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**AGREEMENT FOR
AMENDMENT NO. 1
TO
CONTRACT NO. MA-042-20010215
FOR
PROVISION OF
ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES**

BETWEEN

COUNTY OF ORANGE

AND

«UC_NAME»

«UC_DBA»

JULY 1, 2017 THROUGH JUNE 30, 2019

~~THIS AGREEMENT entered into this 1st day of July 2017 (effective date), which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and «UC_NAME» «UC_DBA», a «CORP_STAT» (CONTRACTOR). This Agreement shall be administered by the County of Orange Health Care Agency (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~~

~~This Amendment (“Amendment No. 1”) to Contract No. MA-042-20010215 for Adult Mental Health Psychiatric Skilled Nursing Facility Services is made and entered into on May 24, 2022 (“Effective Date”) between <<CONTRACTOR>> (“Contractor”), with a place of business at <<CONTRACTOR ADDRESS>>, and the County of Orange, a political subdivision of the State of California (“County”), through its Health Care Agency, with a place of business at 405 W. 5th Street, Santa Ana, CA 92701. Contractor and County may sometimes be referred to individually as “Party” or collectively as “Parties”.~~

RECITALS

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 amount not to exceed \$ 37,006,713 (“Contract”); and

1 **WHEREAS, ~~CONTRACTOR is agreeable to the Parties now desire to enter into this Amendment~~**
2 **~~No. 1 to extend the rendering of such services on the Contract for two years and to amend Exhibit A.~~**

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 **1. The Contract is extended for a period of two (2) years, effective July 1, 2022, through June 30,**
7 **2024, in an amount not to exceed \$29,524,384 for this extension period, for a new total amount**
8 **not to exceed \$66,531,097; on the amended terms and conditions hereinafter set forth.;**

9 ~~— NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:~~

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23	XIX. 2. _____ Notification <u>provision</u>, of Public Events the Contract are deleted in their entirety and Meetings _____ 26 replaced with the following:	
24	XX. Records Management and Maintenance	27
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EXHIBIT D **PAGE**

18 I. Personal Information Privacy and Security Contract 1

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«LC_NAME» «LC_DBA»

REFERENCED CONTRACT PROVISIONS

~~Term: July 1, 2017 through June 30, 2019~~ through June 30, 2024

~~Period One means the period from July 1, 2017~~ 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, 2018~~ 2022

~~Period ~~Two~~ Four means the period from ~~July 1, 2018~~ July 1, 2022 through June 30, 2019~~ 2023

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

Aggregate Maximum Obligation:

Period One Aggregate Maximum Obligation: _____ \$
11,133,043 913,726

Period Two Aggregate Maximum Obligation: _____ 11,522,699
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: ~~\$22,655,742~~ \$ 66,531,097

Basis for Reimbursement: ~~Fee for Service~~

Payment Method: ~~Monthly in Arrears~~

Notices to COUNTY and CONTRACTOR:

COUNTY: _____ County Exhibit A of Orange

_____ Health Care Agency

_____ the Contract Services

_____ 405 West 5th Street, Suite 600

_____ Santa Ana, CA 92701-4637

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CONTRACTOR: «CONTACT»
«LC_NAME»
«LC_DBA»
«ADDRESS»
«CITY_STATE_ZIP»
«CONTACT_EMAIL»

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«LC_NAME» «LC_DBA»

1 **I. Acronyms**

2 **3.** ~~The is deleted in its entirety and replaced with the following~~ standard definitions are
 for reference purposes only and may or may not apply in their entirety throughout this Agreement:

3 ~~A. AES Advanced Encryption Standard~~

4 ~~B. ARRA American Recovery and Reinvestment Act of 2009~~

5 ~~C. BCP Business Continuity Plan~~

6 ~~D. CCC California Civil Code~~

7 ~~E. CCR California Code of Regulations~~

8 ~~F. CD/DVD Compact Disc/Digital Video or Versatile Disc~~

9 ~~G. CEO County Executive Office~~

10 ~~H. CFR Code of Federal Regulations~~

11 ~~I. CHHS California Health and Human Services Agency~~

12 ~~J. CHPP COUNTY HIPAA Policies and Procedures~~

13 ~~K. CIPA California Information Practices Act~~

14 ~~L. CMPPA Computer Matching and Privacy Protection Act~~

15 ~~M. COI Certificate of Insurance~~

16 ~~N. DHCS California Department of Health Care Services~~

17 ~~O. DoD US Department of Defense~~

18 ~~P. DRP Disaster Recovery Plan~~

19 ~~Q. DRS Designated Record Set~~

20 ~~R. Email Electronic Mail~~

21 ~~S. EHR Electronic Health Records~~

22 ~~T. ePHI Electronic Protected Health Information~~

23 ~~U. EPSDT Early and Periodic Screening, Diagnosis, and Treatment~~

24 ~~V. FIPS Federal Information Processing Standards~~

25 ~~W. GAAP Generally Accepted Accounting Principles~~

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«LC_NAME» «LC_DBA»

1	X.	HCA	County of Orange Health Care Agency
2	Y.	ID	Identification
3	Z.	IEA	Information Exchange Agreement
4	AA.	HHS	Health and Human Services
5	AB.	HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
6			Law 104-191
7	AC.	HITECH Act	Health Information Technology for Economic and Clinical Health
8			Act, Public Law 111-005
9	AD.	HSC	California Health and Safety Code
10	AE.	ISO	Insurance Services Office
11	AF.	MHP	Mental Health Plan
12	AG.	NIST	National Institute of Standards and Technology
13	AH.	OCR	Federal Office for Civil Rights
14	AI.	OMB	Federal Office of Management and Budget
15	AJ.	OPM	Federal Office of Personnel Management
16	AK.	PC	California Penal Code
17	AL.	PHI	Protected Health Information
18	AM.	PI	Personal Information
19	AN.	PII	Personally Identifiable Information
20	AO.	PRA	California Public Record Act
21	AP.	SIR	Self-Insured Retention
22	AQ.	TBS	Therapeutic Behavioral Services
23	AR.	UMDAP	Uniform Method of Determining Ability to Pay
24	AS.	USC	United States Code
25	AT.	W&IC	California Welfare and Institutions Code

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«LC_NAME» «LC_DBA»

1
2 ~~**II. ALTERATION OF TERMS**~~

3 ~~— A. This Agreement, together with Exhibits A, B, C, and D attached hereto and incorporated herein,~~
4 ~~fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject~~
5 ~~matter of this Agreement.~~

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

10 ~~**III. Assignment of Debts**~~

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

18 ~~**IV. COMPLIANCE**~~

19 ~~— A. COMPLIANCE PROGRAM ADMINISTRATOR has established a Compliance Program for~~
20 ~~the purpose of ensuring adherence to all rules and regulations related to federal and state health care~~
21 ~~programs.~~

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

25 ~~2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own~~
26 ~~Compliance Program, Code of Conduct and any Compliance related policies and procedures.~~
27 ~~CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall~~
28 ~~be verified by ADMINISTRATOR's Compliance Department to ensure they include all required elements~~
29 ~~by ADMINISTRATOR's Compliance Officer as described in in this Paragraph V (COMPLIANCE).~~

30 ~~These elements include:~~

- 31 ~~a. Designation of a Compliance Officer and/or compliance staff.~~
32 ~~b. Written standards, policies and/or procedures.~~

- 1 e. Compliance related training and/or education program and proof of completion.
 2 d. Communication methods for reporting concerns to the Compliance Officer.
 3 e. Methodology for conducting internal monitoring and auditing.
 4 f. Methodology for detecting and correcting offenses.
 5 g. Methodology/Procedure for enforcing disciplinary standards.

