

1

2 **AGREEMENT FOR PROVISION OF**

3 **ASSISTED OUTPATIENT TREATMENT FULL SERVICE PARTNERSHIP SERVICES**

4 **BETWEEN**

5 **COUNTY OF ORANGE**

6 **AND**

7 **TELECARE CORPORATION**

8 **NOVEMBER 1, 2016 THROUGH JUNE 30, 2018**

9

10 THIS AGREEMENT entered into this 1st day of November 2016, which date is enumerated for

11 purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and

12 TELECARE CORPORATION, a California for profit corporation (CONTRACTOR). This Agreement

13 shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

14

15 **W I T N E S S E T H:**

16

17 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Assisted

18 Outpatient Treatment Full Service Partnership Services described herein to the residents of Orange

19 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, IT IS MUTUALLY AGREED AS FOLLOWS:

23 //

24 //

25 //

26 //

27 //

28 //

29 //

30 //

31 //

32 //

33 //

34 //

35 //

36 //

37 //

TABLE OF CONTENTS

<u>PARAGRAPH</u>	<u>PAGE</u>
Title Page.....	1
Contents.....	2
Referenced Contract Provisions.....	4
I. Acronyms	5
II. Alteration of Terms	6
III. Assignment of Debts	7
IV. Compliance.....	7
V. Confidentiality.....	10
VI. Cost Report.....	10
VII. Debarment and Suspension Certification	12
VIII. Delegation, Assignment and Subcontracts	13
IX. Employee Eligibility Verification	15
X. Equipment	15
XI. Facilities, Payments and Services	16
XII. Indemnification and Insurance.....	16
XIII. Inspections and Audits	20
XIV. Licenses and Laws.....	21
XV. Literature, Advertisements and Social Media	23
XVI. Maximum Obligation.....	24
XVII. Minimum Wage Laws.....	24
XVIII. Nondiscrimination.....	24
XIX. Notices.....	27
XX. Notification of Death.....	27
XXI. Notification of Public Events and Meetings.....	28
XXII. Records Management and Maintenance.....	28
XXIII. Research and Publication.....	30
XXIV. Revenue	30
XXV. Severability.....	30
XXVI. Special Provisions	31
XXVII. Status of Contractor.....	32
XXVIII. Term	32
XXIX. Termination	32
XXX. Third Party Beneficiary	34
XXXI. Waiver of Default or Breach.....	34
Signature Page	35

TABLE OF CONTENTS

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

EXHIBIT A

PAGE

I. Common Terms and Definitions	1
II. Budget.....	10
III. Payments.....	13
IV. Services.....	14
V. Staffing	20
VI. Reports.....	24

EXHIBIT B

I. Business Associate Contract	1
--------------------------------------	---

EXHIBIT C

I. Personal Information Privacy and Security Contract	1
---	---

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

REFERENCED CONTRACT PROVISIONS

Term: November 1, 2016 through June 30, 2018

Maximum Obligation:

Period One Maximum Obligation:	\$	2,549,216
Period Two Maximum Obligation:		<u>3,823,605</u>
TOTAL MAXIMUM OBLIGATION:	\$	6,372,821

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 07-654-7363

CONTRACTOR TAX ID Number: 94-1735271

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: Telecare Corporation
1080 Marina Village Parkway, Suite 100
Alameda, CA 94501
Contact Name: Leslie Davis, Senior Vice President/CFO
Contact Email: ldavis@telecarecorp.com

//
//
//
//

I. ACRONYMS

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

1		
2		
3		
4	A. ARRA	American Recovery and Reinvestment Act
5	B. ASRS	Alcohol and Drug Programs Reporting System
6	C. AES	Advanced Encryption Standard
7	D. BCP	Business Continuity Plan
8	E. CCC	California Civil Code
9	F. CCR	California Code of Regulations
10	G. CD/DVD	Compact Disc/Digital Video or Versatile Disc
11	H. CEO	County Executive Office
12	I. CFR	Code of Federal Regulations
13	J. CIPA	California Information Practices Act
14	K. CHPP	COUNTY HIPAA Policies and Procedures
15	L. CHS	Correctional Health Services
16	M. CMPPA	Computer Matching and Privacy Protection Act
17	N. COI	Certificate of Insurance
18	O. D/MC	Drug/Medi-Cal
19	P. DHCS	Department of Health Care Services
20	Q. DoD	US Department of Defense
21	R. DPFS	Drug Program Fiscal Systems
22	S. DRP	Disaster Recovery Plan
23	T. DRS	Designated Record Set
24	U. DSM	Diagnostic and Statistical Manual of Mental Disorders
25	V. DSM-IV	Diagnostic and Statistical Manual of Mental Disorders. 4 th Edition
26	W. DSM-V	Diagnostic and Statistical Manual of Mental Disorders. 5 th Edition
27	X. FTE	Full Time Equivalent
28	Y. E-Mail	Electronic Mail
29	Z. EHR	Electronic Health Records
30	AA. ePHI	Electronic Protected Health Information
31	AB. FIPS	Federal Information Processing Standards
32	AC. GAAP	Generally Accepted Accounting Principles
33	AD. HCA	Health Care Agency
34	AE. HHS	Health and Human Services
35	AF. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
36		Law 104-191
37	AG. HSC	California Health and Safety Code

1	AH. ID	Identification
2	AI. IEA	Information Exchange Agreement
3	AJ. IRIS	Integrated Records and Information System
4	AK. ISO	Insurance Services Office
5	AL. MHP	Mental Health Plan
6	AM. NIST	National Institute of Standards and Technology
7	AN. NPI	National Provider Identifier
8	AO. NPP	Notice of Privacy Practices
9	AP. OCJS	Orange County Jail System
10	AQ. OCPD	Orange County Probation Department
11	AR. OCR	Office for Civil Rights
12	AS. OCSD	Orange County Sheriff's Department
13	AT. OIG	Office of Inspector General
14	AU. OMB	Office of Management and Budget
15	AV. OPM	Federal Office of Personnel Management
16	AW PA DSS	Payment Application Data Security Standard
17	AX. PC	State of California Penal Code
18	AY. PCI DSS	Payment Card Industry Data Security Standard
19	AZ. PHI	Protected Health Information
20	BA. PI	Personal Information
21	BB. PII	Personally Identifiable Information
22	BC. P&P	Policy and Procedure
23	BD. PRA	Public Record Act
24	BE. SIR	Self-Insured Retention
25	BF. The HITECH Act	The Health Information Technology for Economic and Clinical Health Act, Public Law 111-005
26		
27	BG. USC	United States Code
28	BH. UOS	Units of Service
29	BI. WIC	State of California Welfare and Institutions Code

II. ALTERATION OF TERMS

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

35 B. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of
36 this Agreement or any Exhibits, whether written or verbal, made by the parties, their officers, employees

37 //

1 or agents shall be valid unless made in the form of a written amendment to this Agreement, which has
2 been formally approved and executed by both parties.

3
4 **III. ASSIGNMENT OF DEBTS**

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

12
13 **IV. COMPLIANCE**

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

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

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

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

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

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

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

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

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

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

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

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

36 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
37 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.

1 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing
2 services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an
3 Ineligible Person.

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

9
10 **V. CONFIDENTIALITY**

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

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

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

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

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

33
34 **VI. COST REPORT**

35 A. CONTRACTOR shall submit separate Cost Reports for Period One and Period Two, or for a
36 portion thereof, to COUNTY no later than sixty (60) calendar days following the period for which they
37 are prepared or termination of this Agreement. CONTRACTOR shall prepare the individual and/or

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

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

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

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

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

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

33 B. The individual and/or consolidated Cost Report shall be the final financial and statistical report
34 submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to
35 CONTRACTOR. CONTRACTOR shall document that costs are reasonable and allowable and directly
36 or indirectly related to the services to be provided hereunder. The individual and/or consolidated Cost
37 Report shall be the final financial record for subsequent audits, if any.

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

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

14 E. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in
15 the Budget Paragraph of Exhibit A to this Agreement, CONTRACTOR shall specify in the Cost Report
16 the services rendered with such revenues.

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

19
20 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and
21 supporting documentation prepared by _____ for the cost report period
22 beginning _____ and ending _____ and that, to the best of my
23 knowledge and belief, costs reimbursed through this Agreement are reasonable and
24 allowable and directly or indirectly related to the services provided and that this Cost
25 Report is a true, correct, and complete statement from the books and records of
26 (provider name) in accordance with applicable instructions, except as noted. I also
27 hereby certify that I have the authority to execute the accompanying Cost Report.

28
29 Signed _____
30 Name _____
31 Title _____
32 Date _____

33
34 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

35 A. CONTRACTOR certifies that it and its principals:

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

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

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

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

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

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

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

22
23 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

37 //

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

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

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

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

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

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

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

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

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

35 //
36 //
37 //

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,

//
//

1 | model and type of Equipment. Such inventory shall be available for review by ADMINISTRATOR, and
2 | shall include the original purchase date and price, useful life, and balance of depreciated Equipment
3 | cost, if any.

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

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

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

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

17 |
18 | **XI. FACILITIES, PAYMENTS AND SERVICES**

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

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

30 |
31 | **XII. INDEMNIFICATION AND INSURANCE**

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

1 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the
2 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and
3 COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request
4 a jury apportionment.

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

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

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

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

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

35 G. If CONTRACTOR fails to maintain insurance acceptable to COUNTY for the full term of this
36 Agreement, COUNTY may terminate this Agreement.

