

AGREEMENT CONTRACT FOR PROVISION OF
 ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES
 BETWEEN
 COUNTY OF ORANCOUNTY OF ORANGE
 AND
 LANDMARK MEDICAL SERVICES, INC.

~~JULY 1, 2019 THROUGH JUNE 30, 2022 JUNE 30, 2024~~ December 31, 2024

THIS **AGREEMENT** CONTRACT entered into this 1st day of July 2019 (effective date), is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and LANDMARK MEDICAL SERVICES, INC., a For Profit Corporation (CONTRACTOR). (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Agreement shall be administered by the Director of the COUNTY’s Health Care Agency or an authorized designee (“ADMINISTRATOR”).

WITNESSETH:

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Adult Mental Health Psychiatric Skilled Nursing Facility Services described herein to the residents of Orange County; and

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

WHEREAS, the Parties executed Contract No. MA-042-20010215 for Adult Mental Health Psychiatric Skilled Nursing Facility Services, effective July 1, 2019 through June 30, 2022, in an aggregate amount not to exceed \$37,006,713, renewable for one additional two-year term (“Contract”); and

WHEREAS, the Parties executed Amendment No. 1, effective May 24, 2022, to extend the Contract for two (2) years, effective July 1, 2022, through June 30, 2024, in an aggregate amount not to exceed \$29,524,384, for a revised total aggregate amount not to exceed \$66,531,097, and to amend Exhibit A; and

WHEREAS, the Parties executed Amendment No. 2, effective April 10, 2024, to amend Paragraph VII, Paragraph XII, Paragraph XVI, and Exhibit A of the Contract; and to exercise a ten percent (10%) contingency to cover reimbursement rate increases to increase the Period Five Aggregate Amount Not to Exceed by \$1,191,372 from \$14,951,877 to \$16,143,249, for a revised total aggregate amount not to exceed \$67,722,469; and

WHEREAS, the Parties now desire to enter into this Amendment No. 3 to extend the Contract for six (6) months, effective July 1, 2024, through December 31, 2024, in an aggregate amount not to

1 exceed \$4,380,000, for a revised total aggregate amount not to exceed \$72,102,469, and to amend
2 Exhibit A of the Contract.

3 **NOW THEREFORE,** Contractor and County, in consideration of the above recitals, and in
4 consideration of the mutual covenants, benefits and promises contained herein, agree to amend the
5 Contract as follows:

6 //
7 //
8 //
9 //
10 //
11 //
12 //
13 //
14 //
15 //
16 //
17 //

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

CONTENTS

<u>PARAGRAPH</u>	<u>PAGE</u>
Title Page.....	1
Contents.....	2
Referenced Contract Provisions	4
I. Acronyms	7
II. Alteration of Terms	9
III. Assignment of Debts.....	9
IV. Compliance	9
V. Confidentiality.....	14
VI. Conflict of Interest	14
VII. Cost Reports	15
VIII. Delegation, Assignment and Subcontracts.....	17
IX. Dispute Resolution.....	19
X. Employee Eligibility Verification	20
XI. Facilities, Payments and Services.....	20
XII. Indemnification and Insurance	20
XIII. Inspections and Audits.....	29
XIV. Licenses and Laws	30
XV. Literature, Advertisements, and Social Media.....	32
XVI. Maximum Obligation Amount Not to Exceed.....	32
XVII. Minimum Wage Law	33
XVIII. Nondiscrimination.....	33
XIX. Notices.....	36
XX. Notification of Death	36
XXI. Notification of Public Events and Meetings	37
XXII. Records Management and Maintenance	37
XXIII. Research and Publication.....	39
XXIV. Revenue	39
XXV. Severability.....	40
XXVI. Special Provisions	40
XXVII. Status of Contractor	41
XXVIII. Term	41
XXIX. Termination	41
XXX. Third Party Beneficiary	43
XXXI. Waiver of Default or Breach.....	44
Signature Page.....	46

CONTENTS

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

	<u>PAGE</u>
<u>EXHIBIT A</u>	
I. Common Terms and Definitions	1
II. Issue Resolution	3
III. Patient’s Rights	4
IV. Payments	5
V. Reports.....	6
VI. Services	7
VII. Type of Payments.....	8
<u>EXHIBIT B</u>	
I. Business Associate Contract.....	1
<u>EXHIBIT C</u>	
I. Personal Information Privacy and Security Contract.....	1

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

REFERENCED CONTRACT PROVISIONS

~~Term: July 1, 2019 through June 30, 2022~~

~~Period One means the period from July 1, 2019 through June 30, 2020~~

~~Period Two means the period from July 1, 2020 through June 30, 2021~~

~~Period Three means the period from July 1, 2021 through June 30, 2022~~

~~Aggregate Maximum Obligation:~~

~~Period One Aggregate Maximum Obligation: \$ 11,913,726~~

~~Period Two Aggregate Maximum Obligation: 12,330,706~~

~~Period Three Aggregate Maximum Obligation 12,762,281~~

~~TOTAL AGGREGATE MAXIMUM OBLIGATION: \$37,006,713~~

~~Term: July 1, 2019 through June 30, 2024~~

~~Period One means the period from July 1, 2019 through June 30, 2020~~

~~Period Two means the period from July 1, 2020 through June 30, 2021~~

~~Period Three means the period from July 1, 2021 through June 30, 2022~~

~~Period Four means the period from July 1, 2022 through June 30, 2023~~

~~Period Five means the period from July 1, 2023 through June 30, 2024~~

~~Aggregate Maximum Obligation:~~

~~Period One Aggregate Maximum Obligation: \$ 11,913,726~~

~~Period Two Aggregate Maximum Obligation: 12,330,706~~

~~Period Three Aggregate Maximum Obligation: 12,762,281~~

~~Period Four Aggregate Maximum Obligation: 14,572,507~~

~~Period Five Aggregate Maximum Obligation: 14,951,877~~

~~TOTAL AGGREGATE MAXIMUM OBLIGATION: \$ 66,531,097~~

~~Aggregate Amount Not To Exceed:~~

~~Period One Aggregate Amount Not To Exceed: \$ 11,913,726~~

~~Period Two Aggregate Amount Not To Exceed: 12,330,706~~

~~Period Three Aggregate Amount Not To Exceed: 12,762,281~~

~~Period Four Aggregate Amount Not To Exceed: 14,572,507~~

~~Period Five Aggregate Amount Not To Exceed: 16,143,249~~

~~TOTAL AGGREGATE AMOUNT NOT TO EXCEED: \$ 67,722,469~~

Term: July 1, 2019 through December 31, 2024

Period One means the period from July 1, 2019 through June 30, 2020

Period Two means the period from July 1, 2020 through June 30, 2021

1 Period Three means the period from July 1, 2021 through June 30, 2022
 2 Period Four means the period from July 1, 2022 through June 30, 2023
 3 Period Five means the period from July 1, 2023 through June 30, 2024
 4 Period Six means the period from July 1, 2024 through December 31, 2024

5
6 **Aggregate Amount Not To Exceed:**

7	Period One Aggregate Amount Not To Exceed:	\$ 11,913,726
8	Period Two Aggregate Amount Not To Exceed:	12,330,706
9	Period Three Aggregate Amount Not To Exceed:	12,762,281
10	Period Four Aggregate Amount Not To Exceed:	14,572,507
11	Period Five Aggregate Amount Not To Exceed:	16,143,249
12	Period Six Aggregate Amount Not To Exceed:	4,380,000
13	TOTAL AGGREGATE AMOUNT NOT TO EXCEED:	\$ 72,102,469

14
15
16
17 **Basis for Reimbursement:** Fee for Service

18
19 **Payment Method:** Monthly in Arrears

20
21 **CONTRACTOR DUNS Number:** 18-527-6636

22
23 **CONTRACTOR TAX ID Number:** 95-2691218

24
25 **CONTRACTOR TAX ID Number:** 27-1917075

26 **CONTRACTOR UEI Number:** W8MXK5L6RPL1

27
28 **Notices to COUNTY and CONTRACTOR:**

29 **COUNTY:** County of Orange
 30 Health Care Agency
 31 Contract Services
 32 405 West 5th Street, Suite 600
 33 Santa Ana, CA 92701-4637

34 **CONTRACTOR:** Landmark Medical Services, Inc.
 35 2030 N. Garvey Avenue
 36 Pomona, CA 91767
 37

Rosemary C. Kilby
rosemaryck@aol.com

//
 //
 //
 //
 //

I. ACRONYMS

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

A.	AB 109	Assembly Bill 109, 2011 Public Safety Realignment
B.	AIDS	Acquired Immune Deficiency Syndrome
C.	ARRA	American Recovery and Reinvestment Act of 2009
D.	ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
E.	ASI	Addiction Severity Index
F.	ASRS	Alcohol and Drug Programs Reporting System
G.	BHS	Behavioral Health Services
H.	CalOMS	California Outcomes Measurement System
I.	CalWORKs	California Work Opportunity and Responsibility for Kids
J.	CAP	Corrective Action Plan
K.	CCC	California Civil Code
L.	CCR	California Code of Regulations
M.	CESI	Client Evaluation of Self at Intake
N.	CEST	Client Evaluation of Self and Treatment
O.	CFDA	Catalog of Federal Domestic Assistance
P.	CFR	Code of Federal Regulations
Q.	CHPP	COUNTY HIPAA Policies and Procedures
R.	CHS	Correctional Health Services
S.	COI	Certificate of Insurance
T.	CPA	Certified Public Accountant
U.	CSW	Clinical Social Worker
V.	DHCS	California Department of Health Care Services
W.	D/MC	Drug/Medi-Cal
X.	DPFS	Drug Program Fiscal Systems
Y.	DRS	Designated Record Set
Z.	EEOC	Equal Employment Opportunity Commission

1	AA. EHR	Electronic Health Records
2	AB. EOC	Equal Opportunity Clause
3	AC. ePHI	Electronic Protected Health Information
4	AD. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
5	AF. FFS	Fee For Service
6	AG. FSP	Full Service Partnership
7	AH. FTE	Full Time Equivalent
8	AI. GAAP	Generally Accepted Accounting Principles
9	AJ. HCA	County of Orange Health Care Agency
10	AK. HHS	Federal Health and Human Services Agency
11	AL. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
12		Law 104-191
13	AM. HITECH	Health Information Technology for Economic and Clinical Health
14		Act, Public Law 111-005
15	AN. HIV	Human Immunodeficiency Virus
16	AO. HSC	California Health and Safety Code
17	AP. IRIS	Integrated Records and Information System
18	AQ. ITC	Indigent Trauma Care
19	AR. LCSW	Licensed Clinical Social Worker
20	AS. MAT	Medication Assisted Treatment
21	AT. MFT	Marriage and Family Therapist
22	AU. MH	Mental Health
23	AV. MHIS	Mental Health Inpatient Services
24	AW. MHP	Mental Health Plan
25	AX. MHS	Mental Health Specialist
26	AY. MHSA	Mental Health Services Act
27	AZ. MSN	Medical Safety Net
28	BA. NIH	National Institutes of Health
29	BB. NPI	National Provider Identifier
30	BC. NPP	Notice of Privacy Practices
31	BD. NPPES	National Plan and Provider Enumeration System
32	BE. OCR	Federal Office for Civil Rights
33	BF. OIG	Federal Office of Inspector General
34	BG. OMB	Federal Office of Management and Budget
35	BH. OPM	Federal Office of Personnel Management
36	BI. P&P	Policy and Procedure
37	BJ. PA DSS	Payment Application Data Security Standard

1	BK. PATH	Projects for Assistance in Transition from Homelessness
2	BL. PC	California Penal Code
3	BM. PCI DSS	Payment Card Industry Data Security Standards
4	BN. PCS	Post-Release Community Supervision
5	BO. PHI	Protected Health Information
6	BP. PII	Personally Identifiable Information
7	BQ. PRA	California Public Records Act
8	BR. PSC	Professional Services Contract System
9	BS. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
10	BT. SIR	Self-Insured Retention
11	BU. SMA	Statewide Maximum Allowable (rate)
12	BV. SOW	Scope of Work
13	BW. SUD	Substance Use Disorder
14	BX. UMDAP	Uniform Method of Determining Ability to Pay
15	BY. UOS	Units of Service
16	BZ. USC	United States Code
17	CA. WIC	Women, Infants and Children

II. ALTERATION OF TERMS

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

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

III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

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

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

7 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
8 compliance program, code of conduct and any compliance related policies and procedures.
9 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall
10 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required
11 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to
12 this **Agreement** Contract. These elements include:

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

20 3. If CONTRACTOR does not provide proof of its own compliance program to
21 ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR's Compliance
22 Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within
23 thirty (30) calendar days of execution of this **Agreement** Contract t a signed acknowledgement that
24 CONTRACTOR will internally comply with ADMINISTRATOR's Compliance Program and Code of
25 Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary complete
26 ADMINISTRATOR's annual compliance training to ensure proper compliance.