6 ~~3. If CONTRACTOR does not provide proof of its own Compliance program to
 7 ADMINISTRATOR, CONTRACTOR shall acknowledge to comply with ADMINISTRATOR's
 8 Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR
 9 within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that
 10 CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program and Code of Conduct.~~

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

23 ~~5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the
 24 CONTRACTOR's compliance program, code of conduct and any Compliance related policies and
 25 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals
 26 relative to this Agreement are made aware of CONTRACTOR's compliance program, code of conduct,
 27 related policies and procedures and contact information for the ADMINISTRATOR's Compliance
 28 Program.~~

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

1 ~~ADMINISTRATOR.~~

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

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

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

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

14 ~~3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.~~
 15 ~~CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this~~
 16 ~~Agreement.~~

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

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

25 ~~6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal~~

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

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

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

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

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

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

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

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

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

~~1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
 Individuals relative to this Agreement.~~

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

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

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

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

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

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

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

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

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

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

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

~~**V. Confidentiality**~~

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

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

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

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

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

~~VI. COST REPORT~~

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

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

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«LC_NAME» «LC_DBA»

~~1 a. CONTRACTOR may be assessed a late penalty of five hundred dollars (\$500) for each
2 business day after the above specified due date that the accurate and complete an individual and/or
3 consolidated Cost Report is not submitted. Imposition of the late penalty shall be at the sole discretion of
4 the ADMINISTRATOR. The late penalty shall be assessed separately on each outstanding an individual
5 and/or consolidated Cost Report due COUNTY by CONTRACTOR.~~

~~6 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
7 pursuant to any or all agreements between COUNTY and CONTRACTOR until such time that the
8 accurate and complete an individual and/or consolidated Cost Report is delivered to ADMINISTRATOR.~~

~~9 2. CONTRACTOR may request, in advance and in writing, an extension of the due date of an
10 individual and/or consolidated Cost Report setting forth good cause for justification of the request.
11 Approval of such requests shall be at the sole discretion of ADMINISTRATOR and shall not be
12 unreasonably denied.~~

~~13 3. In the event that CONTRACTOR does not submit an accurate and complete an individual
14 and/or consolidated Cost Report within one hundred and eighty (180) calendar days following the
15 termination of this Agreement, and CONTRACTOR has not entered into a subsequent or new agreement
16 for any other services with COUNTY, then all amounts paid to CONTRACTOR by COUNTY during the
17 term of the Agreement shall be immediately reimbursed to COUNTY.~~

~~18 B. The individual and/or consolidated Cost Report shall be the final financial and statistical report
19 submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to
20 CONTRACTOR. CONTRACTOR shall document that costs are reasonable and allowable and directly
21 or indirectly related to the services to be provided hereunder. The individual and/or consolidated Cost
22 Report shall be the final financial record for subsequent audits, if any.~~

~~23 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder, less
24 applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set forth in
25 the Referenced Contract Provisions of this Agreement. CONTRACTOR shall not claim expenditures to
26 COUNTY which are not reimbursable pursuant to applicable federal, state and COUNTY laws,
27 regulations and requirements. Any payment made by COUNTY to CONTRACTOR, which is
28 subsequently determined to have been for an unreimbursable expenditure or service, shall be repaid by
29 CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30) calendar
30 days of submission of the individual and/or consolidated Cost Report or COUNTY may elect to reduce
31 any amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.~~

~~32 D. Unless approved by ADMINISTRATOR, costs that exceed the Statewide Maximum Allowance
33 (SMA) rates per Medi Cal Unit of Services, as determined by the DHCS, shall be unreimbursable to
34 CONTRACTOR.~~

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~~E. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in the Budget Paragraph of Exhibit A to this Agreement, CONTRACTOR shall specify in the Cost Report the services rendered with such revenues.~~
~~F. All Cost Reports shall contain the following attestation, which may be typed directly on or attached to the Cost Report:~~

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

~~_____
Signed _____

Name _____

Title _____

Date _____"~~

VII. Delegation, Assignment and Subcontracts

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

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

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

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

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

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

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

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

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

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

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

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

~~VIII. Employee Eligibility Verification~~

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

8 ~~**IX. Facilities, Payments and Services**~~

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

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

18 ~~**X. Indemnification and Insurance**~~

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

1 a jury apportionment.

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

7 #

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

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

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

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

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

25 ~~— E. If CONTRACTOR fails to maintain insurance as required in this Paragraph XII~~

~~(INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate this Agreement.~~

~~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	\$1,000,000 per occurrence
	\$2,000,000 aggregate
Automobile Liability including coverage	\$1,000,000 per occurrence
for owned, non-owned and hired vehicles	
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 ~~_____ or per occurrence~~

2

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

4

5 ~~_____ **H. REQUIRED COVERAGE FORMS**~~

6 ~~_____ 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.~~

7 ~~_____ 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.~~

8 ~~_____ **I. REQUIRED ENDORSEMENTS**~~

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

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

11 ~~_____ 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.~~

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

13 ~~_____ 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.~~

14 ~~_____ 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.~~

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

16 ~~_____ 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.**~~

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

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

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

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

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

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

~~#~~

~~R. SUBMISSION OF INSURANCE DOCUMENTS~~

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

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

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

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

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

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

~~a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR~~

1 pursuant to any and all Agreements between COUNTY and CONTRACTOR until such time that the
 2 required COI and endorsements that meet the insurance provisions stipulated in this Agreement are
 3 submitted to ADMINISTRATOR.