37 //

1 H. QUALIFIED INSURER

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

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

10 I. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
 11 limits and coverage as set forth below:

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

32 J. REQUIRED COVERAGE FORMS

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

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

37 //

1 K. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

27 O. If CONTRACTOR's Professional Liability or Network Security & Privacy Liability are "Claims
28 Made" policy(ies), CONTRACTOR shall agree to maintain coverage for two (2) years following the
29 completion of the Contract.

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

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

36 R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
37 CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY

1 incorporating such changes within thirty (30) calendar days of receipt of such notice, this Agreement
2 may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to all legal
3 remedies.

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

7 T. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

11 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
12 changes to any of the insurance types as set forth in Subparagraph G. of this Agreement.

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

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

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

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

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

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

31
32 **XIII. INSPECTIONS AND AUDITS**

33 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
34 of the State of California, the Secretary of the United States Department of Health and Human Services,
35 the Comptroller General of the United States, or any other of their authorized representatives, shall have
36 access to any books, documents, and records, including but not limited to, financial statements, general
37 ledgers, relevant accounting systems, medical and Client records, of CONTRACTOR that are directly

1 | pertinent to this Agreement, for the purpose of responding to a beneficiary complaint or conducting an
2 | audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth
3 | in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all
4 | reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and the
5 | premises in which they are provided.

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

10 | C. AUDIT RESPONSE

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

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

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

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

32 | **XIV. LICENSES AND LAWS**

33 | A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
34 | the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates,
35 | accreditations, waivers, and exemptions necessary for the provision of the services hereunder and
36 | required by the laws, regulations and requirements of the United States, the State of California,
37 |

1 COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify
2 ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the
3 pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers
4 and exemptions. Said inability shall be cause for termination of this Agreement.

5 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

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

- 29 1. ARRA of 2009.
- 30 2. WIC, Division 5, Community Mental Health Services.
- 31 3. WIC, Division 6, Admissions and Judicial Commitments.
- 32 4. WIC, Division 7, Mental Institutions.
- 33 5. HSC, §§1250 et seq., Health Facilities.
- 34 6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 35 7. CCR, Title 9, Rehabilitative and Developmental Services.
- 36 8. CCR, Title 17, Public Health.
- 37 9. CCR, Title 22, Social Security.

- 1 10. CFR, Title 42, Public Health.
- 2 11. CFR, Title 45, Public Welfare.
- 3 12. USC Title 42. Public Health and Welfare.
- 4 13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 5 14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 6 15. 42 USC §1857, et seq., Clean Air Act.
- 7 16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 8 17. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 9 18. Policies and procedures set forth in Mental Health Services Act.
- 10 19. Policies and procedures set forth in DHCS Letters.
- 11 20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 12 21. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 13 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for
- 14 Federal Awards.

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

18
 19 **XV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

37 //

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

3
4 **XVI. MAXIMUM OBLIGATION**

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

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

11
12 **XVII. MINIMUM WAGE LAWS**

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

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

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

27
28 **XVIII. NONDISCRIMINATION**

29 **A. EMPLOYMENT**

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

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

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

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

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

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

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

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

37 1. Denying a Client or potential Client any service, benefit, or accommodation.

1 2. Providing any service or benefit to a Client which is different or is provided in a different
2 manner or at a different time from that provided to other Clients.

3 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by
4 others receiving any service or benefit.

5 4. Treating a Client differently from others in satisfying any admission requirement or
6 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
7 any service or benefit.

8 5. Assignment of times or places for the provision of services.

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

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

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

19 b. Throughout the problem resolution and grievance process, client rights shall be
20 maintained, including access to the Patients’ Rights Office at any point in the process. Clients shall be
21 informed of their right to access the Patients’ Rights Office at any time.

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

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

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

36 //

37 //

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

4
5 **XIX. NOTICES**

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

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

11 2. When faxed, transmission confirmed;

12 3. When sent by E-Mail; or

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

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

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

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

25
26 **XX. NOTIFICATION OF DEATH**

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

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

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

37 //

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.

XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS

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

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

XXII. RECORDS MANAGEMENT AND MAINTENANCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

XXIII. RESEARCH AND PUBLICATION

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

XXIV. REVENUE

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

XXV. SEVERABILITY

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

//
//
//
//

XXVI. SPECIAL PROVISIONS

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

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

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

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

//
//

XXVII. 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.

XXVIII. TERM

A. This 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.

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

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

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

//

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

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

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

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

11 D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13
14 **XXX. THIRD PARTY BENEFICIARY**

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

18
19 **XXXI. WAIVER OF DEFAULT OR BREACH**

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

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

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

3
4 TELECARE CORPORATION

5
6 DocuSigned by:
7 BY: Leslie Davis
8 D4E92DDF964047C...

DATED: 9/12/2016

9 TITLE: Senior Vice President and CFO

10
11
12
13
14
15 COUNTY OF ORANGE

16
17
18 BY: _____

DATED: _____

19 HEALTH CARE AGENCY

20
21
22
23
24
25 APPROVED AS TO FORM
26 OFFICE OF THE COUNTY COUNSEL
27 ORANGE COUNTY, CALIFORNIA

28
29 DocuSigned by:
30 BY: [Signature]
31 DEPUTY
32 1026E99396254F6...

DATED: 9/8/2016

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.

1 EXHIBIT A
2 TO AGREEMENT FOR PROVISION OF
3 ASSISTED OUTPATIENT TREATMENT FULL SERVICE PARTNERSHIP SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 TELECARE CORPORATION
8 NOVEMBER 1, 2016 THROUGH JUNE 30, 2018
9

10 **I. COMMON TERMS AND DEFINITIONS**

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

13 1. Active and Ongoing Case Load means documentation, by CONTRACTOR, of completion
14 of the entry and evaluation documents into IRIS and documentation that the client are receiving services
15 at a level and frequency and duration that is consistent with each client’s level of impairment and
16 treatment goals and consistent with individualized, solution-focused, evidenced-based practices.

17 2. ADL means Activities of Daily Living and refers to diet, personal hygiene, clothing care,
18 grooming, money and household management, personal safety, symptom monitoring, etc.

19 3. Admission means documentation, by CONTRACTOR, of completion of the entry and
20 evaluation documents into IRIS.

21 4. Benefits Specialist means a specialized position that would primarily be responsible for
22 coordinating client applications and appeals for State and Federal benefits.

23 5. Best Practices means a term that is often used inter-changeably with “evidence-based
24 practice” and is best defined as an “umbrella” term for three levels of practice, measured in relation to
25 Recovery-consistent mental health practices where the Recovery process is supported with scientific
26 intervention that best meets the needs of the client at this time.

27 a. EBP means Evidence-Based Practices and refers to the interventions utilized for which
28 there is consistent scientific evidence showing they improved client outcomes and meets the following
29 criteria: it has been replicated in more than one geographic or practice setting with consistent results; it
30 is recognized in scientific journals by one or more published articles; it has been documented and put
31 into manual forms; it produces specific outcomes when adhering to the fidelity of the model.

32 b. Promising Practices means that experts believe the practices are likely to be raised to
33 the next level when scientific studies can be conducted and is supported by some body of evidence,
34 (evaluation studies or expert consensus in reviewing outcome data); it has been endorsed by recognized
35 bodies of advocacy organizations and finally, produces specific outcomes.

36 c. Emerging Practices means that the practice(s) seems like a logical approach to
37 addressing a specific behavior which is becoming distinct, recognizable among client and clinicians in

1 | practice, or innovators in academia or policy makers; and at least one recognized expert, group of
2 | researchers or other credible individuals have endorsed the practice as worthy of attention based on
3 | outcomes; and finally, it produces specific outcomes.

4 | 6. Care Coordinator is a MHS, CSW, or MFT that provides mental health, crisis intervention
5 | and case management services to those clients who seek services in the COUNTY operated outpatient
6 | programs.

7 | 7. Case Management Linkage Brokerage means a process of identification, assessment of
8 | need, planning, coordination and linking, monitoring and continuous evaluation of client and of
9 | available resources and advocacy through a process of casework activities in order to achieve the best
10 | possible resolution to individual needs in the most effective way possible. This includes supportive
11 | assistance to the client in the assessment, determination of need and securing of adequate and
12 | appropriate living arrangements.

13 | 8. CAT means Centralized Assessment Team and provides 24 hour mobile response services
14 | to any adult who has a psychiatric emergency. This program assists law enforcement, social service
15 | agencies, and families in providing crisis intervention services for the mentally ill. CAT is a multi-
16 | disciplinary program that conducts risk assessments, initiates involuntary hospitalizations, and provides
17 | case management, linkage, follow ups for individuals evaluated.

18 | 9. Certified Reviewer means an individual that obtains certification by completing all
19 | requirements set forth in the Quality Improvement and Program Compliance Reviewer Training
20 | Verification Sheet.

21 | 10. Client or client means an individual, referred by COUNTY or enrolled in
22 | CONTRACTOR's program for services under the Agreement, who experiences chronic mental illness.

23 | 11. Clinical Director means an individual who meets the minimum requirements set forth in
24 | Title 9, CCR, and has at least two (2) years of full-time professional experience working in a mental
25 | health setting.