27 4. If CONTRACTOR elects to have its own compliance program, code of conduct and any
28 Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR
29 shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures
30 to ADMINISTRATOR within thirty (30) calendar days of execution of this **Agreement** Contract.
31 ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a
32 reasonable time, which shall not exceed forty-five (45) calendar days, and determine if contractor's
33 proposed compliance program and code of conduct contain all required elements to the
34 ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program and Code of
35 Conduct. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and
36 CONTRACTOR shall revise its compliance program and code of conduct to meet
37 ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's

1 Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

2 5. Upon written confirmation from ADMINISTRATOR's compliance officer that the
3 CONTRACTOR's compliance program, code of conduct and any compliance related policies and
4 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals
5 relative to this Agreement Contract are made aware of CONTRACTOR's compliance program, code of
6 conduct, related policies and procedures and contact information for the ADMINISTRATOR's
7 Compliance Program.

8 //

9 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or
10 retained to provide services related to this Agreement Contract monthly to ensure that they are not
11 designated as Ineligible Persons, as pursuant to this Agreement Contract Screening shall be conducted
12 against the General Services Administration's Excluded Parties List System or System for Award
13 Management, the Health and Human Services/Office of Inspector General List of Excluded
14 Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider List, the Social
15 Security Administration's Death Master File, and/or any other list or system as identified by
16 ADMINISTRATOR.

17 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,
18 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items
19 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.
20 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement Contract are made
21 aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and
22 procedures (or CONTRACTOR's own compliance program, code of conduct and related policies and
23 procedures if CONTRACTOR has elected to use its own).

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

25 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
26 federal and state health care programs; or

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

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

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

1 Ineligible Person in their employ or under contract.

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

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

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

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

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

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

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

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

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

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

37 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered

1 Individuals relative to this ~~Agreement~~ Contract. This includes compliance with federal and state
 2 healthcare program regulations and procedures or instructions otherwise communicated by regulatory
 3 agencies; including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

9 //

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

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

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

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

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

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

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

31 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
 32 participate in the quality improvement activities developed in the implementation of the Quality
 33 Management Program.

34 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
 35 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
 36 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
 37 §1810.410.subds.(c)-(d).

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

7 //

8 //

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** Contract are Clients of the Orange County Mental Health services system, and therefore it
 16 may be necessary for authorized staff of ADMINISTRATOR to audit Client files, or to exchange
 17 information regarding specific Clients with COUNTY or other providers of related services contracting
 18 with 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** Contract. Such consents shall be obtained by CONTRACTOR in accordance with CCC,
 22 Division 1, 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** Contract, all members of the Board
 27 of 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** Contract shall specify that it is effective irrespective of all subsequent
 31 resignations or terminations of CONTRACTOR members of the Board of Directors or its designee or
 32 authorized agent, employees, consultants, subcontractors, volunteers and interns.

34 **VI. CONFLICT OF INTEREST**

35 CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions
 36 that could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation
 37 shall apply to CONTRACTOR's employees, agents, and subcontractors associated with the provision of

1 goods and services provided under this ~~Agreement~~ Contract CONTRACTOR's efforts shall include, but
 2 not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors
 3 from providing or offering gifts, entertainment, payments, loans or other considerations which could be
 4 deemed to influence or appear to influence COUNTY staff or elected officers in the performance of
 5 their duties.

7 VII. COST REPORT

8 ~~A. CONTRACTOR shall submit a Cost Report to COUNTY no later than sixty (60) calendar days~~
 9 ~~following termination of this Agreement Contract. CONTRACTOR shall prepare the Cost Report in~~
 10 ~~accordance with all applicable federal, state and COUNTY requirements, GAAP and the Special~~
 11 ~~Provisions Paragraph of this Agreement Contract. CONTRACTOR shall allocate direct and indirect~~
 12 ~~costs to and between programs, cost centers, services, and funding sources in accordance with such~~
 13 ~~requirements and consistent with prudent business practice, which costs and allocations shall be~~
 14 ~~supported by source documentation maintained by CONTRACTOR, and available at any time to~~
 15 ~~ADMINISTRATOR upon reasonable notice.~~

16 A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for each
 17 Period, or for a portion thereof, to COUNTY no later than sixty (60) calendar days following the period
 18 for which they are prepared or termination of this Contract. CONTRACTOR shall prepare the Cost
 19 Report in accordance with all applicable federal, state and COUNTY requirements, GAAP and the
 20 Special Provisions Paragraph of this Contract. CONTRACTOR shall allocate direct and indirect costs to
 21 and between programs, cost centers, services, and funding sources in accordance with such requirements
 22 and consistent with prudent business practice, which costs and allocations shall be supported by source
 23 documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon
 24 reasonable notice.

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

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

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

36 2. CONTRACTOR may request, in advance and in writing, an extension of the due date of the
 37 Cost Report setting forth good cause for justification of the request. Approval of such requests shall be

1 at the sole discretion of ADMINISTRATOR and shall not be unreasonably denied.

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

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

12 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,
13 less applicable revenues and any late penalty, not to exceed COUNTY's ~~Maximum Obligation~~ Amount
14 Not to Exceed as set forth in the Referenced Contract Provisions of this ~~Agreement~~ Contract.
15 CONTRACTOR shall not claim expenditures to COUNTY which are not reimbursable pursuant to
16 applicable federal, state and COUNTY laws, regulations and requirements. Any payment made by
17 COUNTY to CONTRACTOR, which is subsequently determined to have been for an unreimbursable
18 expenditure or service, shall be repaid by CONTRACTOR to COUNTY in cash, or other authorized
19 form of payment, within thirty (30)

20 //
21 calendar days of submission of the Cost Report or COUNTY may elect to reduce any amount owed
22 CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

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

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

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

36
37 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and

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

9
10 Signed _____
11 Name _____
12 Title _____
13 Date _____"

14
15
16 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

22 B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR's
23 business prior to completion of this Agreement Contract, and COUNTY agrees to an assignment of the
24 Agreement Contract, the new owners shall be required under the terms of sale or other instruments of
25 transfer to assume CONTRACTOR's duties and obligations contained in this Agreement Contract and
26 complete them to the satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder,
27 either in whole or in part, without the prior written consent of COUNTY.

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

34 2. If CONTRACTOR is a for-profit organization, any change in the business structure,
35 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of
36 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a
37 change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR

1 at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or
2 delegation in derogation of this subparagraph shall be void.

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

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

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

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

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

24 1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the
25 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor
26 subsequently fails to meet the requirements of this ~~Agreement~~ Contract or any provisions that
27 ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor expenses reported
28 by CONTRACTOR.

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

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

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

36 D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR's
37 status with respect to name changes that do not require an assignment of the ~~Agreement~~ Contract.

1 CONTRACTOR is also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party
 2 to any litigation against COUNTY, or a party to litigation that may reasonably affect the
 3 CONTRACTOR's performance under the Contract, as well as any potential conflicts of interest between
 4 CONTRACTOR and County that may arise prior to or during the period of **Agreement** Contract
 5 performance. While CONTRACTOR will be required to provide this information without prompting
 6 from COUNTY any time there is a change in CONTRACTOR's name, conflict of interest or litigation
 7 status, CONTRACTOR must also provide an update to COUNTY of its status in these areas whenever
 8 requested by COUNTY.

9 10 **IX. DISPUTE RESOLUTION**

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

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

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

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

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

33 D. This **Agreement** Contract has been negotiated and executed in the State of California and shall
 34 be governed by and construed under the laws of the State of California. In the event of any legal action
 35 to enforce or interpret this **Agreement** Contract, the sole and exclusive venue shall be a court of
 36 competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do
 37 hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394.

1 Furthermore, the Parties specifically agree to waive any and all rights to request that an action be
2 transferred for adjudication to another county.

4 **X. EMPLOYEE ELIGIBILITY VERIFICATION**

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

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

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

22 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or
23 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Total Maximum
24 Obligation Amount Not to Exceed for the appropriate Period as well as the Aggregate Maximum
25 Obligation Amount Not to Exceed. The reduction to the Maximum Obligation Amount Not to Exceed
26 shall be in an amount proportionate to the number of days in which CONTRACTOR was determined to
27 be unable to provide services, staffing, facilities or supplies. CONTRACTOR shall, at its own expense,
28 provide and maintain the organizational and administrative capabilities required to carry out its duties
29 and responsibilities under this Agreement Contract and in accordance with all the applicable statutes and
30 regulations pertaining to Short Doyle Providers.

32 **XII. INDEMNIFICATION AND INSURANCE**

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

1 ~~products or other performance provided by CONTRACTOR pursuant to this Agreement Contract. If~~
 2 ~~judgment is entered against CONTRACTOR and COUNTY by a court of competent jurisdiction~~
 3 ~~because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES,~~
 4 ~~CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court.~~
 5 ~~Neither Party shall request a jury apportionment.~~

6 ~~— B. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees,~~
 7 ~~agents, directors, members, shareholders and/or affiliates harmless from any claims, demands, including~~
 8 ~~defense costs, or liability of any kind or nature, including but not limited to personal injury or property~~
 9 ~~damage, arising from or related to the services, products or other performance provided by COUNTY~~
 10 ~~pursuant to this Agreement Contract. If judgment is entered against COUNTY and CONTRACTOR by~~
 11 ~~a court of competent jurisdiction because of the concurrent active negligence of CONTRACTOR,~~
 12 ~~COUNTY and CONTRACTOR agree that liability will be apportioned as determined by the court.~~
 13 ~~Neither party shall request a jury apportionment. Prior to the provision of services under this~~
 14 ~~Agreement Contract, CONTRACTOR agrees to purchase all required insurance at CONTRACTOR's~~
 15 ~~expense, including all endorsements required herein, necessary to satisfy COUNTY that the insurance~~
 16 ~~provisions of this Agreement Contract have been complied with. CONTRACTOR agrees to keep such~~
 17 ~~insurance coverage, Certificates of Insurance, and endorsements on deposit with COUNTY during the~~
 18 ~~entire term of this Agreement Contract. In addition, all subcontractors performing work on behalf of~~
 19 ~~CONTRACTOR pursuant to this Agreement Contract shall obtain insurance subject to the same terms~~
 20 ~~and conditions as set forth herein for CONTRACTOR.~~

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

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

36 ~~— 1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all~~
 37 ~~liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or~~

~~subcontractor's performance of this Agreement Contract, CONTRACTOR shall defend the COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and~~

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

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

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

~~F. QUALIFIED INSURER~~

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

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

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 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
Professional Liability Insurance	\$2,000,000 per claims made \$4,000,000 aggregate
Network Security & Privacy Liability	\$1,000,000 per claims made

~~Sexual Misconduct Liability \$1,000,000 per occurrence~~

~~H. REQUIRED COVERAGE FORMS~~

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

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

~~I. REQUIRED ENDORSEMENTS~~

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

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

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

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

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

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

~~#~~

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

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

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

~~M. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy~~

~~1 cancellation and within ten (10) days for non-payment of premium and provide a copy of the
2 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a
3 breach of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate
4 this Agreement Contract.~~

~~5 — N. If CONTRACTOR's Professional Liability, and Network Security & Privacy Liability are
6 "Claims Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following
7 the completion of the Agreement.~~

~~8 — O. The Commercial General Liability policy shall contain a "severability of interests" clause also
9 known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).~~

~~10 — P. Insurance certificates should be forwarded to the agency/department address listed on the
11 solicitation.~~

~~12 — Q. If the Contractor fails to provide the insurance certificates and endorsements within seven (7)
13 days of notification by CEO/Purchasing or the agency/department purchasing division, award may be
14 made to the next qualified vendor.~~

~~15 — R. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease
16 insurance of any of the above insurance types throughout the term of this Agreement. Any increase or
17 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to
18 adequately protect COUNTY.~~

~~19 — S. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
20 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with
21 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, this
22 Agreement may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled
23 to all legal remedies.~~

~~24 — T. The procuring of such required policy or policies of insurance shall not be construed to limit
25 CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of
26 this Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.~~

~~27 — U. SUBMISSION OF INSURANCE DOCUMENTS~~

~~28 — 1. The COI and endorsements shall be provided to COUNTY as follows:~~

~~29 — a. Prior to the start date of this Agreement.~~

~~30 — b. No later than the expiration date for each policy.~~

~~31 — c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
32 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.~~

~~33 — 2. The COI and endorsements shall be provided to the COUNTY at the address as specified in
34 the Referenced Contract Provisions of this Agreement.~~

~~35 — 3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance
36 provisions stipulated in this Agreement by the above specified due dates, ADMINISTRATOR shall
37 have sole discretion to impose one or both of the following:~~

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

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

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

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

XII. INDEMNIFICATION AND INSURANCE

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

B. Prior to the provision of services under this Contract, CONTRACTOR agrees to purchase all required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this Contract have been complied with. CONTRACTOR agrees to keep such insurance coverage current, provide Certificates of Insurance, and endorsements to COUNTY during the entire term of this Contract.