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

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

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

13 ~~**XI. Inspections and Audits**~~

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

24 ~~#
 25 _____ B. CONTRACTOR shall actively participate and cooperate with any person specified in
 26 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this
 27 Agreement, and shall provide the above mentioned persons adequate office space to conduct such
 28 evaluation or monitoring.~~

29 ~~_____ C. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of services.~~

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

~~XII. LICENSES AND LAWS~~

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

~~B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS~~

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

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

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

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

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

~~2. Failure of CONTRACTOR to timely submit the data and/or certifications required by Subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and~~

~~failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of this Agreement.~~

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

~~C. CONTRACTOR shall comply with all applicable governmental laws, regulations, and~~

1 requirements as they exist now or may be hereafter amended or changed. These laws, regulations, and
 2 requirements shall include, but not be limited to, the following:

- 3 ~~1. ARRA of 2009.~~
- 4 ~~2. WIC, Division 5, Community Mental Health Services.~~
- 5 ~~3. WIC, Division 6, Admissions and Judicial Commitments.~~
- 6 ~~4. WIC, Division 7, Mental Institutions.~~
- 7 ~~5. HSC, §§1250 et seq., Health Facilities.~~
- 8 ~~6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.~~
- 9 ~~7. CCR, Title 9, Rehabilitative and Developmental Services.~~
- 10 ~~8. CCR, Title 17, Public Health.~~
- 11 ~~9. CCR, Title 22, Social Security.~~
- 12 ~~10. CFR, Title 42, Public Health.~~
- 13 ~~11. CFR, Title 45, Public Welfare.~~
- 14 ~~12. USC Title 42, Public Health and Welfare.~~
- 15 ~~13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.~~
- 16 ~~14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.~~
- 17 ~~15. 42 USC §1857, et seq., Clean Air Act.~~
- 18 ~~16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.~~
- 19 ~~17. 31 USC 7501.70, Federal Single Audit Act of 1984.~~
- 20 ~~18. Policies and procedures set forth in Mental Health Services Act.~~
- 21 ~~19. Policies and procedures set forth in DHCS Letters.~~
- 22 ~~20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.~~
- 23 ~~21. 31 USC 7501-7507, as well as its implementing regulations under 2 CFR Part 200, Uniform
 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.~~
- 24 ~~D. CONTRACTOR shall at all times be capable and authorized by the State of California to provide
 treatment and bill for services provided to Medi-Cal eligible clients while working under the terms of this
 25 Agreement.~~

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~~XIII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA~~

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

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

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

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

~~XIV. Maximum Obligation~~

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

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

~~XV. MINIMUM WAGE LAWS~~

~~— A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the federal or California Minimum Wage to all its employees that directly or indirectly provide services pursuant to~~

~~this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that all its contractors or other persons providing services pursuant to this Agreement on behalf of~~
~~#~~

~~CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum Wage.~~

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

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

~~XVI. NONDISCRIMINATION~~

~~A. EMPLOYMENT~~

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

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

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

~~4. CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices from ADMINISTRATOR and/or the United States Equal Employment Opportunity~~

1 Commission setting forth the provisions of the Equal Opportunity clause.

2 ~~5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR~~
 3 ~~and/or subcontractor shall state that all qualified applicants will receive consideration for employment~~
 4 ~~without regard to race, religious creed, color, national origin, ancestry, physical disability, mental~~
 5 ~~disability, medical condition, genetic information, marital status, sex, gender, gender~~
 6 ~~#~~
 7 ~~identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements~~
 8 ~~shall be deemed fulfilled by use of the term EOE.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~XVII. Notices~~

~~A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements~~

1 authorized or required by this Agreement shall be effective:

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

5 ~~2. When faxed, transmission confirmed;~~

6 ~~3. When sent by Email; or~~

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

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

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

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

19 ~~**XVIII. NOTIFICATION OF death**~~

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

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

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

30 ~~2. WRITTEN NOTIFICATION~~

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

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

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

~~**XIX. notification of public events and meetings**~~

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

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

~~**XX. RECORDS MANAGEMENT AND MAINTENANCE**~~

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

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

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

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

~~_____ E. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,~~

1 billings, and revenues available at one (1) location within the limits of the County of Orange.

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

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

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

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

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

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

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

17 #

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

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

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

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

30 ~~**XXI. Research And Publication**~~

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

~~XXII. revenue~~

~~A. CLIENT FEES~~ CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other third-party health plans, are provided pursuant to this Agreement, their estates and responsible relatives, according to their ability to pay as determined by the State Department of Health Care Services' "Uniform Method of Determining Ability to Pay" (UMDAP) procedure or by any other payment procedure as approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the California Code of Regulations. Such fee shall not exceed the actual cost of services provided. No client shall be denied services because of an inability to pay.

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

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

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

~~XXIII. Severability~~

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

~~XXIV. Special Provisions~~

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

~~1. Making cash payments to intended recipients of services through this Agreement.~~

~~2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).~~

~~3. Fundraising.~~

~~4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.~~

~~5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body for expenses or services.~~

~~6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR's staff.~~

~~7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at www.opm.gov.~~

~~8. Severance pay for separating employees.~~

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

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

~~1. Funding travel or training (excluding mileage or parking).~~

~~2. Making phone calls outside of the local area unless documented to be directly for the purpose of client care.~~

~~3. Payment for grant writing, consultants, certified public accounting, or legal services.~~

~~4. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Agreement.~~

~~XXV. Status of Contractor~~

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

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1 exclusively the responsibility for the acts of its employees, agents, consultants, or subcontractors as they
 2 relate to the services to be provided during the course and scope of their employment. CONTRACTOR,
 3 its agents, employees, consultants, or subcontractors, shall not be entitled to any rights or privileges of
 4 COUNTY's employees and shall not be considered in any manner to be COUNTY's employees.

5 ~~**XXVI. Term**~~

6 ~~— A. This specific Agreement with CONTRACTOR is only one of several agreements to which the~~
 7 ~~term of this Agreement applies. This specific Agreement shall commence as specified in the Reference~~
 8 ~~Contract Provisions of this Agreement or the execution date, whichever is later. This specific Agreement~~
 9 ~~shall terminate as specified in the Referenced Contract Provisions of this Agreement, unless otherwise~~
 10 ~~sooner terminated as provided in this Agreement; provided, however, CONTRACTOR shall be obligated~~
 11 ~~to perform such duties as would normally extend beyond this term, including but not limited to, obligations~~
 12 ~~with respect to confidentiality, indemnification, audits, reporting and accounting.~~

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

15 ~~**XXVII. Termination**~~

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

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

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

24 ~~1. The loss by CONTRACTOR of legal capacity.~~

25 ~~2. Cessation of services.~~

26 ~~3. The delegation or assignment of CONTRACTOR's services, operation or administration to~~
 27 ~~another entity without the prior written consent of COUNTY.~~

28 ~~4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty~~
 29 ~~required pursuant to this Agreement.~~

30 ~~5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this~~
 31 ~~Agreement.~~

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

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

~~D. CONTINGENT FUNDING~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~**XXVIII. Third Party Beneficiary**~~