26 | 12. Crisis Stabilization Unit (CSU) means a psychiatric crisis stabilization program that
27 | operates 24 hours a day that serves Orange County residents, aged 18 and older, who are experiencing a
28 | psychiatric crisis and need immediate evaluation. Clients receive a thorough psychiatric evaluation,
29 | crisis stabilization treatment, and referral to the appropriate level of continuing care. As a designated
30 | outpatient facility, the CSU may evaluate and treat clients for no longer than 23 hours.

31 | 13. CSW means Clinical Social Worker and refers to an individual who meets the minimum
32 | professional and licensure requirements set forth in Title 9, CCR, Section 625, and has two (2) years of
33 | post-master's clinical experience in a mental health setting.

34 | 14. Data Collection System means software designed for collection, tracking and reporting
35 | outcomes data for client enrolled in the FSP Programs.

36 | a. 3 M's means the Quarterly Assessment Form that is completed for each client every
37 | three months in the approved data collection system.

1 b. Data Mining and Analysis Specialist means a person who is responsible for ensuring
2 the program maintains a focus on outcomes, by reviewing outcomes, and analyzing data as well as
3 working on strategies for gathering new data from the client’ perspective which will improve
4 understanding of client’ needs and desires towards furthering their Recovery. This individual will
5 provide feedback to the program and work collaboratively with the employment specialist, education
6 specialist, benefits specialist, and other staff in the program in strategizing improved outcomes in these
7 areas. This position will be responsible for attending all data and outcome related meetings and ensuring
8 that program is being proactive in all data collection requirements and changes at the local and state
9 level.

10 c. Data Certification means the process of reviewing State and COUNTY mandated
11 outcome data for accuracy and signing the Certification of Accuracy of Data form indicating that the
12 data is accurate.

13 d. KET means Key Event Tracking and refers to the tracking of a client’s movement or
14 changes in the approved data collection system. A KET must be completed and entered accurately each
15 time the CONTRACTOR is reporting a change from previous client status in certain categories. These
16 categories include: residential status, employment status, education and benefits establishment.

17 e. PAF means Partnership Assessment Form and refers to the baseline assessment for each
18 client that must be completed and entered into data collection system within thirty (30) days of the
19 Partnership date.

20 15. Diagnosis means the definition of the nature of the client's disorder. When formulating the
21 Diagnosis of client, CONTRACTOR shall use the diagnostic codes and axes as specified in the most
22 current edition of the DSM published by the American Psychiatric Association. DSM diagnoses will be
23 recorded on all IRIS documents, as appropriate.

24 16. DSH means Direct Service Hours and refers to a measure in minutes that a clinician spends
25 providing client services. DSH credit is obtained for providing mental health, case management,
26 medication support and a crisis intervention service to any client open in IRIS which includes both
27 billable and non-billable services.

28 17. Engagement means the process by which a trusting relationship between worker and
29 client(s) is established with the goal to link the individual(s) to the appropriate services. Engagement of
30 client(s) is the objective of a successful Outreach.

31 18. Face-to-Face means an encounter between client and provider where they are both
32 physically present.

33 19. FSP means Full Service Partnership and refers to a type of program described by the State
34 in the requirements for the COUNTY plan for use of MHSA funds and which includes client being a full
35 partner in the development and implementation of their treatment plan. A FSP is an evidence-based and
36 strength-based model, with the focus on the individual rather than the disease. Multi-disciplinary teams
37 will be established including the client, Psychiatrist, and PSC. Whenever possible, these multi-

1 disciplinary teams will include a mental health nurse, marriage and family therapist, clinical social
2 worker, peer specialist, and family members. The ideal client to staff ratio
3 will be in the range of ten (10) to one (1), ensuring relationship building and intense service delivery.
4 Services will include, but not be limited to, the following:

- 5 1) Crisis management;
- 6 2) Housing Services;
- 7 3) Twenty-four (24)-hours per day, seven (7) days per week intensive case management;
- 8 4) Community-based Wraparound Recovery Services;
- 9 5) Vocational and Educational services;
- 10 6) Job Coaching/Developing;
- 11 7) Client employment;
- 12 8) Money management/Representative Payee support;
- 13 9) Flexible Fund account for immediate needs;
- 14 10) Transportation;
- 15 11) Illness education and self-management;
- 16 12) Medication Support;
- 17 13) Co-occurring Services;
- 18 14) Linkage to financial benefits/entitlements;
- 19 15) Family and Peer Support; and
- 20 16) Supportive socialization and meaningful community roles.

21 b. Client services are focused on Recovery and harm reduction to encourage the highest
22 level of client empowerment and independence achievable. PSC’s will meet with the client in their
23 current community setting and will develop a supportive relationship with the individual served.
24 Substance abuse treatment will be integrated into services and provided by the client’s team to
25 individuals with a co-occurring disorder.

26 c. The FSP shall offer “whatever it takes” to engage seriously mentally ill adults,
27 including those who are dually diagnosed, in a partnership to achieve the individual’s wellness and
28 Recovery goals. Services shall be non-coercive and focused on engaging people in the field. The goal
29 of FSP Programs is to assist the client’s progress through pre-determined quality of life outcome
30 domains (housing, decreased jail, decreased hospitalization, increased education involvement, increased
31 employment opportunities and retention, linkage to medical providers, etc.) and become more
32 independent and self-sufficient as the client moves through the continuum of Recovery and evidence by
33 progressing to lower level of care or out of the “intensive case management need” category.

34 20. Housing Specialist means a specialized position dedicated to developing the full array of
35 housing options for their program and monitoring their suitability for the population served in
36 accordance with the minimal housing standards policy set by the COUNTY for their program.

37 //

1 This individual is also responsible for assisting client with applications to low income housing, housing
2 subsidies, senior housing, etc.

3 21. Individual Services and Support Funds – Flexible Funds means funds intended for use to
4 provide client and/or their families with immediate assistance, as deemed necessary, for the treatment of
5 their mental illness and their overall quality of life. Flexible Funds are generally categorized as housing,
6 client transportation, food, clothing, medical and miscellaneous expenditures that are individualized and
7 appropriate to support client’s mental health treatment activities.

8 22. Intake means the initial meeting between a client and CONTRACTOR’s staff and includes
9 an evaluation to determine if the client meets program criteria and is willing to seek services.

10 23. Intern means an individual enrolled in an accredited graduate program accumulating
11 clinically supervised work experience hours as part of field work, internship, or practicum requirements.
12 Acceptable graduate programs include all programs that assist the student in meeting the educational
13 requirements in becoming a MFT, a licensed CSW, or a licensed Clinical Psychologist.

14 24. IRIS means Integrated Records Information System and refers to a collection of applications
15 and databases that serve the needs of programs within the COUNTY and includes functionality such as
16 registration and scheduling, laboratory information system, billing and reporting capabilities, compliance
17 with regulatory requirements, electronic medical records and other relevant applications.

18 25. Job Coach/Developer means a specialized position dedicated to cultivating and nurturing
19 employment opportunities for the client and matching the job to the client’s strengths, abilities, desires,
20 and goals. This position will also integrate knowledge about career development and job preparation to
21 ensure successful job retention and satisfaction of both employer and employee.

22 26. Medical Necessity means the requirements as defined in the COUNTY MHP Medical
23 Necessity for Medi-Cal reimbursed Specialty Mental Health Services that includes Diagnosis,
24 Impairment Criteria and Intervention Related Criteria.

25 27. Member Advisory Board means a member-driven board which shall direct the activities,
26 provide recommendations for ongoing program development, and create the rules of conduct for the
27 program.

28 28. Mental Health Services means interventions designed to provide the maximum reduction of
29 mental disability and restoration or maintenance of functioning consistent with the requirements for
30 learning, development and enhanced self-sufficiency. Services shall include:

31 a. Assessment means a service activity, which may include a clinical analysis of the
32 history and current status of a beneficiary’s mental, emotional, or behavioral disorder, relevant cultural
33 issues and history, Diagnosis and the use of testing procedures.

34 b. Collateral means a significant support person in a beneficiary’s life and is used to
35 define services provided to them with the intent of improving or maintaining the mental health status of
36 the client. The beneficiary may or may not be present for this service activity.

37 //

1 c. Co-Occurring Integrated Treatment Model means, in evidence-based Integrated
2 Treatment programs, client who receive a combined treatment for mental illness and substance abuse
3 disorders from the same practitioner or treatment team.

4 d. Crisis Intervention means a service, lasting less than twenty-four (24) hours, to or on
5 behalf of a client for a condition which requires more timely response than a regularly scheduled visit.
6 Service activities may include, but are not limited to, assessment, collateral and therapy.

7 e. Medication Support Services means those services provided by a licensed physician,
8 registered nurse, or other qualified medical staff, which includes prescribing, administering, dispensing
9 and monitoring of psychiatric medications or biologicals and which are necessary to alleviate the
10 symptoms of mental illness. These services also include evaluation and documentation of the clinical
11 justification and effectiveness for use of the medication, dosage, side effects, compliance and response
12 to medication, as well as obtaining informed consent, providing medication education and plan
13 development related to the delivery of the service and/or assessment of the beneficiary.

14 f. Rehabilitation Service means an activity which includes assistance in improving,
15 maintaining, or restoring a client's or group of client' functional skills, daily living skills, social and
16 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or
17 medication education.

18 g. Targeted Case Management means services that assist a beneficiary to access needed
19 medical, educational, social, prevocational, vocational, rehabilitative, or other community services. The
20 service activities may include, but are not limited to, communication, coordination and referral;
21 monitoring service delivery to ensure beneficiary access to service and the service delivery system;
22 monitoring of the beneficiary's progress; and plan development.