C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of CONTRACTOR pursuant to this Contract shall be covered under CONTRACTOR's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less than the level of coverage required by COUNTY from CONTRACTOR under this Contract. It is the obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be

1 maintained by CONTRACTOR through the entirety of this Contract for inspection by COUNTY
2 representative(s) at any reasonable time.

3 D. All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any SIRs in
4 excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by COUNTY's Risk
5 Manager, or designee. COUNTY reserves the right to require current audited financial reports from
6 CONTRACTOR. If CONTRACTOR is self-insured, CONTRACTOR will indemnify COUNTY for any
7 and all claims resulting or arising from CONTRACTOR's services in accordance with the indemnity
8 provision stated in this Contract.

9 E. If CONTRACTOR fails to maintain insurance acceptable to COUNTY for the full term of this
10 Contract, COUNTY may terminate this Contract.

11 F. QUALIFIED INSURER

12 1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A-
13 (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current
14 edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com).

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

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

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles (4 passengers or less)	\$1,000,000 per occurrence
Passenger vehicles (7 passengers or less)	\$2,000,000 per occurrence
Passenger vehicles (8 passengers or more)	\$5,000,000 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

1
2 Sexual Misconduct Liability \$1,000,000 per occurrence
3

4 H. REQUIRED COVERAGE FORMS

5 1. The Commercial General Liability coverage shall be written on occurrence basis utilizing
6 Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least
7 as broad.

8 2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA
9 0012, CA 00 20, or a substitute form providing coverage at least as broad.

10 I. REQUIRED ENDORSEMENTS

11 1. The Commercial General Liability policy shall contain the following endorsements, which shall
12 accompany the Certificate of Insurance:

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

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

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

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

24 b. A primary and non-contributory endorsement evidencing that CONTRACTOR's insurance is
25 primary and any insurance or self-insurance maintained by COUNTY shall be excess and non-
26 contributing.

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

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

34 L. CONTRACTOR shall provide thirty (30) calendar days prior written notice to COUNTY of any
35 policy cancellation or non-renewal and ten (10) calendar days prior written notice where cancellation is
36 due to non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to
37 provide written notice of cancellation may constitute a material breach of the Contract, upon which

1 COUNTY may suspend or terminate this Contract.

2 M. If CONTRACTOR's Professional Liability and/or Network Security & Privacy Liability are
3 "Claims -Made" policies, CONTRACTOR shall agree to the following:

4 1. The retroactive date must be shown and must be before the date of the Contract or the beginning
5 of the Contract services.

6 2. Insurance must be maintained, and evidence of insurance must be provided, for at least three (3)
7 years after expiration or earlier termination of contract services.

8 3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form
9 with a retroactive date prior to the effective date of the Contract services, CONTRACTOR must
10 purchase an extended reporting period for a minimum of three (3) years after expiration of earlier
11 termination of this Contract.

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

14 O. Insurance certificates should be forwarded to the department address listed in the Referenced
15 Contract Provisions.

16 P. If CONTRACTOR fails to provide the insurance certificates and endorsements within seven (7)
17 calendar days of notification by COUNTY, COUNTY may terminate this Contract upon written notice.

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

22 R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
23 CONTRACTOR does not provide acceptable Certificates of Insurance and endorsements to COUNTY
24 incorporating such changes within thirty (30) calendar days of receipt of such notice, this Contract may
25 be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to all legal
26 remedies.

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

30 T. SUBMISSION OF INSURANCE DOCUMENTS

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

32 a. Prior to the start date of this Contract.

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

34 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to
35 any of the insurance requirements as set forth in the Coverage Subparagraph above.

36 2. The COI and endorsements shall be provided to COUNTY at the address as set forth in the
37 Referenced Contract Provisions of this Contract.

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

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

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

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

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

17 //

18 **XIII. INSPECTIONS AND AUDITS**

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

29 //

30 1. These audits, reviews, evaluations, or examinations may include, but are not limited to, the
 31 following:

32 a. Level and quality of care, including the necessity and appropriateness of the services
 33 provided.

34 b. Internal procedures for assuring efficiency, economy, and quality of care.

35 c. Compliance with COUNTY Client Grievances Procedures.

36 d. Financial records when determined necessary to protect public funds.

37 2. COUNTY shall provide CONTRACTOR with at least seventy-two (72) hours' notice of

1 such inspections or evaluations. Unannounced inspections, evaluations, or requests for information may
 2 be made in those situations where arrangement of an appointment beforehand is not possible or is
 3 inappropriate due to the nature of the inspection or evaluation.

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

8 C. AUDIT RESPONSE

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

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

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

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

29 //

30 //

31 **XIV. LICENSES AND LAWS**

32 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
 33 the term of this **Agreement** Contract, maintain all necessary licenses, permits, approvals, certificates,
 34 accreditations, waivers, and exemptions necessary for the provision of the services hereunder and
 35 required by the laws, regulations and requirements of the United States, the State of California,
 36 COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify
 37 ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the

1 pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers
2 and exemptions. Said inability shall be cause for termination of this **Agreement** Contract.

3 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

- 23 1. ARRA of 2009.
- 24 2. Trafficking Victims Protection Act of 2000.
- 25 3. WIC, Division 5, Community Mental Health Services.
- 26 4. WIC, Division 6, Admissions and Judicial Commitments.
- 27 5. WIC, Division 7, Mental Institutions.
- 28 6. HSC, §§1250 et seq., Health Facilities.
- 29 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 30 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 31 9. CCR, Title 17, Public Health.
- 32 10. CCR, Title 22, Social Security.
- 33 11. CFR, Title 42, Public Health.
- 34 12. CFR, Title 45, Public Welfare.
- 35 13. USC Title 42. Public Health and Welfare.
- 36 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 37 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.

- 1 16. 42 USC §1857, et seq., Clean Air Act.
 2 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
 3 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
 4 19. Policies and procedures set forth in Mental Health Services Act.
 5 20. Policies and procedures set forth in DHCS Letters.
 6 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
 7 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
 8 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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

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

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

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

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

32 **XVI. MAXIMUM OBLIGATION AMOUNT NOT TO EXCEED**

33 ~~— A. The Aggregate Maximum Obligation Amount Not to Exceed of COUNTY for services provided~~
 34 ~~in accordance with all agreements for Mental Health Inpatient Services during Period One, Period Two~~
 35 ~~and Period Three are as specified in the Referenced Contract Provisions of this Agreement Contract.~~
 36 ~~This specific Agreement Contract with CONTRACTOR is only one of several agreements to which this~~
 37 ~~Aggregate Maximum Obligation Amount Not to Exceed applies. It therefore is understood by the Parties~~

1 ~~that reimbursement to CONTRACTOR will be only a fraction of these Aggregate Maximum Obligation~~
2 ~~Amount Not to Exceed s.~~

3 ~~— B. ADMINISTRATOR may amend the Aggregate Maximum Obligation Amount Not to Exceed by~~
4 ~~an amount not to exceed ten percent (10%) of the Period One funding for this Agreement Contract.~~

5
6 A. The Aggregate Period Amount Not to Exceed of COUNTY for services provided in accordance
7 with all Contracts for Adult Mental Health Psychiatric Skilled Nursing Facility Services during each
8 Period is as specified in the Referenced Contract Provisions of this Contract. It therefore is understood
9 by the Parties that reimbursement to CONTRACTOR will be only a fraction of these Aggregate
10 Amounts Not To Exceed per Period.

11 B. ADMINISTRATOR may amend the Aggregate Amount Not To Exceed by an amount not to
12 exceed ten percent (10%) of the Period One funding for this Contract.

13 14 **XVII. MINIMUM WAGE LAWS**

15 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and
16 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the
17 federal or California Minimum Wage to all its Covered Individuals (as defined within the “Compliance”
18 paragraph of this **Agreement** Contract) that directly or indirectly provide services pursuant to this
19 **Agreement** Contract, in any manner whatsoever. CONTRACTOR shall require and verify that all of its
20 Covered Individuals providing services pursuant to this Agreement be paid no less than the greater of
21 the federal or California Minimum Wage.

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

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

29 30 **XVIII. NONDISCRIMINATION**

31 **A. EMPLOYMENT**

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

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

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

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

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

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

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

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

1 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination
 2 paragraph, discrimination includes, but is not limited to the following based on one or more of the
 3 factors identified above:

4 //

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

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

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

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

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

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

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

37 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall

1 intimidate, coerce or take adverse action against any person for the purpose of interfering with rights
 2 secured by federal or state laws, or because such person has filed a complaint, certified, assisted or
 3 otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to
 4 enforce rights secured by federal or state law.

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

10 **XIX. NOTICES**

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

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

16 2. When faxed, transmission confirmed;

17 3. When sent by Email; or

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

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

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

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

31 **XX. NOTIFICATION OF DEATH**

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

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

37 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by

1 telephone immediately upon becoming aware of the death due to non-terminal illness of any person
2 served pursuant to this **Agreement** Contract; notice need only be given during normal business hours.

3 2. WRITTEN NOTIFICATION

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

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

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

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

16
17 **XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

25
26 **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

36 3. CONTRACTOR shall maintain books, records, documents, accounting procedures and
37 practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature

1 | claimed to have been incurred in the performance of this ~~Agreement~~ Contract and in accordance with
2 | Medicare principles of reimbursement and GAAP.

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

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

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

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

18 | E. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years
19 | following discharge of the participant, client and/or patient.

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

25 | G. CONTRACTOR shall notify ADMINISTRATOR of any PRA requests related to, or arising out
26 | of, this ~~Agreement~~ Contract, within forty-eight (48) hours. CONTRACTOR shall provide
27 | ADMINISTRATOR all information that is requested by the PRA request.

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

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

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

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

37 | I. CONTRACTOR may retain client, and/or patient documentation electronically in accordance

1 with the terms of this **Agreement** Contract and common business practices. If documentation is retained
2 electronically, CONTRACTOR shall, in the event of an audit or site visit:

3 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit
4 or site visit.

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

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

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

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

16 **XXIII. RESEARCH AND PUBLICATION**

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

20 **XXIV. REVENUE**

21
22
23 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to
24 Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other
25 third party health plans, are provided pursuant to this Agreement, their estates and responsible relatives,
26 according to their ability to pay as determined by the State Department of Health Care Services’
27 “Uniform Method of Determining Ability to Pay” procedure or by any other payment procedure as
28 approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the CCR.
29 Such fee shall not exceed the actual cost of services provided. No Client shall be denied services
30 because of an inability to pay.