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

~~**XXIX. Waiver of Default or Breach**~~

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

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

3 ~~«UC_NAME»~~

4 ~~«UC_DBA»~~

6 BY: _____ DATED: _____

8 TITLE: _____

11 BY: _____ DATED: _____

13 TITLE: _____

17 COUNTY OF ORANGE

20 BY: _____ DATED: _____

21 HEALTH CARE AGENCY

24 ~~APPROVED AS TO FORM~~

25 ~~OFFICE OF THE COUNTY COUNSEL~~

1 ~~ORANGE COUNTY, CALIFORNIA~~

2

3

4 BY: _____ DATED: _____

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~~DEPUTY~~

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

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EXHIBIT A
TO AGREEMENT FOR PROVISION OF
ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES
BETWEEN
COUNTY OF ORANGE
AND
«UC_NAME»
«UC_DBA»
JULY 1, 2017 THROUGH JUNE 30, 2019

I. IDENTIFICATION OF SERVICES

~~CONTRACTOR agrees to provide the following Psychiatric Skilled Nursing Facility services, hereunder marked with an X, pursuant to the terms and conditions specified in the Agreement and in accordance with Exhibit B to the Agreement for the provision of such services by and between COUNTY and CONTRACTOR dated July 1, 2017 as hereinafter indicated. CONTRACTOR and COUNTY may mutually agree, in writing, to add or delete services to be provided by CONTRACTOR.~~

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
Skilled Nursing Facility Services	«OP_REC 1»	«OP_REC 2»	«OP_REC 3»
Skilled Nursing Facility Services with Special Treatment Program (SNF/STP) Services	«SSI_OR 1»	«SSI_OR 2»	«SSI_OR 3»
<u>Specialized Services</u>			
Hearing Impaired/Psychiatric Services	«SSI_OR 1»	«SSI_OR 2»	«SSI_OR 3»

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Specialized Nursing Care Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»
Subacute Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»
Subacute Medical Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»
Augmented Treatment Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»

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II. 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>
COUNTY Reimbursed IMD Rates	«OP_REC 1»	«OP_REC 2»	«OP_REC 3»
Medi-Cal Reimbursed SNF/STP Rates	«OP_REC 1»	«OP_REC 2»	«OP_REC 3»
Medi-Cal Reimbursed SNF Rates	«OP_REC 1»	«OP_REC 2»	«OP_REC 3»
<u>Specialized Services Rates</u>			
Hearing Impaired/Psychiatric Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»

2 of 3 EXHIBIT A

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«LC_NAME» «LC_DBA»

1	Specialized Nursing Care Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»
2				
3	Subacute Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»
4				
5	Subacute Medical Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»
6				
7	Augmented Treatment Services	«SSI OR 1»	«SSI OR 2»	«SSI OR 3»
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3 of 3 EXHIBIT A

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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES
BETWEEN
COUNTY OF ORANGE
AND
«UC_NAME»
«UC_DBA»
JULY 1, 2017 THROUGH JUNE 30, 2019

COMMON TERMS AND DEFINITIONS

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

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

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

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

4. 4. Crisis Stabilization Unit (CSU) means a psychiatric crisis stabilization program that operates twenty-four (24) hours a day that serves Orange County residents aged thirteen (13) and older who are experiencing a psychiatric crisis and need immediate evaluation. Individuals receive a thorough psychiatric evaluation, crisis stabilization treatment, and referral to the appropriate level of continuing care. As a designated outpatient facility, the CSU may evaluate and treat individuals for no longer than twenty-three (23) hours and fifty-nine (59) minutes.

- 1 5. Diagnosis means the definition of the nature of the Client's disorder. When formulating the
2 diagnosis of Client, CONTRACTOR shall use the diagnostic codes as specified in the most
3 current edition of the DSM published by the American Psychiatric Association.
- 4 ~~6. —5.—~~ DSM means Diagnostic and Statistical Manual of Mental Disorders and refers to the
5 publication by the American Psychiatric Association that is used as a guide in the diagnosis
6 of mental disorders.
- 7 7. HIPAA means Health Insurance Portability and Accountability Act and refers to the federal
8 law that establishes standards for the privacy and security of health information, as well as
9 standards for electronic data interchange of health information. HIPAA has two main goals,
10 as its name implies: making health insurance more portable when persons change
11 employers, and making the health care system more accountable for costs-trying especially
12 to reduce waste and fraud.
- 13 ~~8. —6.—~~ LPSITP means Individualized Treatment Plan for each Client. All psychiatric,
14 psychological, and social services must be compatible with the ITP.
- 15 ~~9. Lanterman—Petris—Short~~ and refers to the (LPS) Act that went into effect July 1, 1972(Cal.
16 Welf & Inst. Code, sec. 5000 et seq.) provides guidelines for handling involuntary civil
17 commitment to a mental health institution in the State of California. The Act in effect
18 ended all hospital commitments by the judiciary system, except in the case of criminal
19 sentencing (e.g. convicted sexual offenders) and those who were "gravely disabled" defined
20 as unable
- 21 10. Licensed Clinical Social Worker (LCSW) means a licensed individual, pursuant to obtain
22 food, clothing, or shelter. It expanded the evaluative power of psychiatrists and created the
23 provisions and of Chapter 14 of the California Business and Professions Code, who can
24 provide clinical services to individuals they serve. The license must be current and in force,
25 and not suspended or revoked.
- 26 11. Licensed Marriage Family Therapist (MFT) means a licensed individual, pursuant to the
provisions of Chapter 13 and Chapter 14 of the California Business and Professions
Code, who can provide clinical services to individuals they serve. The license
must be current and in force, and not suspended or revoked.
- 27 12. Licensed Professional Clinical Counselor (LPCC) means a licensed individual, pursuant to
the provisions of Chapter 13 and Chapter 16 of the California Business and Professions
Code, who can provide clinical service to individuals they serve. The license must be
current and in force, and not suspended or revoked.
- 28 13. Licensed Psychiatric Technician (LPT) means a licensed individual, pursuant to the

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provisions of Chapter 10 of the California Business and Professions Code, who can provide clinical services to individuals they serve. The license must be current and in force, and not suspended or revoked.

14. Licensed Psychologist means an individual who meets the minimum professional and licensure requirements set forth in CCR, Title 9, Section 624; they are a licensed individual, pursuant to the provisions of Chapter 6.6 of the California Business and Professions Code, who can provide clinical services to individuals they serve. The license must be current and in force and not suspended or revoked.

15. Licensed Vocational Nurse (LVN) means a licensed individual, pursuant to the provisions of Chapter 6.5 of the California Business and Professions Code, who can provide clinical services to individuals they serve. The license must be current and in force, and not suspended or revoked.

16. Long Term Care (LTC) means the COUNTY department that reviews referrals for placement in COUNTY-contracted long term care facilities.

17. Medi-Cal means the State of California's implementation of the federal Medicaid healthcare program which pays for a variety of medical services for children and adults who meet eligibility criteria for involuntary detentions.