23 h. Therapy means a service activity which is a therapeutic intervention that focuses
24 primarily on symptom reduction as a means to improve functional impairments. Therapy may be
25 delivered to an individual or group of beneficiaries which may include family therapy in which the
26 beneficiary is present.

27 29. Mental Health Worker means an individual that assists in planning, developing and
28 evaluating mental health services for client; provides liaison between client and service providers; and
29 has obtained a Bachelor's degree in a behavioral science field such as psychology, counseling, or social
30 work, or has two years of experience providing client related services to client experiencing mental
31 health, drug abuse or alcohol disorders. Education in a behavioral science field such as psychology,
32 counseling, or social work may be substituted for up to one year of the experience requirement.

33 30. MFT means Marriage and Family Therapist and refers to an individual who meets the
34 minimum professional and licensure requirements set forth in CCR, Title 9, Section 625.

35 31. MHS means Mental Health Specialist and refers to an individual who has a Bachelor's
36 Degree and four years of experience in a mental health setting and who performs individual and group
37 case management studies.

1 32. MHSA means Mental Health Services Act and refers to the law that provides funding for
2 expanded community Mental Health Services. It is also known as “Proposition 63.”

3 33. MORS means Milestones of Recovery Scale and refers to a Recovery scale that COUNTY
4 will be using for the Adult mental health programs in COUNTY. The scale will provide the means of
5 assigning client to their appropriate level of care and replace the diagnostic and acuity of illness-based
6 tools being used today. MORS is ideally suited to serve as a Recovery-based tool for identifying the
7 level of service needed by participating members. The scale will be used to create a map of the system
8 by determining which milestone(s) or level of Recovery (based on the MORS) are the target groups for
9 different programs across the continuum of programs and services offered by COUNTY.

10 34. NOA-A means Notice of Action and refers to a Medi-Cal requirement that informs the
11 beneficiary that he/she is not entitled to any specialty mental health service. The COUNTY has
12 expanded the requirement for an NOA-A to all individuals requesting an assessment for services and
13 found not to meet the Medical Necessity criteria for specialty Mental Health Services.

14 35. NPI means National Provider Identifier and refers to the standard unique health identifier
15 that was adopted by the Secretary of HHS under HIPAA for health care providers. All HIPAA covered
16 healthcare providers, individuals and organizations must obtain an NPI for use to identify themselves in
17 HIPAA standard transactions. The NPI is assigned for life.

18 36. NPP means Notice of Privacy Practices and refers to a document that notifies individuals of
19 uses and disclosures of PHI that may be made by or on behalf of the health plan or health care provider
20 as set forth in HIPAA.

21 37. Outreach means the Outreach to potential client to link them to appropriate Mental Health
22 Services and may include activities that involve educating the community about the services offered and
23 requirements for participation in the programs. Such activities should result in the CONTRACTOR
24 developing their own client referral sources for the programs they offer.

25 38. Peer Recovery Specialist/Counselor means an individual who has been through the same or
26 similar Recovery process as those he/she is now assisting to attain their Recovery goals while getting
27 paid for this function by the program. A Peer Recovery Specialist/Counselor’s practice is informed by
28 his/her own experience.

29 39. Pharmacy Benefits Manager means the organization that manages the medication benefits
30 that are given to client that qualify for medication benefits.

31 40. PHI means individually identifiable health information usually transmitted by electronic
32 media, maintained in any medium as defined in the regulations, or for an entity such as a health plan,
33 transmitted or maintained in any other medium. It is created or received by a covered entity and relates
34 to the past, present, or future physical or mental health or condition of an individual, provision of health
35 care to an individual, or the past, present, or future payment for health care provided to an individual.

36 41. Pre-Licensed Psychologist means an individual who has obtained a Ph.D. or Psy.D. in
37 Clinical Psychology and is registered with the Board of Psychology as a registered Psychology Intern or

1 Psychological Assistant, acquiring hours for licensing and waived in accordance with Welfare and
2 Institutions Code section 575.2. The waiver may not exceed five (5) years.

3 42. Pre-Licensed Therapist means an individual who has obtained a Master’s Degree in Social
4 Work or Marriage and Family Therapy and is registered with the BBS as an Associate CSW or MFT Intern
5 acquiring hours for licensing. An individual’s registration is subject to regulations adopted by the BBS.

6 43. Program Director means an individual who has complete responsibility for the day to day
7 function of the program. The Program Director is the highest level of decision making at a local,
8 program level.

9 44. Promotora de Salud Model means a model where trained individuals, Promotores, work
10 towards improving the health of their communities by linking their neighbors to health care and social
11 services, educating their peers about mental illness, disease and injury prevention.

12 45. Promotores means individuals who are members of the community who function as natural
13 helpers to address some of their communities’ unmet mental health, health and human service needs.
14 They are individuals who represent the ethnic, socio-economic and educational traits of the population
15 he/she serves. Promotores are respected and recognized by their peers and have the pulse of the
16 community’s needs.

17 46. PSC means Personal Services Coordinator and refers to an individual who will be part of a
18 multi-disciplinary team that will provide community based Mental Health Services to adults that are
19 struggling with persistent and severe mental illness as well as homelessness, rehabilitation and Recovery
20 principles. The PSC is responsible for clinical care and case management of assigned client and families
21 in a community, home, or program setting. This includes assisting client with mental health, housing,
22 vocational and educational needs. The position is also responsible for administrative and clinical
23 documentation as well as participating in trainings and team meetings. The PSC shall be active in
24 supporting and implementing the program’s philosophy and its individualized, strength-based,
25 culturally/linguistically competent and client-centered approach.

26 47. Psychiatrist means an individual who meets the minimum professional and licensure
27 requirements set forth in Title 9, CCR, Section 623.

28 48. Psychologist means an individual who meets the minimum professional and licensure
29 requirements set forth in Title 9, CCR, Section 624.

30 49. QIC means Quality Improvement Committee and refers to a committee that meets quarterly
31 to review one percent (1%) of all “high-risk” Medi-Cal client to monitor and evaluate the quality and
32 appropriateness of services provided. At a minimum, the committee is comprised of one (1)
33 CONTRACTOR administrator, one (1) Clinician and one (1) Physician who are not involved in the
34 clinical care of the cases.

35 50. Recovery means a process of change through which individuals improve their health and
36 wellness, live a self-directed life, and strive to reach their full potential, and identifies four major
37 dimensions to support Recovery in life:

- 1 a. Health: Overcoming or managing one’s disease(s) as well as living in a physically and
- 2 emotionally healthy way;
- 3 b. Home: A stable and safe place to live;
- 4 c. Purpose: Meaningful daily activities, such as a job, school, volunteerism, family caretaking,
- 5 or creative endeavors, and the independence, income, and resources to participate in society; and
- 6 d. Community: Relationships and social networks that provide support, friendship, love, and hope.

7 51. Referral means providing the effective linkage of a client to another service, when
 8 indicated; with follow-up to be provided within five (5) working days to assure that the client has made
 9 contact with the referred service.

10 52. Supportive Housing PSC means a person who provides services in a supportive housing
 11 structure. This person will coordinate activities which will include, but not be limited to: independent
 12 living skills, social activities, supporting communal living, assisting residents with conflict resolution,
 13 advocacy, and linking client with the assigned PSC for clinical issues. Supportive Housing PSC will
 14 consult with the multidisciplinary team of client assigned by the program. The PSCs will be active in
 15 supporting and implementing a full service partnership philosophy and its individualized, strengths-
 16 based, culturally appropriate, and client-centered approach.

17 53. Supervisory Review means ongoing clinical case reviews in accordance with procedures
 18 developed by ADMINISTRATOR, to determine the appropriateness of Diagnosis and treatment and to
 19 monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting standards.
 20 Supervisory review is conducted by the program/clinic director or designee.

21 54. Token means the security device which allows an individual user to access the COUNTY’s
 22 computer based IRIS.

23 55. UMDAP means the Uniform Method of Determining Ability to Pay and refers to the
 24 method used for determining the annual client liability for Mental Health Services received from the
 25 COUNTY mental health system and is set by the State of California.

26 56. Vocational/Educational Specialist means a person who provides services that range from
 27 pre-vocational groups, trainings and supports to obtain employment out in the community based on the
 28 client’ level of need and desired support. The Vocational/Educational Specialist will provide “one on
 29 one” vocational counseling and support to client to ensure that their needs and goals are being
 30 met. The overall focus of Vocational/Educational Specialist is to empower client and provide them with
 31 the knowledge and resources to achieve the highest level of vocational functioning possible.

32 57. WRAP means Wellness Recovery Action Plan and refers to a client self-help technique for
 33 monitoring and responding to symptoms to achieve the highest possible levels of wellness, stability, and
 34 quality of life.