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

35 C. PROCEDURES – CONTRACTOR shall maintain internal financial controls which adequately
36 ensure proper billing and collection procedures. CONTRACTOR’s procedures shall specifically
37 provide for the identification of delinquent accounts and methods for pursuing such accounts.

1 CONTRACTOR shall provide ADMINISTRATOR, monthly, a written report specifying the current
 2 status of fees which are billed, collected, transferred to a collection agency, or deemed by
 3 CONTRACTOR to be uncollectible.

4 //

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

8 **XXV. SEVERABILITY**

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

16 **XXVI. SPECIAL PROVISIONS**

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

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

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

- 3 1. Funding travel or training (excluding mileage or parking).
- 4 2. Making phone calls outside of the local area unless documented to be directly for the
5 purpose of Client care.
- 6 3. Payment for grant writing, consultants, certified public accounting, or legal services.
- 7 4. Purchase of artwork or other items that are for decorative purposes and do not directly
8 contribute to the quality of services to be provided pursuant to this.

9 10 **XXVII. STATUS OF CONTRACTOR**

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

22 23 **XXVIII. TERM**

24 A. This specific **Agreement** Contract with CONTRACTOR is only one of several agreements to
25 which the term of this **Agreement** Contract applies. This specific **Agreement** Contract shall commence
26 as specified in the Reference Contract Provisions of this **Agreement** Contract or the execution date,
27 whichever is later. This specific **Agreement** Contract shall terminate as specified in the Referenced
28 Contract Provisions of this **Agreement** Contract, unless otherwise sooner terminated as provided in this
29 **Agreement** Contract. CONTRACTOR shall be obligated to perform such duties as would normally
30 extend beyond this term, including but not limited to, obligations with respect to confidentiality,
31 indemnification, audits, reporting and accounting.

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

34 35 **XXIX. TERMINATION**

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

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

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

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

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

17 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
 18 required pursuant to this Agreement Contract.

19 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of
 20 this Agreement Contract.

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

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

27 E. CONTINGENT FUNDING

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

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

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

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

1 F. In the event this ~~Agreement~~ Contract is suspended or terminated prior to the completion of the
 2 term as specified in the Referenced Contract Provisions of this ~~Agreement~~ Contract ADMINISTRATOR
 3 may, at its sole discretion, reduce the ~~Maximum Obligation~~ Amount Not to Exceed of this Agreement in
 4 an amount consistent with the reduced term of the ~~Agreement~~ Contract.

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

7 //

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

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

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

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

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

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

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

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

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

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

36
 37 **XXX. THIRD PARTY BENEFICIARY**

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

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

3
4 PROVIDER NAME

5
6 BY: _____ DATED: _____

7
8 TITLE: _____

9
10
11 BY: _____ DATED: _____

12
13 TITLE: _____

14
15
16 COUNTY OF ORANGE

17
18
19 BY: _____ DATED: _____

20 HEALTH CARE AGENCY

21
22
23
24
25
26
27
28
29
30
31
32
33
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
37 or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her
signature alone is required by ADMINISTRATOR.

1 EXHIBIT A
 2 TO ~~AGREEMENT~~ CONTRACT FOR PROVISION OF
 3 ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES
 4 BETWEEN
 5 COUNTY OF ORANGE
 6 AND
 7 LANDMARK MEDICAL SERVICES, INC.
 8 ~~JULY 1, 2019 THROUGH JUNE 30, 2022 JUNE 30, 2024~~ December 31, 2024

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. Additional Income Source means Additional Income Source and refers to all income other~~
 14 ~~than SSI and includes such sources of income as retirement income, disability income, trust fund~~
 15 ~~income, SSI, Veteran’s Affairs disability income, etc.~~

16 ~~— 2. Client Day means one (1) calendar day during which CONTRACTOR provides all of the~~
 17 ~~services described hereunder, including the day of admission and excluding the day of discharge. If~~
 18 ~~admission and discharge occur on the same day, one (1) Client Day shall be charged.~~

19 ~~— 3. Client or Consumer means an individual, referred by COUNTY or enrolled in~~
 20 ~~CONTRACTOR’s program for services under the Agreement, who is dealing with a chronic mental~~
 21 ~~illness.~~

22 ~~— 4. Diagnosis means the definition of the nature of the Client's disorder. When formulating the~~
 23 ~~diagnosis of Client, CONTRACTOR shall use the diagnostic codes as specified in the most current~~
 24 ~~edition of the DSM published by the American Psychiatric Association.~~

25 ~~— 5. HIPAA means Health Insurance Portability and Accountability Act and refers to the federal~~
 26 ~~law that establishes standards for the privacy and security of health information, as well as standards for~~
 27 ~~electronic data interchange of health information. HIPAA has two main goals, as its name implies:~~
 28 ~~making health insurance more portable when persons change employers, and making the health care~~
 29 ~~system more accountable for costs trying especially to reduce waste and fraud.~~

30 ~~— 6. LPS means Lanterman Petris Short and refers to the Act that went into effect July 1, 1972 in~~
 31 ~~California. The Act in effect ended all hospital commitments by the judiciary system, except in the case~~
 32 ~~of criminal sentencing (e.g. convicted sexual offenders) and those who were "gravely disabled" defined~~
 33 ~~as unable to obtain food, clothing, or shelter. It expanded the evaluative power of psychiatrists and~~
 34 ~~created provisions and criteria for involuntary detentions.~~

35 #

36 #

37 ~~— 7. Medical Necessity means the requirements as defined in the MHP Medical Necessity for~~

1 ~~Medi-Cal reimbursed Specialty Mental Health Services that includes Diagnosis, Impairment Criteria and~~
2 ~~Intervention Related Criteria.~~

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

6 ~~a. Assessment means a service activity, which may include a clinical analysis of the~~
7 ~~history and current status of a beneficiary's mental, emotional, or behavioral disorder, relevant cultural~~
8 ~~issues and history, diagnosis and the use of testing procedures.~~

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

16 ~~9. Rehabilitation Service means an activity which includes assistance in improving,~~
17 ~~maintaining, or restoring a Client's or group of Clients' functional skills, daily living skills, social and~~
18 ~~leisure skills, grooming and personal hygiene skills, meal preparation skills, support resources and/or~~
19 ~~medication education.~~

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

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

28 ~~12. NPP means Notice of Privacy Practices and refers to a document that notifies individuals of~~
29 ~~uses and disclosures of PHI that may be made by or on behalf of the health plan or health care provider~~
30 ~~as set forth in the HIPAA.~~

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

37 ~~14. Psychiatrist means an individual who meets the minimum professional and licensure~~

1 requirements set forth in Title 9, CCR, Section 623.

2 ~~15. Psychologist means an individual who meets the minimum professional and licensure~~
3 ~~requirements set forth in Title 9, CCR, Section 624.~~

4 ~~16. Recovery means a process of change through which individuals improve their health and~~
5 ~~wellness, live a self-directed life and strive to reach their full potential, and identifies four major~~
6 ~~dimensions to support Recovery in life:~~

7 ~~a. Health: Overcoming or managing one's disease(s) as well as living in a physically and~~
8 ~~emotionally healthy way;~~

9 ~~b. Home: A stable and safe place to live;~~

10 ~~c. Purpose: Meaningful daily activities, such as a job, school, volunteerism, family~~
11 ~~caretaking, or creative endeavors, and the independence, income, and resources to participate in society;~~
12 ~~and~~

13 ~~d. Community: Relationships and social networks that provide support, friendship, love,~~
14 ~~and hope.~~

15 ~~17. Referral means providing the effective linkage of a Client to another service, when~~
16 ~~indicated.~~

17 ~~18. SNF/STP means Skilled Nursing Facility with Special Treatment Program and refers to a~~
18 ~~facility certified by the Department of Health Care Services (DHCS) to provide 24-hour/day skilled~~
19 ~~nursing care and supervision and at least 27 hours of programming to Clients with a primary psychiatric~~
20 ~~diagnosis, who may also have co-existing medical conditions. In most cases, Clients are conserved under~~
21 ~~LPS.~~

22 ~~19. SSI/SSP means Social Security Income/Supplemental Security Payment and refers to~~
23 ~~revenue resources paid to an eligible Client, or the Client's payee, by the federal Social Security~~
24 ~~Administration.~~

25 ~~B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the~~
26 ~~Common Terms and Definitions Paragraph of this Exhibit B to the Agreement.~~

27
28 **H. ISSUE RESOLUTION**

29 ~~A. CONTRACTOR agrees that for resolution of issues between COUNTY and CONTRACTOR,~~
30 ~~with respect to the implementation and operation of the Agreement or COUNTY's P&P regarding~~
31 ~~services described herein, the following sequential steps will be followed:~~

32 ~~1. CONTRACTOR shall routinely utilize all informal communication processes and methods~~
33 ~~with ADMINISTRATOR including, but not limited to, telephone, email, and fax communication,~~
34 ~~written correspondence and meetings, to resolve any issues or problems regarding the implementation~~
35 ~~and operation of the Agreement or COUNTY's P&P regarding services described herein.~~

36 #

37 ~~2. CONTRACTOR agrees that if the parties are unable to resolve the issue, CONTRACTOR~~

1 shall give written notice to ADMINISTRATOR setting forth, in specific terms, the existence and nature
 2 of any unresolved matter or concern related to the purposes and obligations of the Agreement.
 3 ADMINISTRATOR shall be given fifteen (15) calendar days following such notice to obtain resolution
 4 of any issue(s) identified in this manner. CONTRACTOR agrees that by mutual consent this period of
 5 time may be extended to thirty (30) calendar days.

6 ~~3. CONTRACTOR agrees that if the parties are still unable to obtain resolution of the issue,
 7 they shall submit a joint written Statement describing the facts of the issue, within thirty (30) calendar
 8 days after the written notice described above to COUNTY's Director of Behavioral Health, or designee,
 9 for final resolution.~~

10 ~~B. The rights and remedies provided by this Paragraph are in addition to those provided by law to
 11 either party.~~

12 ~~C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing to modify the Issue
 13 Resolution Paragraph of this Exhibit B to the Agreement.~~

14 III. PATIENTS' RIGHTS

15 ~~A. CONTRACTOR shall post the current DHCS Patients' Rights poster as well as the local MHP
 16 Complaint and Grievance posters in all threshold languages in locations readily available to patients and
 17 staff and have complaint forms and complaint envelopes readily accessible to patients.~~

18 ~~B. In addition to those processes provided by COUNTY and the resident County, CONTRACTOR
 19 shall have complaint resolution and grievance processes approved by COUNTY, to which the
 20 beneficiary shall have access.~~

21 ~~1. CONTRACTOR's complaint resolution processes shall emphasize informal, easily
 22 understood steps designed to resolve disputes as quickly and simply as possible in all threshold
 23 languages.~~

24 ~~2. CONTRACTOR's complaint resolution and grievance processes shall incorporate
 25 COUNTY's and the resident County's grievance, patients' rights, and utilization management guidelines
 26 and procedures.~~

27 ~~C. Complaint Resolution and Grievance Process – COUNTY shall support complaint and grievance
 28 procedures in concert with the resident County that shall include the components outlined below. The
 29 resident County will handle such complaints that may include allegations of denial of rights,
 30 dissatisfaction with services or with the quality of care, or dissatisfaction with the condition of the
 31 physical plant. COUNTY will handle such complaints regarding access to care or regarding COUNTY's
 32 Public Administrator/Public Guardian Office services.~~

33 ~~1. Complaint Resolution. This process will specifically address and attempt to resolve Client
 34 complaints and concerns at CONTRACTOR's facility.~~

35 #

36 ~~2. Formal Grievance. When the Client's complaint is not resolved at CONTRACTOR's
 37~~

1 facility and the Client or Client representative requests it, the complaint becomes a formal grievance.
 2 The request is made to the respective Resident County or ADMINISTRATOR and represents the first
 3 step in the formal grievance process.