#

#

18. ~~7.~~ Medical Necessity means the requirements as defined in the MHP Medical Necessity for Medi-Cal reimbursed Specialty Mental Health Services that includes ~~Diagnosis, Impairment Criteria and Intervention Related Criteria.~~ diagnosis, impairment criteria and intervention related criteria. Meeting medical necessity for acute psychiatric inpatient hospital services includes having an included DSM/ICD diagnosis; the Client cannot be safely treated at a lower level of care; and the Client requires psychiatric inpatient hospital services, as a result of a mental disorder, due to symptoms or behaviors that represent a current danger to self or others, or significant property destruction; and/or prevent the client from providing for, or utilizing, food, clothing, shelter; and/or present a severe risk to the Client's physical health; and/or represent a recent, significant deterioration in ability to function.

~~8.~~

19. Mental Health Services means interventions designed to provide the maximum reduction of mental disability and restoration or maintenance of functioning consistent with the

requirements for learning, development and enhanced self-sufficiency. Services shall include:

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

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

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

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

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

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

22. ~~— 12.~~ NPP means Notice of Privacy Practices and refers to a document that notifies

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1 individuals of uses and disclosures of PHI that may be made by or on behalf of the health
2 plan or health care provider as set forth in the HIPAA.

3 ~~23. — 13. Peer Recovery Specialist/Counselor means an individual in a paid position who
4 has been through the same or similar Recovery process as those being assisted to attain
5 their Recovery goals. A Peer Recovery Specialist practice is informed by personal
6 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 individual.~~

13 ~~25. — 14. Psychiatrist means an individual who meets the minimum professional and licensure
14 requirements set forth in Title 9, CCR, Section 623.~~

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

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

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

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

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

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

28 ~~26. — 17. Psychiatric Inpatient Hospital Services means services, including ancillary services,
29 provided either in an acute care hospital or a free-standing psychiatric hospital for the care
30 and treatment of an acute episode of mental illness.~~

31 ~~27. Quality Improvement Committee (QIC) means a committee that meets quarterly to review
32 one percent (1%) of all "high-risk" Medi-Cal clients in order to monitor and evaluate the
33 quality and appropriateness of services provided. At a minimum, the committee is
34 comprised of one (1) ADMINISTRATOR, one (1) clinician, and one (1) physician who are
35 comprised of one (1) ADMINISTRATOR, one (1) clinician, and one (1) physician who are~~

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1 not involved in the clinical care of the cases.

2 28. Recovery means a “deeply personal, unique process of changing one’s attitudes, values,
 3 feelings, goals, skills and/or roles. It is a way of living a satisfying, hopeful and contributing
 4 life even with limitations caused by the illness. Recovery involves the development of new
 5 meaning and purpose in one’s life as one grows beyond the catastrophic effects of mental
 6 illness. Ultimately, because recovery is a personal and unique process, everyone with a
 7 psychiatric illness develops his or her own definition of recovery. However, certain concepts
 8 or factors are common to recovery.” (William Anthony, 1993).

9 29. Referral means providing the effective linkage of a Client to another service, ~~when indicated.~~

10 30. — ~~18.~~ Registered Nurse (RN) means a licensed individual, pursuant to the provisions of
 11 Chapter 6 of the California Business and Professions Code, who can provide clinical
 12 services to the individuals served. The license must be current and in force and not
 13 suspended or revoked.

14 31. Serious Persistent Mental Impairment (SPMI) means an adult with a behavioral health
 15 disorder that is severe in degree and persistent in duration, which may cause
 16 behavioral functioning which interferes substantially with the primary activities of daily
 17 living, and which may result in an inability to maintain stable adjustment and independent
 18 functioning without treatment, support, and rehabilitation for a long or indefinite period of
 19 time. W&I 5600.3.

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

25 33. — ~~19.~~ SSI/SSP means Social Security Income/Supplemental Security Payment and refers
 26 to revenue resources paid to an eligible Client, or the Client’s payee, by the federal Social
 27 Security Administration.

28 34. ~~B.~~ Supervisory Review means ongoing clinical case reviews in accordance with
 29 procedures developed by ADMINISTRATOR, to determine the appropriateness of
 30 Diagnosis and treatment and to monitor compliance to the minimum ADMINISTRATOR
 31 and Medi-Cal charting standards. Supervisory review is conducted by the program/clinic
 32 director or designee.

33 35. Wellness Action & Recovery Plan (WRAP) refers to a self-help technique for monitoring
 34 and responding to symptoms to achieve the highest possible levels of wellness, stability,
 35 and responding to symptoms to achieve the highest possible levels of wellness, stability,

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and quality of life.

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

III. ISSUE RESOLUTION

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

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

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

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

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

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

IIII. PATIENTS' RIGHTS

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

B. In addition to those processes provided by COUNTY and the resident County, CONTRACTOR

1 shall have complaint resolution and grievance processes approved by COUNTY, to which the
2 beneficiary Client shall have access.

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

6 2. CONTRACTOR's complaint resolution and grievance processes shall incorporate
7 COUNTY's and the resident County's grievance, patients' rights, and utilization management guidelines
8 and procedures.

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

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

17 #
18 2. Formal Grievance. When the Client's complaint is not resolved at CONTRACTOR's facility
19 and the Client or Client representative requests it, the complaint becomes a formal grievance. The
20 request is made to the respective Resident County or ADMINISTRATOR and represents the first step in
21 the formal grievance process.

22 3 Title IX Rights Advocacy. This process may be initiated by a Client who registers a statutory
23 rights violation or a denial or abuse complaint with COUNTY Patients' Rights Office. The Patients' Rights
24 office shall investigate the complaint, and Title IX grievance procedures shall apply, which involve
25 COUNTY Behavioral Health Director and the State Patients' Rights Office.

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

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

32 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Patients'
33 Rights Paragraph of this Exhibit BA to the Agreement.

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~~IV.~~ **IV. PAYMENTS**

~~A.~~ **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 Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement.

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 ~~the~~ 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 ~~the~~ 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 ~~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, ~~«HEAR_IMP_RATE»~~ N/A

b. Specialized Nursing Care Services, ~~«SPECIALIZED_NURSING_RATE»~~ N/A

c. Subacute Services, ~~«SUBACUTE_RATE»~~; N/A

d. Subacute-Medical Services, ~~«SUBACUTE_MED_RATE»~~; N/A

e. Augmented Treatment Services, ~~«AUG_TRTMT_RATE»~~; N/A

~~31.~~ **31.** 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

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1 of the correctly completed invoice.

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

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

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

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

14 ~~V~~. REPORTS

15 ~~A.~~ CONTRACTOR shall maintain records and make statistical reports as required by
16 ADMINISTRATOR on forms provided by COUNTY.