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

37 //

II. BUDGET

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

ADMINISTRATIVE COSTS	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>TOTAL</u>
Indirect Costs	\$ 282,310	\$ 498,731	\$ 781,041
SUBTOTAL ADMINISTRATIVE	\$ 282,310	\$ 498,731	\$ 781,041
PROGRAM COSTS			
Salaries	\$ 813,713	\$1,504,985	\$2,318,698
Benefits	291,871	539,824	831,695
Services & Supplies	336,802	511,203	848,005
Start-up Costs	384,833	0	384,833
Flex Funds	103,195	154,794	257,989
Subcontracts	<u>336,492</u>	<u>614,068</u>	<u>950,560</u>
SUBTOTAL PROGRAM	\$2,266,906	\$3,324,874	\$5,591,780
GROSS COSTS	\$2,549,216	\$3,823,605	\$6,372,821
REVENUE			
Federal Medi-Cal	\$ 153,000	\$ 344,200	\$ 497,200
MHSA Medi-Cal	153,000	344,200	497,200
MHSA	<u>2,243,216</u>	<u>3,135,205</u>	<u>5,378,421</u>
TOTAL REVENUE	\$2,549,216	\$3,823,605	\$6,372,821
MAXIMUM OBLIGATION	\$2,549,216	\$3,823,605	\$6,372,821

B. CONTRACTOR and ADMINISTRATOR mutually agree that the Total Budget identified in Subparagraph II.A. of this Exhibit A to the Agreement includes Indirect Costs not to exceed fifteen percent (15%) of Direct Costs, and which may include operating income estimated at two percent (2%).

1 Final settlement paid to CONTRACTOR shall include Indirect Costs and such Indirect Costs may
2 include operating income.

3 C. CONTRACTOR agrees that the amount of MHPA Medi-Cal Match is dependent upon, and
4 shall at no time be greater than, the amount of Federal Medi-Cal actually generated by CONTRACTOR,
5 unless authorized by ADMINISTRATOR.

6 D. In the event CONTRACTOR collects fees and insurance, including Medicare, for services
7 provided pursuant to the Agreement, CONTRACTOR may make written application to
8 ADMINISTRATOR to retain such revenues; provided, however, the application must specify that the
9 fees and insurance will be utilized exclusively to provide mental health services. ADMINISTRATOR
10 may, at its sole discretion, approve any such retention of revenues. Approval by ADMINISTRATOR
11 shall be in writing to CONTRACTOR and will specify the amount of said revenues to be retained and
12 the quantity of services to be provided by CONTRACTOR. Fees received from private resources on
13 behalf of Medi-Cal client shall not be eligible for retention by CONTRACTOR.

14 E. The parties agree that the above budget reflects an average Medi-Cal client caseload of
15 approximately thirty-five percent (35%) to be maintained by CONTRACTOR. CONTRACTOR agrees
16 to accept COUNTY referrals that may result in an increase in this average.

17 F. FLEXIBLE FUNDS

18 1. CONTRACTOR shall develop a P&P, or revise the existing P&P regarding Flexible Funds
19 and submit to ADMINISTRATOR no later than twenty (20) calendar days from the start of the
20 Agreement. ADMINISTRATOR and CONTRACTOR shall finalize and approve the P&P, in writing,
21 no later than thirty (30) days from the start of the Agreement. If the Flexible Funds P&P has not been
22 approved after thirty (30) days from the start of the Agreement, any subsequent Flexible Funds
23 expenditures may be disallowed by ADMINISTRATOR.

24 2. CONTRACTOR shall ensure that utilization of Flexible Funds is individualized and
25 appropriate for the treatment of client's mental illness and overall quality of life.

26 3. CONTRACTOR shall report the utilization of their Flexible Funds monthly on a form
27 approved by ADMINISTRATOR. The Flexible Funds report shall be submitted with CONTRACTOR's
28 monthly Expenditure and Revenue Report.

29 4. CONTRACTOR shall ensure that all staff is trained and has a clear understanding of the
30 approved Flexible Funds P&P. CONTRACTOR will provide signature confirmation of the Flexible
31 Funds P&P training for each staff member that utilizes these Flexible Funds for a client.

32 5. CONTRACTOR shall ensure the Flexible Funds P&P will include, but not be limited to,
33 the following:

34 a. Purpose for which Flexible Funds are to be utilized. This shall include a description of
35 what type of expenditures are appropriate, reasonable, justified and that the expenditure of Flexible
36 Funds shall be individualized according to client's needs. Include a sample listing of certain
37 expenditures that are allowable, unallowable, or require discussion with ADMINSTRATOR;

1 b. Identification of specific CONTRACTOR staff designated to authorize Flexible Funds
2 expenditures and the mechanism used to ensure this staff has timely access to Flexible Funds. This may
3 include procedures for check requests/petty cash, or other methods of access to these funds;

4 c. Identification of the process for documenting and accounting for all Flexible Funds
5 expenditures, which shall include, but not be limited to, retention of comprehensible source
6 documentation such as receipts, copy of client’s lease/rental agreements, general ledgers needs
7 documented in client’s MTP;

8 d. Statement indicating that Flexible Funds may be utilized when other community
9 resources such as family/friends, food banks, shelters, charitable organizations, etc. are not available in a
10 timely manner, or are not appropriate for a client’s situation. PSCs will assist client in exploring other
11 available resources, whenever possible, prior to utilizing Flexible Funds;

12 e. Statement indicating that no single Flexible Funds expenditure, in excess of \$1,000,
13 shall be made without prior written approval of ADMINISTRATOR. In emergency situations,
14 CONTRACTOR may exceed the \$1,000 limit, if appropriate and justified, and shall notify
15 ADMINISTRATOR the next business day of such an expense. Said notification shall include total costs
16 and a justification for the expense. Failure to notify ADMINISTRATOR within the specified timeframe
17 may result in disallowance of the expenditure;

18 f. Statement that pre-purchases shall only be for food, transportation, clothing and motels,
19 as required and appropriate;

20 g. Statement indicating that pre-purchases of food, transportation and clothing vouchers
21 and/or gift cards shall be limited to a combined, \$5,000 supply on-hand at any given time and that all
22 voucher and/or gift card purchases and disbursement shall be tracked and logged by designated
23 CONTRACTOR staff. Vouchers and/or gift cards shall be limited in monetary value to less than
24 twenty-five (\$25) each, unless otherwise approved in advance by ADMINISTRATOR in writing;

25 h. Statement indicating that pre-purchases for motels shall be on a case-by-case basis and
26 time-limited in nature and only utilized while more appropriate housing is being located. Pre-purchase
27 of motel rooms shall be tracked and logged upon purchase and disbursement;

28 i. Statement indicating that Flexible Funds are not to be used for housing for client that
29 have not been enrolled in CONTRACTOR’s program, unless approved, in advance and in writing, by
30 ADMINISTRATOR;

31 j. Statement indicating that Flexible Funds shall not be given in the form of cash to any
32 client either enrolled or in the outreach and engagement phase of the CONTRACTOR’s program; and

33 k. Identification of procedure to ensure secured storage and documented disbursement of
34 gift cards and vouchers for client, including end of year process accounting for gift cards still in staff
35 possession.

36 G. BUDGET/STAFFING MODIFICATIONS - CONTRACTOR may request to shift funds
37 between programs, or between budgeted line items within a program, for the purpose of meeting specific

1 program needs or for providing continuity of care to its client, by utilizing a Budget/Staffing
2 Modification Request form provided by ADMINISTRATOR. CONTRACTOR shall submit a properly
3 completed Budget/Staffing Modification Request to ADMINISTRATOR for consideration, in advance,
4 which will include a justification narrative specifying the purpose of the request, the amount of said
5 funds to be shifted, and the sustaining annual impact of the shift as may be applicable to the current
6 contract period and/or future contract periods. CONTRACTOR shall obtain written approval of any
7 Budget/Staffing Modification Request(s) from ADMINISTRATOR prior to implementation by
8 CONTRACTOR. Failure of CONTRACTOR to obtain written approval from ADMINISTRATOR for
9 any proposed Budget/Staffing Modification Request(s) may result in disallowance of those costs.

10 H. FINANCIAL RECORDS - CONTRACTOR shall prepare and maintain accurate and complete
11 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type
12 of service for which payment is claimed. Any apportionment of or distribution of costs, including
13 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will
14 be made in accordance with generally accepted principles of accounting, and Medicare regulations. The
15 client eligibility determination and fee charged to and collected from client, together with a record of all
16 billings rendered and revenues received from any source, on behalf of client treated pursuant to the
17 Agreement, must be reflected in CONTRACTOR's financial records.

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

20
21 **III. PAYMENTS**

22 A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amounts of
23 \$212,435 per month for Period One and \$318,634 per month for Period Two. All payments are interim
24 payments only, and subject to final settlement in accordance with the Cost Report Paragraph of the
25 Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services,
26 which may include Indirect Administrative Costs, as identified in Subparagraph II.A. of this Exhibit A to
27 the Agreement; provided, however, the total of such payments does not exceed the Maximum Obligation
28 for each period as stated in the Referenced Contract Provisions of the Agreement and provided further,
29 CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and/or federal regulations.
30 ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the
31 provisional amount specified above has not been fully paid.

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

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

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

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

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

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

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

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

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

24
25 **IV. SERVICES**

26 A. FACILITY – CONTRACTOR shall maintain a facility which meets the minimum requirements
27 for Medi-Cal and Medicare eligibility for the provision of Assisted Outpatient Treatment services for
28 exclusive use by COUNTY at the following location, or any other location approved, in advance, in
29 writing, by ADMINISTRATOR:

30
31 615 Civic Center Drive West
32 Santa Ana, CA 92701
33

- 34 1. The facility shall include space to support the services identified within the Agreement.
35 2. The facility shall be open until at least 5:00 p.m. in adherence with the COUNTY
36 established schedule; provided, however, CONTRACTOR shall modify these hours of operation in
37 order to meet client needs. Additionally, CONTRACTOR agrees to provide access by phone or in

1 person to its clients twenty-four (24) hours per day, seven (7) days per week, whichever the situation
2 indicates.