4 ~~3 Title IX Rights Advocacy. This process may be initiated by a Client who registers a~~
 5 ~~statutory rights violation or a denial or abuse complaint with COUNTY Patients' Rights Office. The~~
 6 ~~Patients' Rights office shall investigate the complaint, and Title IX grievance procedures shall apply,~~
 7 ~~which involve COUNTY Behavioral Health Director and the State Patients' Rights Office.~~

8 ~~D. CONTRACTOR agrees that Clients have recourse to initiate a complaint to CONTRACTOR,~~
 9 ~~appeal to the respective resident County or COUNTY's Patients' Rights Office, to file a formal~~
 10 ~~grievance, file a Title IX complaint. The Patients' Advocate shall advise and assist the Client,~~
 11 ~~investigate the cause of the complaint or grievance, and attempt to resolve the matter.~~

12 ~~E. CONTRACTOR agrees that no provision of the Agreement shall be construed to replace or~~
 13 ~~conflict with the duties of COUNTY Patients' Rights Office pursuant to WIC Section 5500.~~

14 ~~F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing to modify the~~
 15 ~~Patients' Rights Paragraph of this Exhibit B to the Agreement.~~

16 IV. PAYMENTS

17 ~~A. COUNTY REIMBURSED IMD RATES~~

18 ~~1. COUNTY shall pay CONTRACTOR monthly, in arrears, at the prevailing SNF/STP daily~~
 19 ~~rate, as determined by the California DHCS; however, the total of all such payments to CONTRACTOR~~
 20 ~~and all other providers of mental health SNF/STP services shall not exceed COUNTY's Aggregate~~
 21 ~~Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement.~~

22 ~~a. COUNTY may adjust the SNF/STP daily rate of reimbursement as directed by the~~
 23 ~~DHCS.~~

24 ~~b. COUNTY will reimburse CONTRACTOR only for services provided to Clients who~~
 25 ~~are certified by COUNTY as eligible to receive services and for whom there is a current COUNTY~~
 26 ~~treatment assessment/certification in place.~~

27 ~~2. COUNTY shall collect SSI/SSP revenue. CONTRACTOR shall collect additional income~~
 28 ~~sources and all other revenues due the Client, conservator/guardian, or legally responsible person to~~
 29 ~~determine a Client share of cost. CONTRACTOR shall ensure that the Client share of cost is clearly~~
 30 ~~stated on the CONTRACTOR's invoice. CONTRACTOR shall deduct the Client's share of costs from~~
 31 ~~the amount owed to CONTRACTOR by the COUNTY.~~

32 ~~a. ADMINISTRATOR shall review and approve Client's revenue and share of cost.~~
 33 ~~ADMINISTRATOR may adjust CONTRACTOR's monthly invoice if the appropriate revenue is not~~
 34 ~~stated and/or the share of cost has not been appropriately deducted from the amount due from the~~
 35 ~~COUNTY.~~

36 ~~b. ADMINISTRATOR may authorize CONTRACTOR to use a portion of the revenue for~~
 37

~~non-covered costs such as personal and/or incidental costs for the Client's care or personal needs. ADMINISTRATOR shall monitor such costs and may adjust the invoice to ensure that the appropriate costs are deducted from the amount due from the COUNTY.~~

~~— B. CONTRACTORS that provide Specialized Services in addition to SNF or SNF/STP Services, shall be reimbursed the prevailing SNF/STP daily rate and the following per diem rate for each Supplemental Service:~~

~~— a. Hearing Impaired/Psychiatric Services, N/A~~

~~— b. Specialized Nursing Care Services, N/A~~

~~— c. Subacute Services, N/A~~

~~— d. Subacute Medical Services, N/A~~

~~— e. Augmented Treatment Services, N/A~~

~~1. CONTRACTOR's invoices shall be on a form approved or supplied by COUNTY and provide such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th) day of the month. Invoices received after the due date may not be paid within the same month. Payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed invoice.~~

~~— C. MEDICAL REIMBURSED SNF/STP RATES — CONTRACTORS reimbursed by Medi-Cal for SNF/STP Services provided in accordance with the Services Paragraph of this Exhibit B to the Agreement, shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR for SNF/STP Services paid directly to CONTRACTOR from the State.~~

~~— D. MEDICAL REIMBURSED SNF RATES — CONTRACTORS reimbursed by Medi-Cal for SNF Services provided in accordance with the Services Paragraph of this Exhibit B to the Agreement, shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR for SNF Services paid directly to CONTRACTOR from the State.~~

~~— E. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply with any provision of the Agreement.~~

~~— F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Payments Paragraph of this Exhibit B to the Agreement.~~

V. REPORTS

~~— A. CONTRACTOR shall report all special incidents to ADMINISTRATOR and shall submit a written special incident report referred to as a "Notable Incident Form" in accordance with the Notices Paragraph of the Agreement. Special incidents shall include, but are not limited to, a Client's suicide or attempted suicide, elopement or absence without leave, serious injury, death, criminal behavior including arrests with or without conviction, positive test results for substance use from urine screenings, or any other incidents which may expose COUNTY or CONTRACTOR to liability.~~

~~— B. CONTRACTOR shall provide COUNTY copies of all DHCS surveys, including any plans of~~

1 correction:

2 ~~— C. STAFFING — CONTRACTOR shall submit to ADMINISTRATOR, on a quarterly basis, a list~~
3 ~~of persons who provide services under the Agreement and their job descriptions. The staff list shall state~~
4 ~~the employee name, job title, profession degree, and license number, if applicable.~~

5 ~~— D. PROGRAMMATIC — CONTRACTOR shall submit monthly programmatic reports to~~
6 ~~ADMINISTRATOR which shall be received no later than fourteen (14) calendar days following the end~~
7 ~~of the month being reported. These reports shall be on a form acceptable to, or provided by~~
8 ~~ADMINISTRATOR and shall evaluate each Client’s participation and functioning in CONTRACTOR’s~~
9 ~~psycho-social rehabilitation program, and readiness for discharge.~~

10 ~~— E. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of all~~
11 ~~P&P’s. CONTRACTOR shall provide signature confirmation of the P&P training for each staff member~~
12 ~~and place it in their personnel files.~~

13 ~~— F. CONTRACTOR shall obtain a NPI.~~

14 ~~—— 1. All HIPAA covered healthcare providers, individuals and organizations must obtain a NPI~~
15 ~~for use to identify themselves in HIPAA standard transactions. The NPI is assigned for life.~~

16 ~~—— 2. CONTRACTOR shall ensure that each employee who is required to obtain a NPI to provide~~
17 ~~services under the Agreement, will obtain a NPI upon commencement of the Agreement or prior to~~
18 ~~providing services under the Agreement. CONTRACTOR shall report to ADMINISTRATOR, on a~~
19 ~~form approved or supplied by ADMINISTRATOR, all NPIs as soon as they are available.~~

20 ~~— G. COUNTY, as the MHP, shall provide the NPP to Client, conservator/guardian, or legally~~
21 ~~responsible person at the time of the first service provided under the Agreement to individuals who are~~
22 ~~covered by Medi-Cal and have not previously received services at a COUNTY operated clinic.~~
23 ~~COUNTY shall also provide, upon request from Client, conservator/guardian, or legally responsible~~
24 ~~person the NPP for the COUNTY, as the MHP, to any individual who received services under the~~
25 ~~Agreement.~~

26 ~~— H. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing to modify the Reports~~
27 ~~Paragraph of this Exhibit B to the Agreement.~~

28
29 **VI. SERVICES**

30 ~~— CONTRACTOR agrees to provide the following Psychiatric Skilled Nursing Facility services,~~
31 ~~hereunder marked with an X, pursuant to the terms and conditions specified in the Agreement and in~~
32 ~~accordance with Exhibit B to the Agreement for the provision of such services by and between~~
33 ~~COUNTY and CONTRACTOR dated July 1, 2019 as hereinafter indicated. CONTRACTOR and~~
34 ~~COUNTY may mutually agree, in writing, to add or delete services to be provided by CONTRACTOR.~~

35 #

36 #

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
1 Skilled Nursing Facility Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
2			
3			
4 Skilled Nursing Facility Services with			
5 Special Treatment Program (SNF/STP)	<u>X: \$197.00</u>	<u>X: \$203.69</u>	<u>X: \$210.62</u>
6 Services			
7			
8 <u>Specialized Services</u>			
9 —Hearing Impaired/Psychiatric	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
10 —Services			
11 —Specialized Nursing Care Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
12 —Subacute Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
13 —Subacute Medical Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
14 —Augmented Treatment Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

VII. TYPE OF PAYMENTS

~~CONTRACTOR agrees to the compensation marked with an “X” below and as specified in Subparagraph IV of Exhibit B to the Agreement for the provision of Psychiatric Skilled Nursing Facility services by and between COUNTY and CONTRACTOR.~~

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
21 COUNTY Reimbursed IMD Rates	<u>X: \$197.00</u>	<u>X: \$203.69</u>	<u>X: \$210.62</u>
22			
23			
24 Medi-Cal Reimbursed SNF/STP Rates	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
25			
26 Medi-Cal Reimbursed SNF Rates	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
27			
28 <u>Specialized Services Rates</u>			
29 —Hearing Impaired/Psychiatric	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
30 —Services			
31 —Specialized Nursing Care Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
32 —Subacute Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
33 —Subacute Medical Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
34 —Augmented Treatment Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

. COMMON TERMS AND DEFINITIONS

- 1 A. The parties agree to the following terms and definitions, and to those terms and definitions
 2 which, for convenience, are set forth elsewhere in the Agreement.
- 3 1. Additional Income Source means Additional Income Source and refers to all income other
 4 than SSI and includes such sources of income as retirement income, disability income, trust
 5 fund income, SSI, Veteran's Affairs disability income, etc.
 - 6 2. Client Day means one (1) calendar day during which CONTRACTOR provides all of the
 7 services described hereunder, including the day of admission and excluding the day of
 8 discharge. If admission and discharge occur on the same day, one (1) Client Day shall be
 9 charged.
 - 10 3. Client or Consumer means an individual, referred by COUNTY or enrolled in
 11 CONTRACTOR's program for services under the Agreement, who is dealing with a
 12 chronic mental illness.
 - 13 4. Crisis Stabilization Unit (CSU) means a psychiatric crisis stabilization program that
 14 operates twenty-four (24) hours a day that serves Orange County residents aged thirteen
 15 (13) and older who are experiencing a psychiatric crisis and need immediate evaluation.
 16 Individuals receive a thorough psychiatric evaluation, crisis stabilization treatment, and
 17 referral to the appropriate level of continuing care. As a designated outpatient facility, the
 18 CSU may evaluate and treat individuals for no longer than twenty-three (23) hours and
 19 fifty-nine (59) minutes.
 - 20 5. 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 as specified in the most
 22 current edition of the DSM published by the American Psychiatric Association.
 - 23 6. DSM means Diagnostic and Statistical Manual of Mental Disorders and refers to the
 24 publication by the American Psychiatric Association that is used as a guide in the diagnosis
 25 of mental disorders.
 - 26 7. HIPAA means Health Insurance Portability and Accountability Act and refers to the federal
 27 law that establishes standards for the privacy and security of health information, as well as
 28 standards for electronic data interchange of health information. HIPAA has two main
 29 goals, as its name implies: making health insurance more portable when persons change
 30 employers, and making the health care system more accountable for costs-trying especially
 31 to reduce waste and fraud.
 - 32 8. ITP means Individualized Treatment Plan for each Client. All psychiatric, psychological,
 33 and social services must be compatible with the ITP.
 - 34 9. Lanterman-Petris-Short (LPS) Act (Cal. Welf & Inst. Code, sec. 5000 et seq.) provides
 35 guidelines for handling involuntary civil commitment to a mental health institution in
 36 the State of California.
 - 37 10. Licensed Clinical Social Worker (LCSW) means a licensed individual, pursuant to the

1 provisions of Chapter 14 of the California Business and Professions Code, who can
 2 provide clinical services to individuals they serve. The license must be current and in
 3 force, and not suspended or revoked.