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

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

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

28 D. ~~C.~~ STAFFING – CONTRACTOR shall submit to ADMINISTRATOR, on a quarterly basis, a list of
29 persons who provide services under the Agreement and their job descriptions. The staff list shall
30 state the ~~employee~~ employee's name, job title, profession degree, NPI number, and license number,
31 if applicable.

32 E. ~~D.~~ PROGRAMMATIC – CONTRACTOR shall submit monthly programmatic reports to
33 ADMINISTRATOR which shall be received no later than fourteen (14) calendar days following the

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1 end of the month being reported. These reports shall be on a form acceptable to, or provided by,
 2 ADMINISTRATOR and shall evaluate each Client's participation and functioning in
 3 CONTRACTOR's psycho-social rehabilitation program, and readiness for discharge.

4 ~~F.~~ E. CONTRACTOR shall provide census data monthly or more frequently as requested by
 5 ADMINISTRATOR.

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

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

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

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

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

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

K. ~~H.~~ CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Reports
 Paragraph of this Exhibit BA to the Agreement.

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~~VI.~~ **SERVICES**

~~A. FACILITY REQUIREMENTS~~

~~1. CONTRACTOR shall maintain at least one facility as a licensed SNF which may be designated by the State as an IMD and, if providing STP Services, must be certified to CONTRACTOR agrees to provide STP Services, located at the following:~~

#

«FAC_NAME»
«FAC_ADDR»
«FAC_CSZ»

~~2. CONTRACTOR shall provide a facility that maintains a safe and secure treatment setting appropriate for the level of care needed by the Client.~~

~~3. CONTRACTOR's facility shall include the following:~~

- ~~a. Private or semi-private rooms for each Client;~~
- ~~b. Group room(s) with an appropriate capacity for group meetings, occupational and vocational therapy, activities, or visitors;~~
- ~~c. Office space for confidential medical examinations and Client interviews;~~
- ~~d. A supervised outside Client recreational area;~~
- ~~e. Office space for CONTRACTOR's nursing, psychiatric, and social Psychiatric Skilled Nursing Facility services staff; and~~
- ~~f. Dining area.~~

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1 ~~B. PERSONS TO BE SERVED~~

2 ~~1. CONTRACTOR shall serve seriously and persistently mentally ill adults, as defined by WIC~~
3 ~~Section 5903, who are COUNTY residents that are referred by COUNTY and authorized for services~~
4 ~~under the Agreement.~~

5 ~~2. CONTRACTOR shall admit Clients with a diagnosis that meets the diagnostic criteria~~
6 ~~identified in the current Diagnostic and Statistical Manual of Mental Disorders in need of twenty four (24)~~
7 ~~hour skilled nursing services and who are appropriate for SNF or SNF/STP levels of care. These Clients~~
8 ~~may include persons who have histories of, or are at risk for, the following symptoms:~~

9 ~~a. Displaying assaultive or combative behaviors elopement, risk of suicidality, management~~
10 ~~problems and excessive verbal abusiveness which preclude them from being admitted into a lower level~~
11 ~~of care and require intensive treatment in a secured setting, most of whom may be LPS conservatees.~~

12 ~~b. Being gravely disabled and potentially dangerous, and may be recently discharged or~~
13 ~~diverted from State Hospitals.~~

14 ~~c. Requiring twenty four (24) hour nursing or medical care due to medical conditions that~~
15 ~~include, but are not limited to, colostomies, open or healing wounds, ileostomies, indwelling or~~
16 ~~intermittent catheterization, tube feedings, and dialysis.~~

17 ~~3. CONTRACTOR shall accept all Clients referred by COUNTY when the number of COUNTY~~
18 ~~Clients receiving services, hereunder marked with an X, pursuant to the Agreement in CONTRACTOR's~~
19 ~~facility is less than the number of beds contracted, pursuant to Subparagraph VI.C. of this Exhibit B to the~~
20 ~~Agreement.~~

21 ~~a. CONTRACTOR may request to deny admission of a Client within three (3) days of~~
22 ~~COUNTY's notification of the proposed admission. Such request for denial shall be in writing and shall~~
23 ~~//~~

24 ~~specify the reason(s) for the request and the specific behaviors which must change in order for the Client~~
25 ~~to be admitted. Such requests are subject to approval by ADMINISTRATOR.~~

26 ~~b. If the number of COUNTY Clients receiving services pursuant to the Agreement in~~
27 ~~CONTRACTOR's facility exceeds the number of beds specified in Subparagraph VI.C. of this Exhibit B~~
28 ~~to the Agreement, CONTRACTOR may deny admission of a Client based upon availability of beds.~~

29 ~~c. CONTRACTOR agrees to the same terms and conditions specified in the Agreement for~~
30 ~~the provision of such services by and between COUNTY and CONTRACTOR dated July 1, 2022 as~~
31 ~~hereinafter indicated. CONTRACTOR and COUNTY may mutually agree, in writing, to add or delete~~
32 ~~services to 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>
<u>Skilled Nursing Facility Services</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Skilled Nursing Facility Services with Special Treatment Program (SNF/STP) Services</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Hearing Impaired/Psychiatric Services</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Specialized Nursing Care Services</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Subacute Services</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Subacute Medical Services</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Augmented Treatment Services</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

VII. TYPE OF PAYMENTS

~~for any number of Clients receiving services pursuant to the Agreement.~~

~~C. SERVICES PROVIDED~~

~~1. SNF SERVICES~~

~~a. CONTRACTOR shall provide a minimum of «MIN_BEDS» or «CLIENT_DAYS» days within a licensed SNF.~~

~~b. CONTRACTOR shall provide SNF Services that include medication management,~~

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1 ~~therapy groups, activities therapy, and other Recovery focused adjunctive therapies.~~

2 ~~_____ c. CONTRACTOR shall provide twenty four (24) hour nursing or medical care to Clients~~
 3 ~~due to medical conditions that include, but are not limited to, colostomies, open or healing wounds,~~
 4 ~~ileostomies, indwelling or intermittent catheterization, tube feedings, and dialysis.~~

5 ~~_____ d. CONTRACTOR shall coordinate Client discharge planning with ADMINISTRATOR to~~
 6 ~~insure orderly discharge to appropriate levels of care for Clients whom COUNTY determines are no longer~~
 7 ~~eligible for services. CONTRACTOR shall begin discharge planning on the day of admission and include~~
 8 ~~Client self help groups and contact with community service providers when appropriate.~~

9 ~~_____ e. CONTRACTOR shall provide, or cause to be provided, services which shall include, but~~
 10 ~~not be limited to, the following:~~

11 ~~_____ 1) Room and dietetic services;~~

12 ~~_____ 2) Nursing services including medication administration and Client care;~~

13 ~~_____ 3) Client activities including occupational, recreational, and vocational services,~~
 14 ~~prevocational preparation services, and pre-discharge planning in a therapeutic behavioral modification~~
 15 ~~treatment milieu with training in the following areas:~~