3 3. CONTRACTOR shall maintain a holiday schedule consistent with the COUNTY's holiday
4 schedule, unless otherwise approved, in advance and in writing, by ADMINISTRATOR.

5 4. CONTRACTOR shall obtain a NPI: The standard unique health identifier adopted by the
6 Secretary of HHS under HIPAA of 1996 for health care providers.

7 B. INDIVIDUALS TO BE SERVED: AOT FSP services shall be provided to adults ages 18 and
8 over who reside in Orange County, have a severe and persistent mental illness, a history of lack of
9 compliance with treatment for his or her mental illness, and at least one of the following is true:

10 1. The individual's mental illness has, at least twice within the last 36 months, been a
11 substantial factor in necessitating hospitalization, or receipt of services in a forensic or other mental
12 health unit of a state correctional facility or local correctional facility; or

13 2. The individual's mental illness has resulted in one or more acts of serious and violent
14 behavior toward themselves or another, or has threatened, or attempted to cause serious physical harm to
15 themselves or another within the last 48 months. Their condition is substantially deteriorating and he or
16 she has been offered an opportunity to participate in the development of their treatment plan for services
17 and continues to fail to engage. All individuals must meet Title IX medical necessity criteria.

18 The target population will be comprised of either:

19 a. Individuals who have been court ordered by the Orange County Superior Court judge to participate
20 in the AOT Program, or

21 b. Individuals who have been diagnosed with a severe and persistent mental illness that meet criteria
22 for AOT and have made the decision to voluntarily participate in treatment. This population is to be
23 referred to the AOT FSP by the County's AOT Assessment and Linkage Team

24 C. PROGRAM SERVICES: CONTRACTOR's program shall include, but not be limited to the
25 following services under the provision of Assisted Outpatient Treatment FSP services:

26 1. Crisis Intervention and Management Services: Emergency response services enabling the
27 Client to cope with the crisis while maintaining his/her functioning status within the community and aim
28 at preventing further decompensation. This may include assessment for involuntary hospitalization.
29 This service must be available twenty-four (24) hours per day, seven (7) days per week.

30 2. Medication Support Services: Assess for individual medication needs, clinical
31 effectiveness, side effects of medication and obtaining informed consent.

32 a. Medication education shall be provided including discussing risks, benefits and
33 alternatives with the clients and significant support persons when indicated.

34 b. Plan development related to decreasing impairments, delivery of services, evaluation of
35 the status of the Client's community functions, prescribing, dispensing and administering psychotropic
36 medications shall be discussed with the Client and documented.

37 //

1 c. Medication support services may occur in the office or in the field.

2 3. Co-Occurring Services: Follows a program that uses a stage-wise treatment model that is
3 non-confrontational, follows behavioral principles, considers interactions between mental illness and
4 substance use and has gradual expectations of abstinence. Mental illness and substance use research has
5 strongly indicated that to recover fully, a client with co-occurring disorder needs treatment for both
6 problems as focusing on one does not ensure the other will go away. Co-Occurring services integrate
7 assistance for each condition, helping people recover from both in one setting at the same time. All
8 treatment team members shall be co-occurring capable.

9 The ASAM screening tool shall be utilized to identify an appropriate level of co-occurring treatment
10 indicated. Individuals will be provided a range of co-occurring services such as medical detox, social
11 detox, residential treatment, sober living or outpatient treatment.

12 4. Vocational and Educational Services: As part of the continuum of Recovery it is important
13 that members develop an "identity" other than that of a mental health client; towards this end members
14 will be supported in exploring a full range of opportunities, including but not limited to, volunteer
15 opportunities, part-time/full-time work, supported employment, competitive employment and
16 educational opportunities. CONTRACTOR's staff shall have a dedicated Vocational/Educational
17 Specialist to assist enrolled members with these services.

18 a. Educational Services: Clients may engage in a number of activities, such as General
19 Education Degree preparation, linkage to colleges, vocational training adult schools. .

20 b. Pre-Vocational Groups: Clients may engage in pre-vocational groups that assist clients
21 in determining their skills, interests, values, and realistic career goals. Individual treatment plans are
22 developed and implemented with assistance in the following areas: career exploration, identification of
23 personal strengths, values, and talents, resume writing, job seeking skills, interviewing skills, job
24 placement, job retention, and symptom management in the workplace. These and other vocationally
25 related topics shall be offered on a rotating basis to the members. The intent of these structured learning
26 experiences is to actively involve members in identifying and developing their own positive work
27 identities. From pre-vocational training, members are assisted and encouraged in beginning work in the
28 community. The focus of the program is to find employment settings that match the members' interests,
29 abilities, aptitudes, strengths and individualized goals.

30 c. Job Coaching/Developing: The Employment Specialist is to assist clients in the
31 exploration of various career options as well as actively strategizing collaborative relationships in the
32 private and public sector to create job opportunities for members. This position will work closely with
33 management staff and the Data Analyst to explore and implement evidence-based Best Practices in this
34 area.

35 5. Peer Support Services:

36 a. Connection to community, family and friends is a critical element to Recovery and shall
37 be an integral part of CONTRACTOR's services. The PSCs will work to include Client's natural

1 support system in treatment and services and peers will be hired as Peer Recovery Specialists to assist
2 members in their various stages of Recovery.

3 b. Supportive Socialization and Meaningful Community roles. The CONTRACTOR shall
4 provide client centered services that will support the clients in their recovery, self-sufficiency and
5 development of meaningful life activities and relationships.

6 6. Family Support Services: CONTRACTOR shall create a culture that embraces families in
7 the recovery process. Family therapy is found to be an integral part of the success of this population’s
8 recovery. The licensed Family Therapist will have two (2) years of experience working with family
9 theory and practice. The Therapist will continuously evaluate the needs of the family members, and
10 provide services accordingly. These services will include but not be limited to; multi-family groups,
11 psycho-educational groups, and family therapy. Some of the components of family treatment should
12 include, but not be limited to: communication, family dynamics, and resource development...

13 7. Transportation Services: These services may include, but not be limited to the provision of
14 bus tickets and taxi vouchers. Transportation may be conducted by the driver or any PSC in the case
15 that the client is not taking public transport. CONTRACTOR shall provide transportation to any
16 treatment or court related appointments; transportation for emergency psychiatric evaluation or treatment
17 and transportation for the provision of any case management services.

18 8. Money Management/Representative Payee Support Services: CONTRACTOR shall
19 designate a bonded Representative Payee to provide money management services to those clients who
20 have not been able to manage their finances independently. These clients include those that have
21 funding, but are not able to or willing to meet their basic needs without assistance. Money management
22 will also include individual and/or group education regarding personal budgeting.

23 9. On-call Services: The program needs to provide on-call coverage. Clinicians must be
24 available twenty-four (24) hours per day, seven (7) days per week for intensive case management and
25 crisis intervention for enrolled clients. The on-call individual must be able to respond in person in a
26 timely manner when indicated.

27 10. Linkage to Financial Benefits/Entitlements: CONTRACTOR shall employ a Benefits
28 Specialist to assist clients in accessing financial benefits and/or entitlements. The specialist shall be
29 knowledgeable of entitlements, such as SSI/SSDI and Cal Fresh General Relief, and will work with
30 clients to gather records, complete the application process, and secure entitlements.

31 11. Housing Services: CONTRACTOR shall provide a continuum of housing support to the
32 Assisted Outpatient Treatment clients. This service category includes a comprehensive needs
33 assessment, linkage, placement, and ongoing support to sustain an appropriate level of housing.
34 CONTRACTOR shall prioritize obtaining appropriate housing for individuals immediately upon
35 enrollment, and throughout the recovery process. All Housing options provided by an FSP must meet
36 minimal requirements set forth by the COUNTY’s MHSA Coordination Office and outlined in the
37 Policy Manual for Adult and Older Adult FSP Programs. CONTRACTOR’s staff shall include a

1 Housing Specialist to provide housing services to all enrolled members. Housing services may include:

2 a. Emergency Housing: Immediate shelter for critical access for clients who are homeless
3 or have no other immediate housing options available. Emergency housing is a time-limited event and
4 shall only be utilized until a more suitable housing arrangement can be secured. Emergency housing is
5 part of the "Housing First" model continuum and is required during the initial assessment phase.

6 b. Motel Housing: For those who may be unwilling or are inappropriate for a shelter, or
7 when no shelter is available, motel housing may be utilized. Motel housing is time-limited in nature and
8 shall only be utilized as a last resort until a more appropriate housing arrangement can be secured.
9 Pre-purchase of motel rooms shall be in accordance with CONTRACTOR's P&P, as identified in the
10 Responsibilities Paragraph of this Exhibit A.

11 c. Bridge Housing: For individuals who will benefit from an intermediate step between
12 shelter and permanent housing. Bridge housing provides structures and programming in the context of
13 housing such as Board and Care or Room and Board. Providers may look into housing options such as
14 master leasing.

15 d. Permanent Housing: Obtaining permanent housing is an overarching goal for all FSP
16 members, and reflects residents to have their own unit or bedroom. Permanent housing includes but is
17 not limited to Shelter plus Care Vouchers, independently paid homes/apartments, and County based
18 housing projects.

19 e. Residential Substance Use Treatment Programs and sober living homes as a housing
20 option shall be available when appropriate to provide the member with the highest probability of success
21 towards recovery.