- 4 11. Licensed Marriage Family Therapist (MFT) means a licensed individual, pursuant to the
 5 provisions of Chapter 13 and Chapter 14 of the California Business and Professions
 6 Code, who can provide clinical services to individuals they serve. The license
 7 must be current and in force, and not suspended or revoked.
- 8 12. Licensed Professional Clinical Counselor (LPCC) means a licensed individual, pursuant to
 9 the provisions of Chapter 13 and Chapter 16 of the California Business and Professions
 10 Code, who can provide clinical service to individuals they serve. The license must be
 11 current and in force, and not suspended or revoked.
- 12 13. Licensed Psychiatric Technician (LPT) means a licensed individual, pursuant to the
 13 provisions of Chapter 10 of the California Business and Professions Code, who can
 14 provide clinical services to individuals they serve. The license must be current and in
 15 force, and not suspended or revoked.
- 16 14. Licensed Psychologist means an individual who meets the minimum professional and
 17 licensure requirements set forth in CCR, Title 9, Section 624; they are a licensed
 18 individual, pursuant to the provisions of Chapter 6.6 of the California Business and
 19 Professions Code, who can provide clinical services to individuals they serve. The
 20 license must be current and in force and not suspended or revoked.
- 21 15. Licensed Vocational Nurse (LVN) means a licensed individual, pursuant to the provisions
 22 of Chapter 6.5 of the California Business and Professions Code, who can provide
 23 clinical services to individuals they serve. The license must be current and in force, and not
 24 suspended or revoked.
- 25 16. Long Term Care (LTC) means the COUNTY department that reviews referrals for
 26 placement in COUNTY-contracted long term care facilities.
- 27 17. Medi-Cal means the State of California's implementation of the federal Medicaid
 28 healthcare program which pays for a variety of medical services for children and adults
 29 who meet eligibility criteria.
- 30 18. Medical Necessity means the requirements as defined in the MHP Medical Necessity for
 31 Medi-Cal reimbursed Specialty Mental Health Services that includes diagnosis, impairment
 32 criteria and intervention related criteria. Meeting medical necessity for acute psychiatric
 33 inpatient hospital services includes having an included DSM/ICD diagnosis; the Client
 34 cannot be safely treated at a lower level of care; and the Client requires psychiatric
 35 inpatient hospital services, as a result of a mental disorder, due to symptoms or behaviors
 36 that represent a current danger to self or others, or significant property destruction; and/or
 37 prevent the client from providing for, or utilizing, food, clothing, shelter; and/or present a

1 severe risk to the Client's physical health; and/or represent a recent, significant
2 deterioration in ability to function.

3
4 19. Mental Health Services means interventions designed to provide the maximum reduction of
5 mental disability and restoration or maintenance of functioning consistent with the
6 requirements for learning, development and enhanced self-sufficiency. Services shall
7 include:

- 8 a. Assessment means a service activity, which may include a clinical analysis of
9 the history and current status of a Client's mental, emotional, or behavioral
10 disorder, relevant cultural issues and history, diagnosis and the use of testing
11 procedures.
- 12 b. Medication Support Services means those services provided by a licensed
13 physician, registered nurse, or other qualified medical staff, which includes
14 prescribing, administering, dispensing and monitoring of psychiatric
15 medications or biologicals and which are necessary to alleviate the symptoms
16 of mental illness. These services also include evaluation and documentation of
17 the clinical justification and effectiveness for use of the medication, dosage,
18 side effects, compliance and response to medication, as well as obtaining
19 informed consent, providing medication education and plan development
20 related to the delivery of the service and/or assessment of the Client.
- 21 c. Rehabilitation Service means an activity which includes assistance in
22 improving, maintaining, or restoring a Client's or group of Clients' functional
23 skills, daily living skills, social and leisure skill, grooming and personal
24 hygiene skills, meal preparation skills, support resources and/or medication
25 education.
- 26 d. Therapy means a service activity which is a therapeutic intervention that
27 focuses primarily on symptom reduction as a means to improve functional
28 impairments. Therapy may be delivered to a Client or group of Clients which
29 may include family therapy in which the Client is present.

30 20. Milestones of Recovery Scale (MORS) refers to a Recovery scale that COUNTY uses in
31 Adult Mental Health programs. The scale assigns Consumers to their appropriate level
32 of care and replaces diagnostic and acuity of illness-based tools.

33 21. NPI means National Provider Identification and refers to the standard unique health
34 identifier that was adopted by the Secretary of Health and Human Services (HHS) under
35 HIPAA for health care providers. All HIPAA covered healthcare providers, individuals
36 and organizations must obtain an NPI for use to identify themselves in HIPAA standard
37 transactions. The NPI is assigned for life.

- 1 22. NPP means Notice of Privacy Practices and refers to a document that notifies individuals of
2 uses and disclosures of PHI that may be made by or on behalf of the health plan or health
3 care provider as set forth in the HIPAA.
- 4 23. Peer Recovery Specialist/Counselor means an individual in a paid position who has been
5 through the same or similar Recovery process as those being assisted to attain their
6 Recovery goals. A Peer Recovery Specialist practice is informed by personal experience.
- 7 24. PHI means Protected Health Information and refers to individually identifiable health
8 information usually transmitted by electronic media, maintained in any medium as defined
9 in the regulations, or for an entity such as a health plan, transmitted or maintained in any
10 other medium. It is created or received by a covered entity and relates to the past, present,
11 or future physical or mental health or condition of an individual, provision of health care to
12 an individual, or the past, present, or future payment for health care provided to an
13 individual.
- 14 25. Psychiatrist means an individual who meets the minimum professional and licensure
15 requirements set forth in Title 9, CCR, Section 623.
- 16 26. Psychiatric Inpatient Hospital Services means services, including ancillary services,
17 provided either in an acute care hospital or a free-standing psychiatric hospital for the care
18 and treatment of an acute episode of mental illness.
- 19 27. Quality Improvement Committee (QIC) means a committee that meets quarterly to review
20 one percent (1%) of all “high-risk” Medi-Cal clients in order to monitor and evaluate the
21 quality and appropriateness of services provided. At a minimum, the committee is
22 comprised of one (1) ADMINISTRATOR, one (1) clinician, and one (1) physician who
23 are not involved in the clinical care of the cases.
- 24 28. Recovery means a “deeply personal, unique process of changing one’s attitudes, values,
25 feelings, goals, skills and/or roles. It is a way of living a satisfying, hopeful and
26 contributing life even with limitations caused by the illness. Recovery involves the
27 development of new meaning and purpose in one’s life as one grows beyond the
28 catastrophic effects of mental illness. Ultimately, because recovery is a personal and
29 unique process, everyone with a psychiatric illness develops his or her own definition of
30 recovery. However, certain concepts or factors are common to recovery.” (William
31 Anthony, 1993).
- 32 29. Referral means providing the effective linkage of a Client to another service.
- 33 30. Registered Nurse (RN) means a licensed individual, pursuant to the provisions of Chapter 6
34 of the California Business and Professions Code, who can provide clinical services to
35 the individuals served. The license must be current and in force and not suspended or
36 revoked.
- 37

- 1 31. Serious Persistent Mental Impairment (SPMI) means an adult with a behavioral health
2 disorder that is severe in degree and persistent in duration, which may cause behavioral
3 functioning which interferes substantially with the primary activities of daily living, and
4 which may result in an inability to maintain stable adjustment and independent
5 functioning without treatment, support, and rehabilitation for a long or indefinite period of
6 time. W&I 5600.3.
- 7 32. SNF/STP means Skilled Nursing Facility with Special Treatment Program and refers to a
8 facility certified by the Department of Health Care Services (DHCS) to provide 24-
9 hour/day skilled nursing care and supervision and at least 27 hours of programming to
10 Clients with a primary psychiatric diagnosis, who may also have co-existing medical
11 conditions. In most cases, Clients are conserved under LPS.
- 12 33. SSI/SSP means Social Security Income/Supplemental Security Payment and refers to
13 revenue resources paid to an eligible Client, or the Client's payee, by the federal Social
14 Security Administration.
- 15 34. Supervisory Review means ongoing clinical case reviews in accordance with procedures
16 developed by ADMINISTRATOR, to determine the appropriateness of Diagnosis and
17 treatment and to monitor compliance to the minimum ADMINISTRATOR and Medi-Cal
18 charting standards. Supervisory review is conducted by the program/clinic director or
19 designee.
- 20 35. Wellness Action & Recovery Plan (WRAP) refers to a self-help technique for monitoring
21 and responding to symptoms to achieve the highest possible levels of wellness, stability,
22 and quality of life.
- 23 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
24 Common Terms and Definitions Paragraph of this Exhibit A to the Agreement.

25 26 **VIII. ISSUE RESOLUTION**

27 A. CONTRACTOR agrees that for resolution of issues between COUNTY and CONTRACTOR,
28 with respect to the implementation and operation of the Agreement or COUNTY's P&P regarding
29 services described herein, the following sequential steps will be followed:

30 1. CONTRACTOR shall routinely utilize all informal communication processes and methods
31 with ADMINISTRATOR including, but not limited to, telephone, email, and fax communication,
32 written correspondence and meetings, to resolve any issues or problems regarding the implementation
33 and operation of the Agreement or COUNTY's P&P regarding services described herein.

34 2. CONTRACTOR agrees that if the parties are unable to resolve the issue, CONTRACTOR
35 shall give written notice to ADMINISTRATOR setting forth, in specific terms, the existence and nature
36 of any unresolved matter or concern related to the purposes and obligations of the Agreement.
37 ADMINISTRATOR shall be given fifteen (15) calendar days following such notice to obtain resolution

1 of any issue(s) identified in this manner. CONTRACTOR agrees that by mutual consent this period of
2 time may be extended to thirty (30) calendar days.

3 3. CONTRACTOR agrees that if the parties are still unable to obtain resolution of the issue,
4 they shall submit a joint written Statement describing the facts of the issue, within thirty (30) calendar
5 days after the written notice described above to COUNTY's Director of Behavioral Health, or designee,
6 for final resolution.

7 B. The rights and remedies provided by this Paragraph are in addition to those provided by law to
8 either party.

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

11 **IX. PATIENTS' RIGHTS**

12 A. CONTRACTOR shall post the current DHCS Patients' Rights poster as well as the local MHP
13 Complaint and Grievance posters in all threshold languages in locations readily available to Clients and
14 staff and have complaint forms and complaint envelopes readily accessible to Clients.

15 B. In addition to those processes provided by COUNTY and the resident County, CONTRACTOR
16 shall have complaint resolution and grievance processes approved by COUNTY, to which the Client
17 shall have access.

18 1. CONTRACTOR's complaint resolution processes shall emphasize informal, easily
19 understood steps designed to resolve disputes as quickly and simply as possible in all threshold
20 languages.

21 2. CONTRACTOR's complaint resolution and grievance processes shall incorporate
22 COUNTY's and the resident County's grievance, patients' rights, and utilization management guidelines
23 and procedures.

24 C. Complaint Resolution and Grievance Process - COUNTY shall support complaint and grievance
25 procedures in concert with the resident County that shall include the components outlined below. The
26 resident County will handle such complaints that may include allegations of denial of rights,
27 dissatisfaction with services or with the quality of care, or dissatisfaction with the condition of the
28 physical plant. COUNTY will handle such complaints regarding access to care or regarding COUNTY's
29 Public Administrator/Public Guardian Office services.

30 1. Complaint Resolution. This process will specifically address and attempt to resolve Client
31 complaints and concerns at CONTRACTOR's facility.

32 2. Formal Grievance. When the Client's complaint is not resolved at CONTRACTOR's
33 facility and the Client or Client representative requests it, the complaint becomes a formal grievance.
34 The request is made to the respective Resident County or ADMINISTRATOR and represents the first
35 step in the formal grievance process.

36 3 Title IX Rights Advocacy. This process may be initiated by a Client who registers a
37

1 statutory rights violation or a denial or abuse complaint with COUNTY Patients' Rights Office. The
 2 Patients' Rights office shall investigate the complaint, and Title IX grievance procedures shall apply,
 3 which involve COUNTY Behavioral Health Director and the State Patients' Rights Office.

4 D. CONTRACTOR agrees that Clients have recourse to initiate a complaint to CONTRACTOR,
 5 appeal to the respective resident County or COUNTY's Patients' Rights Office, to file a formal
 6 grievance, file a Title IX complaint. The Patients' Advocate shall advise and assist the Client,
 7 investigate the cause of the complaint or grievance, and attempt to resolve the matter.