16 ~~_____ a) Life skills~~

17 ~~_____ b) Self help skills~~

18 ~~_____ c) Strategies for coping with the symptoms of the Client's mental illness~~

19 ~~_____ d) Money management~~

20 ~~_____ e) Behavioral intervention~~

21 ~~_____ f) Interpersonal relationships~~

22 ~~_____ g) Accessing community services~~

23 ~~_____ f. CONTRACTOR shall provide psychiatric and psychological treatment and other services~~
 24 ~~consistent with the treatment plans and in accordance with CCR, Title 22 and the Clients' physicians'~~
 25 ~~orders.~~

26 ~~_____ g. CONTRACTOR shall provide dual diagnosis services for Clients with both chemical~~
 27 ~~dependency and serious mental disorders which shall include programming to assist Clients in coping with~~
 28 ~~their symptoms of mental illness without depending on mood-altering substances.~~

29 ~~_____ h. CONTRACTOR shall ensure that Clients are full participants in any meetings governing~~
 30 ~~decisions about treatment or services and should be encouraged to involve family members or friends.~~

31 ~~_____ i. CONTRACTOR shall provide support services to include the following:~~

32 ~~_____ 1) Housekeeping;~~

33 ~~_____ 2) Laundry;~~

34 ~~_____ 3) Maintenance;~~

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- ~~4) Medical records;~~
- ~~5) Medication order processing;~~
- ~~6) Access to required medical treatment;~~
- ~~7) Up-to-date psychopharmacology; and~~
- ~~8) Emergency and non-emergency medical and ambulance services.~~
- ~~j. CONTRACTOR shall provide, or cause to be provided, transportation to an appropriate medical facility for Clients who are provided services hereunder and who require emergency or non-emergency medical care for illness or accident. The cost of such transportation as well as the cost of any medical care shall not be reimbursable under the Agreement.~~
- ~~k. CONTRACTOR shall coordinate the application process and prepare medical records for current Clients and any forthcoming Clients as are necessary for making application to the Disability Evaluation Division, Department of Social Services and the Social Security Administration for SSI/SSP benefits.~~
- ~~l. CONTRACTOR shall provide psychiatrist time and services regarding Conservatorship issues. This includes the annual filing of Court documents to renew Conservatorship, as well as LPS Conservatorship Court appearances/testimony as requested by COUNTY. CONTRACTOR shall provide medical and psychiatric records as needed for all Court appearances.~~
- ~~m. CONTRACTOR shall obtain all applicable current legal and Conservatorship documents, and authorization for the release of information signed, with original signature, by the Client, conservator/guardian, or legally responsible person. Such documentation shall be maintained by CONTRACTOR in Client's chart.~~
- ~~n. CONTRACTOR shall track the legal status of Clients and notify COUNTY within three (3) business days when Conservatorship terminates.~~
- ~~o. CONTRACTOR shall complete COUNTY's LTC Discharge Form and fax it to the ADMINISTRATOR within one business day of Client discharge. CONTRACTOR shall also notify the ADMINISTRATOR of the discharge by telephone call.~~
- ~~#~~
- ~~p. CONTRACTOR shall provide census data on a monthly basis or more frequently as requested by the ADMINISTRATOR.~~
- ~~q. CONTRACTOR shall notify the ADMINISTRATOR by telephone whenever a County Client is sent out for acute psychiatric or general medical hospital care. CONTRACTOR will notify ADMINISTRATOR in writing whether the Client will be accepted back as soon as the Client is stabilized and ready for return.~~
- ~~r. For each full-scope Medi-Cal beneficiary under twenty-one (21) years of age admitted,~~

1 ~~CONTRACTOR shall give the beneficiary/guardian/conservator the DHCS notification materials entitled,~~
 2 ~~"EPSDT and TBS". CONTRACTOR shall document in the beneficiary's medical record that these~~
 3 ~~materials were provided.~~

4 ~~2. SNF/STP SERVICES~~

5 ~~a. CONTRACTOR shall provide a minimum of «MIN_BEDS» or «CLIENT_DAYS» days~~
 6 ~~within a licensed SNF which may be designated as an Institution of Mental Disease.~~

7 ~~b. CONTRACTOR shall provide SNF/STP Services that include medication management,~~
 8 ~~therapy groups, activities therapy, and other Recovery focused adjunctive therapy.~~

9 ~~c. CONTRACTOR shall have a written Recovery based SNF/STP plan, approved by~~
 10 ~~ADMINISTRATOR, which focuses on the improved social functioning for the treatment resistant Client.~~

11 ~~d. CONTRACTOR shall make an initial individual assessment/certification of each Client to~~
 12 ~~identify the current level of functioning and program needs of the Client. The assessment/certification~~
 13 ~~shall be standardized and recorded on forms approved or provided by ADMINISTRATOR, and must be~~
 14 ~~signed by COUNTY's Mental Health Director, or designee, within thirty (30) calendar days of admission.~~

15 ~~e. The initial treatment assessment/certification shall be for a period of one hundred twenty~~
 16 ~~(120) calendar days and may be extended in increments of one hundred twenty (120) calendar days at the~~
 17 ~~sole discretion of ADMINISTRATOR.~~

18 ~~f. CONTRACTOR shall submit to ADMINISTRATOR a plan for continued Client~~
 19 ~~treatment at least thirty (30) calendar days prior to the termination of the initial, or any subsequent one~~
 20 ~~hundred twenty (120) day Client treatment certification period.~~

21 ~~g. At least every four (4) months, in conjunction with ADMINISTRATOR,~~
 22 ~~CONTRACTOR shall reassess each Client to certify the need for continued placement. This~~
 23 ~~assessment/certification must be signed by COUNTY's Mental Health Director or designee. Approval of~~
 24 ~~continued Client treatment is at the sole discretion of ADMINISTRATOR.~~

25 ~~h. CONTRACTOR shall coordinate Client discharge planning with ADMINISTRATOR to~~
 26 ~~insure orderly discharge to appropriate levels of care for Clients whom COUNTY determines are no longer~~
 27 ~~eligible for services. CONTRACTOR shall begin discharge planning on the day of admission~~

~~#~~
 and include opportunities to participate in community activities, Client self-help groups, and contact with
 community service providers when appropriate.

i. CONTRACTOR shall provide, or cause to be provided, services which shall include, but
 not be limited to, the following:

1) Room and dietetic services;

2) Nursing services including medication administration and Client care;

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~~3) Client activities including occupational, recreational, and vocational services, prevocational preparation services, and pre-discharge planning in a therapeutic behavioral modification treatment milieu with training in the following areas:~~