22 12. Integration and Linkage to Primary Care: CONTRACTOR shall work to provide every
23 client with a Nursing Assessment, and linkage to a Primary Care Provider to meet the ongoing medical
24 needs of the client. CONTRACTOR shall routinely coordinate care planning and treatment with the
25 primary care physician through obtaining records and consultation. CONTRACTOR shall provide
26 transportation to the Primary Care Provider when indicated.

27 13. Group Services: CONTRACTOR shall offer a variety of groups based on Client interest and
28 need and may include, but not be limited to: Men's and Women's Groups, Relapse Prevention, Dual
29 Recovery, AA/NA, Life and Skills Building, and guest Speaker Meetings. CONTRACTOR shall
30 establish a Peer Advisory Committee to provide member input into program development and quality
31 improvement.

32 14. Meaningful Community Roles: CONTRACTOR shall assist each member to identify some
33 meaningful role in his/her life that is separate from the mental illness. Members need to see themselves
34 in "normal" roles such as employee, son, mother and neighbor to successfully integrate into the
35 community. CONTRACTOR shall work with each member to join the larger community and interact
36 with people who are unrelated to their mental illness.

37 //

1 15. Intensive Case Management Service: CONTRACTOR shall provide intensive case
2 management which shall include a smaller caseload size, a team approach, an emphasis on engagement,
3 and an assertive approach to maintaining frequent contact with clients. Daily contact is often indicated
4 during the initial enrollment and engagement period.

5 D. PROGRAM SPECIFIC SERVICES: Assisted Outpatient Treatment

6 1. Contractor shall coordinate client’s needs and services in accordance with the FSP’s
7 “Whatever It Takes” model and Laura’s Law by ensuring that services ordered by the court are provided
8 in a timely manner. Services are included in section IV C.

9 2. CONTRACTOR shall work in a collaborative nature and create an environment that shall
10 involve all collaborative partners, such as but not limited to, Court Administrator, County Counsel,
11 Public Defender’s Office and the County’s Assisted Outpatient Assessment and Linkage Team.

12 3. CONTRACTOR’s administrator, or designee, shall attend collaborative team meetings
13 every week with the ADMINISTRATOR, County Counsel, and Public Defender. CONTRACTOR shall
14 be prepared with a write up of each client being presented to the team. Each client will be discussed to
15 determine the best course of treatment and needs for court follow through. Meetings will be held to
16 discuss coordinated supports, problem solve and develop engagement strategies, treatment maintenance,
17 and graduation strategies.

18 4. CONTRACTOR shall work with clients to remove any/all barriers to attend court hearings.
19 This might include but is not limited to providing transportation, working with family members,
20 individual counseling, or providing support by attending court with the member.

21 5. ADMINISTRATOR’s Assessment and Linkage Team shall support engagement, conduct
22 eligibility determination, and linkage to CONTRACTOR.

23 6. CONTRACTOR shall coordinate engagement services and placement of clients into the
24 FSP when clients are identified and ready to be linked by the Courts or the County’s Assessment and
25 Linkage Team.

26 7. ADMINISTRATOR shall have monthly management meetings with CONTRACTOR who
27 will report on program development, resources, housing, barriers and budgets.

28 8. The CONTRACTOR shall receive referrals from the AOT Assessment and Linkage team
29 and shall immediately begin engagement process with the member.

30 9. CONTRACTOR shall be required to collect data for entry into an approved data collection
31 system, including but not limited to state require data.

32 10) CONTRACTOR shall provide culturally sensitive personal service coordination in English,
33 Spanish, Vietnamese, Farsi, and Korean. CONTRACTOR shall work with the COUNTY or other
34 interpreters for other languages as needed. Direct capacity to conduct culturally and linguistically
35 appropriate engagement and to serve clients in other Asian languages and ASL is highly desirable.

36 //

37 //

1 E. Discharge of clients from the program shall be determined by the clients' movement along the
2 recovery continuum and shall be a coordinated effort between the ADMINISTRATOR and
3 CONTRACTOR.

4 F. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to
5 conduct research activity on COUNTY clients without obtaining prior written authorization from
6 ADMINISTRATOR.

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

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

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

16
17 **V. STAFFING**

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

25 B. CONTRACTOR shall make its best effort to provide services pursuant to the Agreement in a
26 manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR
27 shall maintain documents of such efforts which may include; but not be limited to: records of
28 participation in COUNTY-sponsored or other applicable training; recruitment and hiring P&Ps; copies
29 of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to
30 enhance accessibility for, and sensitivity to, individuals who are physically challenged.

31 C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of
32 any staffing vacancies or filling of vacant positions that occur during the term of the Agreement.

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

36 //

37 //

1 E. CONTRACTOR shall ensure that all staff, including interns and volunteers, are trained and
 2 have a clear understanding of all P&Ps. CONTRACTOR shall provide signature confirmation of the
 3 P&P training for each staff member and place in their personnel files.

4 F. CONTRACTOR shall ensure that all staff completes the COUNTY's Annual Provider Training
 5 and Annual Compliance Training.

6 G. CONTRACTOR shall ensure compliance with ADMINISTRATOR Standards of Care practices,
 7 P&Ps, documentation standards and any state regulatory requirements.

8 H. COUNTY shall provide, or cause to be provided, training and ongoing consultation to
 9 CONTRACTOR's staff to assist CONTRACTOR in ensuring compliance with ADMINISTRATOR
 10 Standards of Care practices, P&P's, documentation standards and any state regulatory requirements.

11 I. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in FTEs
 12 continuously throughout the term of the Agreement. One (1) FTE will be equal to an average of forty
 13 (40) hours of work per week.

PROGRAM	FTE
Regional Director of Operations	0.15
Clinical Administrator	1.00
Clinical Director	1.00
Team Leader (Licensed)	2.00
Business Office Manager/Administrative Assistant	1.00
Regional IS Business Specialist	0.10
Data Mining and Analysis Specialist	1.00
Receptionist	1.00
Benefits Specialist	1.00
Billing Specialist	2.00
Driver	1.00
Personal Service Coordinator II	12.00
Family Therapist (Licensed)	1.00
Housing Specialist	1.00
Education/Employment Specialist	1.00
Peer Support Specialist	1.00
Peer Recovery Coach	1.00
Licensed Vocational Nurse	2.00
Nurse Practitioner (Subcontractor)	1.00
Psychiatrist (Subcontractor)	1.00
Quality Coordinator/ Trainer	<u>1.00</u>
TOTAL CONTRACT FTEs	33.25

1 J. WORKLOAD STANDARDS

2 1. One (1) DSH will be equal to sixty (60) minutes of direct service.

3 2. CONTRACTOR shall provide an average of one hundred (100) DSHs per month or one
4 thousand two hundred (1,200) DSHs per year per FTE of direct clinician time which shall include
5 Mental Health, Case Management, Crisis Intervention, and Medication Management Services.
6 CONTRACTOR understands and agrees that this is a minimum standard and shall make every effort to
7 exceed this minimum, unless otherwise approved by ADMINISTRATOR.

8 3. CONTRACTOR shall, during Period One of the Agreement, provide a minimum of twelve
9 thousand eight hundred (12,800) direct service hours for client related services, with a minimum of one
10 thousand two hundred (1,200) hours of medication support services and eleven thousand six hundred
11 (11,600) hours of other mental health, case management and/or crisis intervention services as outlined
12 below. CONTRACTOR shall, during Period Two of the Agreement, provide a minimum of nineteen
13 thousand eight hundred (19,800) direct service hours for client related services, with a minimum of two
14 thousand four hundred (2,400) hours of medication support services and seventeen thousand four
15 hundred (17,400) hours of other mental health, case management and/or crisis intervention services as
16 outlined below.

17 4. CONTRACTOR shall maintain an active and ongoing caseload of one hundred twenty-five
18 (125) Clients throughout the term of the Agreement. The make-up of the Clients shall be as follows:
19 ninety-four (94) Clients referred from ADMINISTRATOR who agrees to go to voluntary AOT services
20 and thirty-one (31) who have been ordered by the AOT court to AOT services. For AOT Services,
21 CONTRACTOR shall ensure a client to staff ratio of one (1) to ten (10) (1:10). CONTRACTOR
22 understands and agrees that these are minimum requirements and shall make every effort to exceed these
23 minimums.

24 K. CONTRACTOR shall ensure staffing levels and qualifications shall meet the requirements as
25 stated in CCR: Title 9 - Rehabilitative and Developmental Services, Division 1 - DHCS.

26 L. CONTRACTOR shall recruit, hire, train, and maintain staffs who are individuals in Recovery.
27 These individuals shall not be currently receiving services directly from CONTRACTOR.
28 Documentation may include, but not be limited to, the following: records attesting to efforts made in
29 recruitment and hiring practices and identification of measures taken to enhance accessibility for
30 potential staff in these categories.

31 M. All clinical staff shall be qualified and designated by COUNTY to perform evaluations pursuant
32 to Section 5150, WIC.

33 N. CONTRACTOR may augment paid staff with volunteers or interns upon written approval of
34 ADMINISTRATOR.

35 1. CONTRACTOR shall provide a minimum of two (2) hours per week supervision to each
36 student intern providing mental health services and one (1) hour of supervision for each ten (10) hours of
37 treatment for student interns providing substance abuse services. Supervision will be in accordance to

1 that set by the BBS. CONTRACTOR shall provide supervision to volunteers as specified in the
2 respective job descriptions or work contracts.