8 E. CONTRACTOR agrees that no provision of the Agreement shall be construed to replace or
 9 conflict with the duties of COUNTY Patients' Rights Office pursuant to WIC Section 5500.

10 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 11 Patients' Rights Paragraph of this Exhibit A to the Agreement.

12 X. PAYMENTS

13 ~~A. COUNTY REIMBURSED IMD RATES~~

14 ~~1. COUNTY shall pay CONTRACTOR monthly, in arrears, at the prevailing SNF/STP daily~~
 15 ~~rate, as determined by the California DHCS; however, the total of all such payments to CONTRACTOR~~
 16 ~~and all other providers of mental health SNF/STP services shall not exceed COUNTY's Aggregate~~
 17 ~~Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement.~~

18 ~~a. COUNTY may adjust the SNF/STP daily rate of reimbursement as directed by the~~
 19 ~~DHCS.~~

20 ~~b. COUNTY will reimburse CONTRACTOR only for services provided to Clients who~~
 21 ~~are certified by COUNTY as eligible to receive services and for whom there is a current COUNTY~~
 22 ~~treatment assessment/certification in place.~~

23 ~~2. COUNTY shall collect SSI/SSP revenue. CONTRACTOR shall collect additional income~~
 24 ~~sources and all other revenues due the Client, conservator/guardian, or legally responsible person to~~
 25 ~~determine a Client share of cost. CONTRACTOR shall ensure that the Client share of cost is clearly~~
 26 ~~stated on CONTRACTOR's invoice. CONTRACTOR shall deduct the Client's share of costs from the~~
 27 ~~amount owed to CONTRACTOR by the COUNTY.~~

28 ~~a. ADMINISTRATOR shall review and approve Client's revenue and share of cost.~~
 29 ~~ADMINISTRATOR may adjust CONTRACTOR's monthly invoice if the appropriate revenue is not~~
 30 ~~stated and/or the share of cost has not been appropriately deducted from the amount due from COUNTY.~~

31 ~~b. ADMINISTRATOR may authorize CONTRACTOR to use a portion of the revenue for~~
 32 ~~non-covered costs such as personal and/or incidental costs for the Client's care or personal needs.~~
 33 ~~ADMINISTRATOR shall monitor such costs and may adjust the invoice to ensure that the appropriate~~
 34 ~~costs are deducted from the amount due from COUNTY.~~

35 ~~B. CONTRACTORS that provide Specialized Services in addition to SNF or SNF/STP Services,~~
 36 ~~shall be reimbursed the prevailing SNF/STP daily rate and the following per diem rate for each~~
 37

1 Supplemental Service:

2 ~~a. Hearing Impaired/Psychiatric Services, N/A~~

3 ~~b. Specialized Nursing Care Services, N/A~~

4 ~~c. Subacute Services, N/A~~

5 ~~d. Subacute Medical Services, N/A~~

6 ~~e. Augmented Treatment Services, N/A~~

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

12 ~~C. MEDICAL REIMBURSED SNF/STP RATES CONTRACTORs reimbursed by Medi-Cal for~~
 13 ~~SNF/STP Services provided in accordance with the Services Paragraph of this Exhibit A to the~~
 14 ~~Agreement, shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR~~
 15 ~~for SNF/STP Services paid directly to CONTRACTOR from the State.~~

16 ~~D. MEDICAL REIMBURSED SNF RATES CONTRACTORs reimbursed by Medi-Cal for~~
 17 ~~SNF Services provided in accordance with the Services Paragraph of this Exhibit A to the Agreement,~~
 18 ~~shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR for SNF~~
 19 ~~Services paid directly to CONTRACTOR from the State.~~

20 ~~E. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply~~
 21 ~~with any provision of the 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 ~~A. COUNTY REIMBURSED IMD RATES~~

26 ~~1. COUNTY shall pay CONTRACTOR monthly, in arrears, at the prevailing SNF/STP daily~~
 27 ~~rate, as determined by the California DHCS; however, the total of all such payments to~~
 28 ~~CONTRACTOR and all other providers of mental health SNF/STP services shall not exceed~~
 29 ~~COUNTY's Aggregate Amount Not To Exceed as specified in the Referenced Contract~~
 30 ~~Provisions of the Contract.~~

31 ~~a. COUNTY may adjust the SNF/STP daily rate of reimbursement as directed by the DHCS.~~

32 ~~b. COUNTY will reimburse CONTRACTOR only for services provided to Clients who are~~
 33 ~~certified by COUNTY as eligible to receive services and for whom there is a current~~
 34 ~~COUNTY treatment assessment/certification in place.~~

35 ~~2. COUNTY shall collect SSI/SSP revenue. CONTRACTOR shall collect additional income~~
 36 ~~sources and all other revenues due the Client, conservator/guardian, or legally responsible~~
 37 ~~person to determine a Client share of cost. CONTRACTOR shall ensure that the Client share~~

~~of cost is clearly stated on CONTRACTOR's invoice. CONTRACTOR shall deduct the Client's share of costs from the amount owed to CONTRACTOR by the COUNTY.~~

~~a. ADMINISTRATOR shall review and approve Client's revenue and share of cost. ADMINISTRATOR may adjust CONTRACTOR's monthly invoice if the appropriate revenue is not stated and/or the share of cost has not been appropriately deducted from the amount due from COUNTY.~~

~~b. ADMINISTRATOR may authorize CONTRACTOR to use a portion of the revenue for non-covered costs such as personal and/or incidental costs for the Client's care or personal needs. ADMINISTRATOR shall monitor such costs and may adjust the invoice to ensure that the appropriate costs are deducted from the amount due from COUNTY.~~

~~3. CONTRACTOR's invoices shall be on a form approved or supplied by COUNTY and provide such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th) day of the month. Invoices received after the due date may not be paid within the same month. Payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed invoice.~~

~~B. CONTRACTORs that provide Specialized Services in addition to SNF or SNF/STP Services, shall be reimbursed the prevailing SNF/STP daily rate and the following per diem rate for each Supplemental Service:~~

	Period	Period	Period	Period	Period
	One	Two	Three	Four	Five
Hearing	N/A	N/A	N/A	N/A	N/A
Impaired/Psychiatric Services					
Specialized Nursing Care Services	N/A	N/A	N/A	N/A	N/A
Subacute Services	N/A	N/A	N/A	N/A	N/A
Subacute Medical Services	N/A	N/A	N/A	N/A	N/A
Augmented Treatment Services	N/A	N/A	N/A	N/A	N/A

~~C. MEDICAL REIMBURSED SNF/STP RATES—CONTRACTORs reimbursed by Medi-Cal for SNF/STP Services provided in accordance with the Services Paragraph of this Exhibit A to the Contract, shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR for SNF/STP Services paid directly to CONTRACTOR from the State.~~

~~D. MEDICAL REIMBURSED SNF RATES—CONTRACTORs reimbursed by Medi-Cal for SNF Services provided in accordance with the Services Paragraph of this Exhibit A to the Contract,~~

~~shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR for SNF Services paid directly to CONTRACTOR from the State.~~

~~E. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply with any provision of the Contract.~~

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

A. COUNTY REIMBURSED IMD RATES

1. COUNTY shall pay CONTRACTOR monthly, in arrears, at the prevailing SNF/STP daily rate, as determined by the California DHCS; however, the total of all such payments to CONTRACTOR and all other providers of mental health SNF/STP services shall not exceed COUNTY's Aggregate Amount Not To Exceed as specified in the Referenced Contract Provisions of the Contract.

a. COUNTY may adjust the SNF/STP daily rate of reimbursement as directed by the DHCS.

b. COUNTY will reimburse CONTRACTOR only for services provided to Clients who are certified by COUNTY as eligible to receive services and for whom there is a current COUNTY treatment assessment/certification in place.

2. COUNTY shall collect SSI/SSP revenue. CONTRACTOR shall collect additional income sources and all other revenues due the Client, conservator/guardian, or legally responsible person to determine a Client share of cost. CONTRACTOR shall ensure that the Client share of cost is clearly stated on CONTRACTOR's invoice. CONTRACTOR shall deduct the Client's share of costs from the amount owed to CONTRACTOR by COUNTY.

a. ADMINISTRATOR shall review and approve Client's revenue and share of cost. ADMINISTRATOR may adjust CONTRACTOR's monthly invoice if the appropriate revenue is not stated and/or the share of cost has not been appropriately deducted from the amount due from COUNTY.

b. ADMINISTRATOR may authorize CONTRACTOR to use a portion of the revenue for non-covered costs such as personal and/or incidental costs for the Client's care or personal needs. ADMINISTRATOR shall monitor such costs and may adjust the invoice to ensure that the appropriate costs are deducted from the amount due from COUNTY.

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

B. CONTRACTORS that provide Specialized Services in addition to SNF or SNF/STP Services, shall be reimbursed the prevailing SNF/STP daily rate and the following per diem rate for each

Supplemental Service:

	<u>Period</u>	<u>Period</u>	<u>Period</u>	<u>Period</u>	<u>Period</u>	<u>Period</u>
	<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
<u>1. Hearing</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Impaired/</u>						
<u>Psychiatric</u>						
<u>Services</u>						
<u>2. Specialized</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Nursing Care</u>						
<u>Services</u>						
<u>3. Subacute</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Services</u>						
<u>4. Subacute-</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Medical</u>						
<u>Services</u>						
<u>5. Augmented</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Treatment</u>						
<u>Services</u>						

C. MEDI-CAL REIMBURSED SNF/STP RATES – CONTRACTORs reimbursed by Medi-Cal for SNF/STP Services provided in accordance with the Services Paragraph of this Exhibit A to the Contract, shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR for SNF/STP Services paid directly to CONTRACTOR from the State.

D. MEDI-CAL REIMBURSED SNF RATES – CONTRACTORs reimbursed by Medi-Cal for SNF Services provided in accordance with the Services Paragraph of this Exhibit A to the Contract, shall invoice the State directly for those services. COUNTY shall not pay CONTRACTOR for SNF Services paid directly to CONTRACTOR from the State.

E. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply with any provision of the Contract.

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

XI. REPORTS

- A. CONTRACTOR shall maintain records and make statistical reports as required by ADMINISTRATOR on forms provided by COUNTY.
- B. CONTRACTOR shall report all special incidents to ADMINISTRATOR and shall submit a

1 written special incident report referred to as a “Notable Incident Form” in accordance with the
 2 Notices Paragraph of the Agreement. Special incidents shall include, but are not limited to, a
 3 Client's suicide or attempted suicide, elopement or absence without leave, serious injury or illness,
 4 death, criminal behavior including arrests with or without conviction, positive test results for
 5 substance use from urine screenings, serious destruction of property or any other incidents which
 6 may expose COUNTY or CONTRACTOR to liability.

7 1. CONTRACTOR shall notify COUNTY within twenty-four (24) hours of any such serious
 8 adverse incident

9 C. CONTRACTOR shall provide COUNTY copies of all DHCS surveys, including any plans of
 10 correction.

11 D. STAFFING – CONTRACTOR shall submit to ADMINISTRATOR, on a quarterly basis, a list
 12 of persons who provide services under the Agreement and their job descriptions. The staff list
 13 shall state the employee’s name, job title, profession degree, NPI number, and license number, if
 14 applicable.

15 E. PROGRAMMATIC – CONTRACTOR shall submit monthly programmatic reports to
 16 ADMINISTRATOR which shall be received no later than fourteen (14) calendar days following
 17 the end of the month being reported. These reports shall be on a form acceptable to, or provided
 18 by, ADMINISTRATOR and shall evaluate each Client’s participation and functioning in
 19 CONTRACTOR’s psycho-social rehabilitation program, and readiness for discharge.

20 F. CONTRACTOR shall provide census data monthly or more frequently as requested by
 21 ADMINISTRATOR.

22 G. CONTRACTOR shall notify ADMINISTRATOR by telephone whenever a Client is sent out for
 23 acute psychiatric or general medical hospital care. CONTRACTOR will notify
 24 ADMINISTRATOR in writing whether the Client will be accepted back as soon as the Client is
 25 stabilized and ready for return.

