26 1) CONTRACTOR shall obtain a copy of Client's medical clearance or release prior  
 27 to Client's admission to the program when applicable.
- 28 2) A copy of the referral and clearance shall be filed in the Client's file.
- 29 3) CONTRACTOR shall provide directly or by referral: HIV education, voluntary,  
 30 HIV antibody testing and risk assessment and disclosure counseling.
- 31 4) The programs shall have written procedures for obtaining medical or psychiatric  
 32 evaluation and emergency and non-emergency services.
- 33 5) The programs shall post the name, address, and telephone number for the fire  
 34 department, a crisis program, local law enforcement, and ambulance service.
- 35 6) CONTRACTOR shall provide TB services to the Clients by referral to the  
 36 COUNTY or another appropriate provider. TB services shall be provided within seven (7) calendar  
 37 days of admission. These TB services shall consist of the following:

- 1 a) Counseling with respect to TB;
- 2 b) Testing to determine whether the individual has been infected and to determine
- 3 the appropriate form of treatment;
- 4 c) Provision for, or referral of, infected Clients for medical evaluation, treatment
- 5 and clearance. CONTRACTOR shall ensure that a TB-infected Client is medically cleared prior to
- 6 commencing treatment.

7 23. Transportation Services:

8 a. COUNTY shall only pay for medical ambulance or medical van transportation to and

9 from designated residential substance use disorder treatment programs or health facilities through the

10 COUNTY's Medical Transportation Agreement under the following conditions:

11 1) Ambulance transportation shall be used for services requiring immediate attention

12 for a Client due to any sudden or serious illness or injury requiring immediate medical attention, where

13 delay in providing such services may aggravate the medical condition or cause the loss of life.

14 2) When any Client needs non-emergency transportation as identified in

15 Subparagraph b below, and CONTRACTOR cannot transport Client due to unforeseen circumstances

16 including, but not limited to, staffing constraints, CONTRACTOR vehicle access within a timely

17 manner or Client's physical condition and/or limitations.

18 3) CONTRACTOR shall utilize the COUNTY's Ambulance Monthly Rotation Call

19 Log to request transportation services from Ambulance Providers designated for transportation within

20 the city of the CONTRACTOR's facility for each said month as identified on the log.

21 4) CONTRACTOR shall use its best efforts to contact Ambulance Providers

22 identified on the Monthly Rotation Call Log as those providers who offer van transportation services if

23 and when an ambulance is not required.

24 5) CONTRACTOR shall be held liable and may be billed by the Ambulance Provider

25 for services requested by CONTRACTOR that are deemed inappropriate for use and not a covered

26 service under this section by the COUNTY.

27 b. Non-Emergency Transportation – CONTRACTOR shall transport Client, either in

28 CONTRACTOR's own, or COUNTY loaned, vehicle to locations that are considered necessary and/or

29 important to the Client's recovery plan including, but not limited to, Social Security Administration

30 offices for Supplemental Security Income benefits and for non-emergency medical or mental health

31 services not identified in Subparagraph a, above, that require treatment at a physician office, urgent care,

32 or emergency room when an ambulance provider is not necessary or required for transportation based on

33 the level of severity and/or services required by the Client.

34 K. PERFORMANCE OUTCOMES

35 1. CONTRACTOR shall achieve performance objectives, tracking and reporting Performance

36 Outcome Objective statistics in monthly programmatic reports, as appropriate. ADMINISTRATOR

37 recognizes that alterations may be necessary to the following services to meet the objectives, and,



therefore, revisions to objectives and services may be implemented by mutual agreement between CONTRACTOR and ADMINISTRATOR.

2. Performance Outcome Objectives:

a. Objective 1: CONTRACTOR shall provide effective Co-Occurring Residential assessment, treatment, and counseling to adults with identified alcohol and/or drug problems as measured by Retention and Completion Rates.

1) Retention Rates shall be calculated by using the number of Clients currently enrolled in or successfully completing the treatment program divided by the total number of Clients served during the evaluation period.