3 2. An intern is an individual enrolled in an accredited graduate program accumulating
4 clinically supervised work experience hours as part of field work, internship, or practicum requirements.
5 Acceptable graduate programs include all programs that assist the student in meeting the educational
6 requirements in becoming a MFT, a LCSW, or a licensed Clinical Psychologist.

7 3. Volunteer and student intern services shall not comprise more than twenty percent (20%) of
8 total services provided.

9 O. CONTRACTOR shall maintain personnel files for each staff member, including management
10 and other administrative positions, which will include, but not be limited to, an application
11 for employment, qualifications for the position, documentation of bicultural/bilingual capabilities (if
12 applicable), pay rate and evaluations justifying pay increases.

13 P. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of all P&P.
14 CONTRACTOR shall provide signature confirmation of the P&P training for each staff member and
15 place in their personnel files.

16 Q. CONTRACTOR shall ensure that all staff completes the COUNTY's Annual Provider Training
17 and Annual Compliance Training.

18 R. COUNTY shall provide, or cause to be provided, training and ongoing consultation to
19 CONTRACTOR's staff to assist CONTRACTOR in ensuring compliance with ADMINISTRATOR
20 Standards of Care practices, P&P's, documentation standards and any state regulatory requirements.

21 S. TOKENS: ADMINISTRATOR shall provide CONTRACTOR the necessary number of Tokens
22 for appropriate individual staff to access HCA IRIS at no cost to the CONTRACTOR.

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

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

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

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

- 31 a. Each staff member who no longer supports the Agreement;
- 32 b. Each staff member who no longer requires access to IRIS;
- 33 c. Each staff member who leaves employment of CONTRACTOR; or
- 34 d. Token is malfunctioning;
- 35 e. Termination of this Agreement.

36 5. ADMINISTRATOR shall issue Tokens for CONTRACTOR's staff members who require
37 access to the IRIS upon initial training or as a replacement for malfunctioning Tokens.

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

3 T. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
4 Staffing Paragraph of this Exhibit A to the Agreement.

5
6 **VI. REPORTS**

7 A. CONTRACTOR shall maintain records and make statistical reports as required by
8 ADMINISTRATOR and the DHCS on forms provided by either agency.

9 **B. FISCAL**

10 1. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to
11 ADMINISTRATOR. These reports will be on a form acceptable to, or provided by, ADMINISTRATOR
12 and will report actual costs and revenues for CONTRACTOR's program described in the Services
13 Paragraph of this Exhibit A to the Agreement. Such reports will also include actual productivity as
14 defined by ADMINISTRATOR. The reports will be received by ADMINISTRATOR no later than the
15 twentieth (20th) day following the end of the month being reported. CONTRACTOR must request in
16 writing any extensions to the due date of the monthly required reports. If an extension is approved by
17 ADMINISTRATOR, the total extension will not exceed more than five (5) calendar days.

18 2. CONTRACTOR shall submit monthly Year-End Projection Reports to
19 ADMINISTRATOR. These reports will be on a form acceptable to, or provided by, ADMINISTRATOR
20 and will report anticipated year-end actual costs and revenues for CONTRACTOR's program described
21 in the Services Paragraph of this Exhibit A to the Agreement. Such reports will include actual monthly
22 costs and revenue to date and anticipated monthly costs and revenue to the end of the fiscal year.
23 Year-End Projection Reports will be submitted in conjunction with the Monthly Expenditure and
24 Revenue Reports.

25 C. STAFFING: CONTRACTOR shall submit monthly Staffing Reports to ADMINISTRATOR.
26 These reports will be on a form acceptable to, or provided by, ADMINISTRATOR and will, at a
27 minimum, report the actual FTEs of the positions stipulated in the Staffing Paragraph of this
28 Exhibit A to the Agreement and will include the employees' names, licensure status, monthly salary, hire
29 and/or termination date and any other pertinent information as may be required by ADMINISTRATOR.
30 The reports will be received by ADMINISTRATOR no later than twenty (20) calendar days following
31 the end of the month being reported. If an extension is approved by ADMINISTRATOR, the total
32 extension will not exceed more than five (5) calendar days.

33 **D. PROGRAMMATIC**

34 1. CONTRACTOR shall submit programmatic reports to ADMINISTRATOR, as indicated
35 below, on a form acceptable to or provided by ADMINISTRATOR, which will be received by
36 ADMINISTRATOR no later than twenty (20) calendar days following the end of the month/quarter

37 //

1 being reported unless otherwise specified. Mental Health Programmatic reports will include the
2 following:

- 3 a. A description of CONTRACTOR's progress in implementing the provisions of the
- 4 Agreement,
- 5 b. Report of placement and movement of Clients along the continuum of services using
- 6 guidelines for monthly report of the number of 5150 participants,
- 7 c. Voluntary and involuntary hospitalizations and special incidences,
- 8 d. Vocational programs, educational programs, including new job placements, Clients in
- 9 continuing employment.
- 10 E. reporting of the numbers of Clients based upon their level of function in the MORs
- 11 Level system,
- 12 f. Chart compliance by percentage of compliance with all Medi-Cal records, in addition to
- 13 any pertinent facts or interim findings, staff changes, status of Licenses and/or Certifications, changes in
- 14 population served and reasons for any such changes.
- 15 g. CONTRACTOR statement whether the program is or is not progressing satisfactorily in
- 16 achieving all the terms of this Agreement, and if not, shall specify what steps will be taken to achieve
- 17 satisfactory progress.

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

23 3. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or
24 issues that adversely affect the quality or accessibility of Client-related services provided by, or under
25 contract with, the COUNTY as identified in the HCA P&Ps.

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

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

32 //
33 //
34 //
35 //
36 //
37 //

1 EXHIBIT B
2 TO AGREEMENT FOR PROVISION OF
3 ENHANCED RECOVERY FULL SERVICE PARTNERSHIP SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 TELECARE CORPORATION
8 NOVEMBER 1, 2016 THROUGH JUNE 30, 2018
9

10 **I. BUSINESS ASSOCIATE CONTRACT**

11 **A. GENERAL PROVISIONS AND RECITALS**

12 1. The parties agree that the terms used, but not otherwise defined in the Common Terms and
13 Definitions Paragraph of Exhibit A to the Agreement or in Subparagraph B. below, shall have the same
14 meaning given to such terms under HIPAA, the HITECH Act, and their implementing regulations at
15 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

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

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

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

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

32 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
33 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the
34 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
35 terms of this Business Associate Contract and the applicable standards, implementation specifications,
36 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,
37 //

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

12 14. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant
13 in a 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
12 45 CFR § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to
13 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.
14 CONTRACTOR shall develop and maintain a written information privacy and security program that
15 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of
16 CONTRACTOR's operations and the nature and scope of its activities.

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

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

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

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

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

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

37 //

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

1 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the
2 COUNTY.

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

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

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

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

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

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

37 //

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 US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media
10 may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods
11 require prior written permission by COUNTY.

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

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

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

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

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

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 twenty four (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.

37 //

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

3 b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to CONTRACTOR or
4 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is contained shall be
5 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 CONTRACTOR
7 creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of through
8 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 CONTRACTOR
13 creates, receives, maintains, or transmits on behalf of COUNTY shall not be left unattended and fax
14 machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons
15 receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient
16 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 twenty four (24) hours of the oral notification.

37 //

- 1 3. CONTRACTOR’s notification shall include, to the extent possible:
- 2 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably
- 3 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;
- 4 b. Any other information that COUNTY is required to include in the notification to
- 5 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or
- 6 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period
- 7 set forth in 45 CFR § 164.410 (b) has elapsed, including:
 - 8 1) A brief description of what happened, including the date of the Breach and the date
 - 9 of the discovery of the Breach, if known;
 - 10 2) A description of the types of Unsecured PHI that were involved in the Breach (such
 - 11 as whether full name, social security number, date of birth, home address, account number, diagnosis,
 - 12 disability code, or other types of information were involved);
 - 13 3) Any steps Individuals should take to protect themselves from potential harm
 - 14 resulting from the Breach;
 - 15 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to
 - 16 mitigate harm to Individuals, and to protect against any future Breaches; and
 - 17 5) Contact procedures for Individuals to ask questions or learn additional information,
 - 18 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- 19 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
- 20 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
- 21 COUNTY.
- 22 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation
- 23 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that
- 24 CONTRACTOR made all notifications to COUNTY consistent with this Subparagraph F. and as
- 25 required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or
- 26 disclosure of PHI did not constitute a Breach.
- 27 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or
- 28 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.
- 29 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
- 30 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit
- 31 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as
- 32 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR’s initial report of
- 33 the Breach to COUNTY pursuant to Subparagraph F.2. above.
- 34 8. CONTRACTOR shall continue to provide all additional pertinent information about the Breach
- 35 to COUNTY as it may become available, in reporting increments of five (5) business days after the last report
- 36 to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests for further
- 37 information, or follow-up information after report to COUNTY, when such request is made by COUNTY.

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

5 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

15 1) The Disclosure is required by law; or

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

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

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

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

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

30 H. PROHIBITED USES AND DISCLOSURES

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

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

1 | behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
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) days, provided termination of the
22 | 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.

37 | //

1 EXHIBIT C
2 TO AGREEMENT FOR PROVISION OF
3 ENHANCED RECOVERY FULL SERVICE PARTNERSHIP SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 TELECARE CORPORATION
8 NOVEMBER 1, 2016 THROUGH JUNE 30, 2018
9

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

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

13 A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

6 B. TERMS OF AGREEMENT

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

11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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