26 H. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of all
 27 P&P’s. CONTRACTOR shall provide signature confirmation of the P&P training for each staff
 28 member and place it in their personnel files.

29 I. CONTRACTOR shall obtain a NPI.

30 1. All HIPAA covered healthcare providers, individuals and organizations must obtain a NPI
 31 for use to identify themselves in HIPAA standard transactions. The NPI is assigned for life.

32 2. CONTRACTOR shall ensure that each employee who is required to obtain a NPI to provide
 33 services under the Agreement, will obtain a NPI upon commencement of the Agreement or
 34 prior to providing services under the Agreement. CONTRACTOR shall report to
 35 ADMINISTRATOR, on a form approved or supplied by ADMINISTRATOR, all NPIs as
 36 soon as they are available.

37 J. CONTRACTOR, as the MHP, shall provide the NPP to Client, conservator/guardian, or legally

1 responsible person at the time of the first service provided under the Agreement to individuals who
 2 are covered by Medi-Cal and have not previously received services at a COUNTY operated clinic.
 3 COUNTY shall also provide, upon request from Client, conservator/guardian, or legally
 4 responsible person the NPP for COUNTY, as the MHP, to any individual who received services
 5 under the Agreement.

- 6 K. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 7 Reports Paragraph of this Exhibit A to the Agreement.

11 XII. SERVICES

12 ~~CONTRACTOR agrees to provide the following Psychiatric Skilled Nursing Facility services, hereunder~~
 13 ~~marked with an X, pursuant to the terms and conditions specified in the Agreement for the provision of~~
 14 ~~such services by and between COUNTY and CONTRACTOR dated July 1, 2022 as hereinafter~~
 15 ~~indicated. CONTRACTOR and COUNTY may mutually agree, in writing, to add or delete services to~~
 16 ~~be provided by CONTRACTOR.~~

	<u>PERIOD</u>	<u>PERIOD</u>	<u>PERIOD</u>	<u>PERIOD</u>	<u>PERIOD</u>
	<u>ONE</u>	<u>TWO</u>	<u>THREE</u>	<u>FOUR</u>	<u>FIVE</u>
18 Skilled Nursing Facility	N/A	N/A	N/A	N/A	N/A
19 Services					
20 Skilled Nursing Facility					
21 Services with Special	X	X	X	X	X
22 Treatment Program					
23 (SNF/STP) Services					
24 Hearing					
25 Impaired/Psychiatric	X	X	X	X	X
26 Services					
27 Specialized Nursing Care					
28 Services	X	X	X	X	X
29 Subacute Services	X	X	X	X	X
30 Subacute Medical Services	X	X	X	X	X
31 Augmented Treatment	X	X	X	X	X
32 Services					

36 CONTRACTOR agrees to provide the following Psychiatric Skilled Nursing Facility services,
 37

hereunder marked with an X, pursuant to the terms and conditions specified in the Contract for the provision of such services by and between COUNTY and CONTRACTOR as hereinafter indicated. CONTRACTOR and COUNTY may mutually agree, in writing, to add or delete services to be provided by CONTRACTOR.

	<u>PERIOD</u> <u>ONE</u>	<u>PERIOD</u> <u>TWO</u>	<u>PERIOD</u> <u>THREE</u>	<u>PERIOD</u> <u>FOUR</u>	<u>PERIOD</u> <u>FIVE</u>
Skilled Nursing Facility Services	N/A	N/A	N/A	N/A	N/A
Skilled Nursing Facility Services with Special Treatment Program (SNF/STP) Services	X: \$197.00	X: \$203.69	X: \$210.62	X: \$223.26	X: \$225.00
Hearing Impaired/Psychiatric Services	N/A	N/A	N/A	N/A	N/A
Specialized Nursing Care Services	N/A	N/A	N/A	N/A	N/A
Subacute Services	N/A	N/A	N/A	N/A	N/A
Subacute Medical Services	N/A	N/A	N/A	N/A	N/A
Augmented Treatment Services	N/A	N/A	N/A	N/A	N/A”

CONTRACTOR agrees to provide the following Psychiatric Skilled Nursing Facility services, hereunder marked with a “X” in the table below, pursuant to the terms and conditions specified in the Contract for the provision of such services by and between COUNTY and CONTRACTOR as hereinafter indicated. CONTRACTOR and COUNTY may mutually agree, in writing, to add or delete services to be provided by CONTRACTOR.

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

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>	<u>PERIOD FOUR</u>	<u>PERIOD FIVE</u>	<u>PERIOD SIX</u>
Skilled Nursing Facility Services	<u>N/A</u>	<u>X: \$203.69</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Skilled Nursing Facility Services with Special Treatment Program (SNF/STP) Services	<u>X: \$197.00</u>	<u>X: \$203.69</u>	<u>X: \$210.62</u>	<u>X: \$223.26</u>	<u>X: \$225.00</u>	<u>X: \$225.00</u>
Hearing Impaired/Psychiatric Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Specialized Nursing Care Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Subacute Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Subacute Medical Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Augmented Treatment Services	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

XIII. TYPE OF PAYMENTS

CONTRACTOR agrees to the compensation marked with an "X" below.

	PERIOD ONE	PERIOD TWO	PERIOD THREE	PERIOD FOUR	PERIOD FIVE
COUNTY Reimbursed IMD Rates	N/A	N/A	N/A	N/A	N/A
Medi-Cal Reimbursed SNF/STP Rates	N/A	N/A	N/A	N/A	N/A
Medi-Cal Reimbursed SNF Rates	N/A	N/A	N/A	N/A	N/A
<u>Specialized Services Rates</u>					
Hearing Impaired/Psychiatric Services	X	X	X	X	X
Specialized Nursing Care Services	X	X	X	X	X
Subacute Services	X	X	X	X	X
Subacute Medical Services	X	X	X	X	X
Augmented Treatment Services	X	X	X	X	X

CONTRACTOR agrees to the compensation marked with an "X" below.

	PERIOD ONE	PERIOD TWO	PERIOD THREE	PERIOD FOUR	PERIOD FIVE
COUNTY Reimbursed IMD Rates	X: \$197.00	X: \$203.69	X: \$210.62	X: \$223.26	X: \$225.00
Medi-Cal Reimbursed SNF/STP Rates	N/A	N/A	N/A	N/A	N/A
Medi-Cal Reimbursed SNF Rates	N/A	N/A	N/A	N/A	N/A
Specialized Services Rates	N/A	N/A	N/A	N/A	N/A

Hearing Impaired/Psychiatric Services					
Specialized Nursing Care Services	N/A	N/A	N/A	N/A	N/A
Subacute Services	N/A	N/A	N/A	N/A	N/A
Subacute Medical Services	N/A	N/A	N/A	N/A	N/A
Augmented Treatment Services	N/A	N/A	N/A	N/A	N/A

	PERIOD ONE	PERIOD TWO	PERIOD THREE	PERIOD FOUR	PERIOD FIVE	PERIOD SIX
COUNTY Reimbursed IMD Rates	X: \$197.00	X: \$203.69	X: \$203.69	X: \$203.69	X: \$225.00	X: \$225.00
Medi-Cal Reimbursed SNF/STP Rates	N/A	N/A	N/A	N/A	N/A	N/A
Medi-Cal Reimbursed SNF Rates	N/A	N/A	N/A	N/A	N/A	N/A
Specialized Services Rates Hearing Impaired/Psychiatric Services	N/A	N/A	N/A	N/A	N/A	N/A
Specialized Nursing Care Services	N/A	N/A	N/A	N/A	N/A	N/A
Subacute Services	N/A	N/A	N/A	N/A	N/A	N/A
Subacute Medical Services	N/A	N/A	N/A	N/A	N/A	N/A
Augmented Treatment Services	N/A	N/A	N/A	N/A	N/A	N/A

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

1 EXHIBIT B
 2 TO ~~Agreement~~ Contract FOR PROVISION OF
 3 ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES
 4 BETWEEN
 5 COUNTY OF ORANGE
 6 AND
 7 KF COMMUNITY CARE, LLC
 8 ~~JULY 1, 2019 THROUGH JUNE 30, 2022 JUNE 30, 2024~~ December 31, 2024

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~~ Contract or in Subparagraph B. below, shall have
 14 the same meaning given to such terms under HIPAA, the HITECH Act, and their implementing
 15 regulations at
 16 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

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

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

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

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

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

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

3 B. DEFINITIONS

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

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

9 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

1 7. “Individual” shall have the meaning given to such term under the HIPAA Privacy Rule in
2 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
3 with 45 CFR § 164.502(g).

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

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

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

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

13 12. “Secretary” shall mean the Secretary of the Department of HHS or his or her designee.

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

19 14. “The HIPAA Security Rule” shall mean the Security Standards for the Protection of ePHI at
20 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

21 15. “SubCONTRACTOR” shall have the meaning given to such term under the HIPAA
22 regulations in 45 CFR § 160.103.

23 16. “Technical safeguards” means the technology and the P&Ps for its use that protect ePHI
24 and control access to it.

25 17. “Unsecured PHI” or “PHI that is unsecured” means PHI that is not rendered unusable,
26 unreadable, or indecipherable to unauthorized individuals through the use of a technology or
27 methodology specified by the Secretary of HHS in the guidance issued on the
28 HHS Web site.

29 18. “Use” shall have the meaning given to such term under the HIPAA regulations in
30 45 CFR § 160.103.

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

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

35 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
36 Associate Contract and the **Agreement** Contract, to prevent use or disclosure of PHI COUNTY discloses
37 to

1 //

2 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
3 other than as provided for by this Business Associate Contract.

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

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

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

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

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

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

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

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

36 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
37 a time and manner to be determined by COUNTY, that information collected in accordance with the

1 //

2 **Agreement** Contract, in order to permit COUNTY to respond to a request by an Individual for an
3 accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

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

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

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

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

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

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

1 //

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

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

8 D. SECURITY RULE

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

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

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

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

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

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

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

36 5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it
37 becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with

1 Subparagraph E. below and as required by 45 CFR § 164.410.

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

5 E. DATA SECURITY REQUIREMENTS

6 1. Personal Controls

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

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

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

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

32 2. Technical Security Controls

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

1 //

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

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

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

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

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

28 g. User IDs and Password Controls. All users must be issued a unique user name for
29 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
30 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password
31 changed upon the transfer or termination of an employee with knowledge of the password, at maximum
32 within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight
33 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the
34 computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days.
35 Passwords must be changed if revealed or compromised. Passwords must be composed of characters
36 from at least three (3) of the following four (4) groups from the standard keyboard:

37 1) Upper case letters (A-Z)

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

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

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

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

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

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

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

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

1 //

2 3. Audit Controls

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

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

12 c. Change Control. 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 documented change control procedure that ensures separation of duties and protects the
 15 confidentiality, integrity and availability of data.

16 4. Business Continuity/Disaster Recovery Control

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

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

29 5. Paper Document Controls

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

36 b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to
 37 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is

1 contained shall be escorted and such PHI shall be kept out of sight while visitors are in the area.

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

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

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

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

20 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

36 b. Any other information that COUNTY is required to include in the notification to
37 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or

1 //

2 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day
3 period set forth in 45 CFR § 164.410 (b) has elapsed, including:

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

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

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

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

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

15 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
16 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
17 COUNTY.

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

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

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

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

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

1 remediation, documentation or other costs associated with addressing the Breach.

2 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

12 1) The Disclosure is required by law; or

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

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

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

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

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

27 H. PROHIBITED USES AND DISCLOSURES

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

33 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
34 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
35 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
36 42 USC § 17935(d)(2).

37 //

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 //

I. OBLIGATIONS OF COUNTY

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

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

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

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

J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

b. CONTRACTOR shall retain no copies of the PHI.

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

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

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 C
 TO ~~Agreement~~ Contract FOR PROVISION OF
 ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 KF COMMUNITY CARE, LLC
~~JULY 1, 2019 THROUGH JUNE 30, 2022 JUNE 30, 2024~~ December 31, 2024

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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**
5 Contract; or interference with system operations in an information system that processes, maintains or
6 stores PI.

7 B. TERMS OF **Agreement** CONTRACT

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

12 2. Responsibilities of CONTRACTOR

13 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

35 //

36 //

37 //

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