2) Completion Rates shall be calculated by using the number of Clients successfully completing the treatment program divided by the total number of Clients discharged during the evaluation period.

b. Objective 2: CONTRACTOR shall implement a process improvement project as outlined in the NIATx model, targeting at least one of the following four (4) NIATx aims:

- 1) Reduce waiting times
- 2) Reduce no-shows
- 3) Increase admissions
- 4) Increase continuation in treatment

## **VIII. STAFFING**

A. CONTRACTOR shall, at a minimum, provide the following paid staffing expressed in FTEs, which shall be equal to an average of forty (40) hours work per week:

PROGRAM STAFF	FTE
Program Director	1.00
Counselor MFTI	2.00
Counselor	3.40
Peer Counselor	4.40
On-Call Counselor	1.00
Kitchen Manager	<u>1.00</u>
 SUBTOTAL PROGRAM STAFF	 <u>12.80</u>
 TOTAL FTE	 12.80

1. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the staffing set forth in Subparagraph VII.A. above.



2. CONTRACTOR shall provide twenty-four (24) hour supervision with at least two (2) staff members on-site at all times. Co-ed residential programs shall require twenty-four (24)-hour awake supervision.

B. CONTRACTOR shall include bilingual/bicultural services to meet the needs of the population to be served under the Agreement. Whenever possible, bilingual/bicultural staff should be retained.

C. Professional staff shall be licensed, registered, certified or recognized under California scope of practice statutes. Professional staff shall provide services within their individual scope of practice and receive supervision required under their scope of practice laws. Licensed Practitioner of the Healing Arts (LPHA):

1. Physician, Nurse Practitioners, Physician Assistants, Registered Nurses, Registered Pharmacists, Licensed Clinical Psychologists, Licensed Clinical Social Worker, Licensed Professional Clinical Counselor, Licensed Marriage and Family Therapists, Licensed Eligible Practitioners working under the supervision of Licensed Clinicians.

D. Non-professional staff shall receive appropriate onsite orientation and training prior to performing assigned duties. Non-professional staff shall be supervised by professional and/or administrative staff.

E. Professional and Non-professional staff are required to have appropriate experience and any necessary training at the time of hiring.

F. Registered and certified SUD counselors shall adhere to all requirements in the California Code of Regulations, Title 9, Division 4, Chapter 8.

G. Pursuant to the California Code of Regulations, Title 9, Division 4, Chapter 8, Subchapter 2, at least thirty percent (30%) of CONTRACTOR staff providing counseling services shall be licensed or certified. All other counseling staff shall be registered.

H. CONTRACTORS must have a Medical Director who, prior to the delivery of services under this AGREEMENT with COUNTY has enrolled with DHCS under applicable state regulations, has been screened in accordance with 42 CFR 455.450(a) as a "limited" categorical risk within a year prior to serving as a Medical Director under this AGREEMENT.

I. CONTRACTOR'S certification to participate in the Drug Medi-Cal program shall automatically terminate in the event that the CONTRACTOR or its owners, officers or directors are convicted of Medi-Cal fraud, abuse or malfeasance. For purposes of this section, a conviction shall include a plea of guilty or *nolo contendere*.

J. VOLUNTEERS/INTERNS – CONTRACTOR may augment the above paid staff with volunteers or part-time student interns. Unless waived by ADMINISTRATOR, prior to providing services pursuant to the Agreement, interns shall be Master's Candidates in Counseling or Social Work or have a Bachelor's Degree in a related field or be participating in any state recognized counselor certification program. CONTRACTOR shall provide a minimum of one (1) hour supervision for each ten (10) hours of work by interns or consistent with school or licensing Board requirements.

1 CONTRACTOR shall provide supervision to volunteers as specified in the respective job descriptions  
 2 or work contracts. Volunteer or student intern services may not comprise more than twenty percent  
 3 (20%) of the services provided, unless approved in advance by ADMINISTRATOR.

4 K. STAFF CONDUCT – CONTRACTOR shall establish written Policies and Procedures for  
 5 employees, volunteers, interns, and members of the Board of Directors which shall include, but not be  
 6 limited to, standards related to the use of drugs and/or alcohol; staff-Client relationships; prohibition of  
 7 sexual conduct with Clients; prohibition of forging or falsifying documents or drug tests; and real or  
 8 perceived conflict of interest. Situations that may be perceived as a conflict of interest shall be brought  
 9 to the ADMINISTRATOR's attention prior to the occurrence. Prior to providing any services pursuant  
 10 to the Agreement all employees, volunteers, and interns shall agree in writing to maintain the standards  
 11 set forth in the said Policies and Procedures. A copy of the staff code of conduct shall be posted in  
 12 writing in a prominent place in the treatment facility and be updated annually by the Board of Directors.

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

- 20 1. All staff/volunteers/interns, prior to starting services, shall meet the following requirements:
- 21 a. No person shall have been convicted of a sex offense for which the person is required
- 22 to register as a sex offender under PC, Section 290;
- 23 b. No person shall have been convicted of an arson offense – Violation of PC, Sections
- 24 451, 451.1, 451.5, 452, 45231, 453, 454, or 455;
- 25 c. No person shall have been convicted of any violent felony as defined in PC, Section
- 26 667.5, which involves doing bodily harm to another person, for which the staff member was convicted
- 27 within five (5) years prior to employment;
- 28 d. No person shall be on parole or probation;
- 29 e. No person shall participate in the criminal activities of a criminal street gang and/or
- 30 prison gang; and
- 31 f. No person shall have prior employment history of improper conduct, including but not
- 32 limited to, forging or falsifying documents or drug tests, sexual assault or sexual harassment, or
- 33 inappropriate behavior with staff or residents at another treatment facility.

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

37 //

1 M. STAFF TRAINING – CONTRACTOR shall develop a written plan for staff training. All Staff  
2 training shall be documented and maintained as part of the training plan.

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

- 6 a. infectious disease recognition,
- 7 b. crisis intervention,
- 8 c. recognizing physical and psychiatric symptoms that require appropriate referrals to  
9 other agencies.

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

- 12 a. County Annual Provider Training
- 13 b. County Annual Compliance Training
- 14 c. Training on topics related to alcohol and drug use
- 15 d. Minimum one hour training in cultural competence

16 3. All treatment staff shall be trained in the ASAM criteria prior to providing services.

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

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

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EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
CO-OCCURRING RESIDENTIAL TREATMENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
SOCIAL MODEL RECOVERY SYSTEMS, INC.  
OCTOBER 1, 2017 THROUGH JUNE 30, 2019

**I. BUSINESS ASSOCIATE CONTRACT**

**A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

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

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

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

9 D. SECURITY RULE

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

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

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

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

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

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

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

37 //

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

34 2. Technical Security Controls

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

37 //

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) calendar or business 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 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every ninety (90) calendar or business days, preferably every sixty (60) calendar or business days. Passwords must be changed if revealed or compromised.



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

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

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

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

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

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

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

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

37 //

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

5 3. Audit Controls

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

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

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

19 4. Business Continuity/Disaster Recovery Control

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

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

32 5. Paper Document Controls

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

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

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

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

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

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

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

#### 24 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

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

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

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

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

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

#### H. PROHIBITED USES AND DISCLOSURES

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

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



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

3 I. OBLIGATIONS OF COUNTY

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

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

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

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

15 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C  
TO AGREEMENT FOR PROVISION OF  
CO-OCCURRING RESIDENTIAL TREATMENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
SOCIAL MODEL RECOVERY SYSTEMS, INC.  
OCTOBER 1, 2017 THROUGH JUNE 30, 2019

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

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

**A. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

## 7 B. TERMS OF AGREEMENT

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

### 12 2. Responsibilities of CONTRACTOR

13 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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