~~a) Life skills~~

~~b) Self help skills~~

~~c) Strategies for coping with the symptoms of the Client's mental illness~~

~~d) Money management~~

~~e) Behavioral intervention~~

~~f) Interpersonal relationships~~

~~g) Accessing community services~~

~~j. CONTRACTOR shall provide psychiatric and psychological treatment and other services consistent with the treatment plans and in accordance with CCR, Title 22 and the Clients' physicians' orders and guidelines.~~

~~k. CONTRACTOR shall provide dual diagnosis services for Clients with both chemical dependency and serious mental disorders which shall include programming to assist Clients in coping with their symptoms of mental illness without depending on mood altering substances.~~

~~l. CONTRACTOR shall provide service plans that are based upon an individualized assessment of Client needs and preferences and include, but not be limited to, the following:~~

~~1) Housing;~~

~~2) Income support;~~

~~3) Vocational and educational goals;~~

~~4) Self management of symptoms including the roles of medication;~~

~~5) Substance abuse;~~

~~6) Enhancement of interpersonal skills;~~

~~7) Relationship to significant others;~~

~~8) Linkages to the community; and~~

~~9) Survival skills~~

~~m. CONTRACTOR shall ensure that Clients are full participants in any meetings governing decisions about treatment or services and should be encouraged to involve family members or friends.~~

~~#~~

~~n. CONTRACTOR shall provide support services to include the following:~~

~~1) Housekeeping;~~

~~2) Laundry;~~

~~3) Maintenance;~~

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1 ~~4) Medical records;~~
2 ~~5) Medication order processing;~~
3 ~~6) Access to required medical treatment;~~
4 ~~7) Up to date psychopharmacology;~~
5 ~~8) Emergency and non-emergency medical and ambulance services; and~~
6 ~~9) Transportation for supervised Client therapeutic outings.~~
7 ~~o. CONTRACTOR shall provide, or cause to be provided, transportation to an appropriate~~
8 ~~medical facility for Clients who are provided services hereunder and who require emergency or non-~~
9 ~~emergency medical care for illness or accident. The cost of such transportation as well as the cost of any~~
10 ~~medical care shall not be reimbursable under the Agreement.~~
11 ~~p. CONTRACTOR shall coordinate the application process and prepare medical records for~~
12 ~~current Clients and any forthcoming Clients as are necessary for making application to the Disability~~
13 ~~Evaluation Division, Department of Social Services and the Social Security Administration for SSI/SSP~~
14 ~~benefits.~~
15 ~~q. CONTRACTOR shall provide psychiatrist time and services regarding Conservatorship~~
16 ~~issues. This includes the annual filing of Court documents to renew Conservatorship, as well as LPS~~
17 ~~Conservatorship Court appearances/testimony as requested by COUNTY. CONTRACTOR shall provide~~
18 ~~medical and psychiatric records as needed for all Court appearances.~~
19 ~~r. CONTRACTOR shall provide a minimum average of twenty-seven (27) hours per week~~
20 ~~of direct group or individual program service for each client.~~
21 ~~s. CONTRACTOR shall provide structured training regimens with individualized therapy~~
22 ~~to assist clients in the development of new skills and in modifying behaviors that prevent them from living~~
23 ~~in a lower level of care facility~~
24 ~~t. CONTRACTOR shall obtain all applicable current legal and Conservatorship documents,~~
25 ~~and authorization for the release of information signed, with original signature, by the Client,~~
26 ~~conservator/guardian, or legally responsible person. Such documentation shall be maintained by~~
27 ~~CONTRACTOR in Client's chart.~~
28 ~~u. CONTRACTOR shall track the legal status of Clients and notify COUNTY within three~~
29 ~~(3) business days when Conservatorship terminates.~~
30 ~~v. CONTRACTOR shall complete COUNTY's LTC Discharge Form and fax it to the~~
31 ~~ADMINISTRATOR within one business day of Client discharge. CONTRACTOR shall also notify the~~
32 ~~ADMINISTRATOR of the discharge by telephone call.~~
33 #
34 ~~w. CONTRACTOR shall provide census data on a monthly basis or more frequently as~~

1 requested by the ADMINISTRATOR.

2 ~~_____ x. CONTRACTOR shall notify the ADMINISTRATOR by telephone whenever a County~~
 3 ~~Client is sent out for acute psychiatric or general medical hospital care. CONTRACTOR will notify~~
 4 ~~ADMINISTRATOR in writing whether the Client will be accepted back as soon as the Client is stabilized~~
 5 ~~and ready for return.~~

6 ~~_____ y. For each full scope Medi-Cal beneficiary under twenty one (21) years of age admitted,~~
 7 ~~CONTRACTOR shall give the beneficiary/guardian/conservator the DHCS notification materials entitled,~~
 8 ~~"EPSDT and TBS". CONTRACTOR shall document in the beneficiary's medical record that these~~
 9 ~~materials were provided.~~

10 ~~_____ 3. SPECIALIZED SERVICES~~

11 ~~_____ a. In addition to providing SNF or SNF/STP Services, CONTRACTOR may provide the~~
 12 ~~following Specialized Services: «SP_SVCS»:~~

13 ~~_____ 1) «HEAR_IMP_MBED» Minimum beds for Hearing Impaired/Psychiatric Services;~~

14 ~~_____ 2) «SK_NURSE_MBED» Minimum beds for Specialized Nursing Care Services;~~

15 ~~_____ 3) «SUBACUTE_MBED» Minimum beds for Subacute Services;~~

16 ~~_____ 4) «SUBACUTE_MED_MBED» Minimum beds for Subacute Medical Services; and~~

17 ~~_____ 5) «AUG_TRTMT_MBED» Minimum beds for Augmented Treatment Services.~~

18 ~~_____ b. CONTRACTOR understands that Clients may require Specialized Services due to~~
 19 ~~medical conditions that require services that exceed the provided SNF or SNF/STP Services. These~~
 20 ~~Specialized Services are described as follows:~~

21 ~~_____ 1) Hearing Impaired/Psychiatric Services include, but are not limited to, specialized~~
 22 ~~sign language interpretation for Clients with severe hearing impairment.~~

23 ~~_____ 2) Specialized Nursing Care Services include, but are not limited to, custodial care due~~
 24 ~~to incontinence, assistance with eating and daily living activities due to a medical condition or severe~~
 25 ~~psychiatric symptoms, intensive supervision, stabilization, and treatment programming for Clients~~
 26 ~~removed or diverted from the State Hospital system. In addition to standard medical and psychiatric work-~~
 27 ~~ups, neuro-psychological evaluations shall also be performed in order to provide a baseline for medications~~
 28 ~~and a foundation for behaviorally oriented treatment plans directed towards increasing the quality of life~~
 29 ~~of the Client and enhancing their ability to benefit from nursing care and treatment activities.~~

30 ~~_____ 3) Subacute Services include, but are not limited to, the following:~~

31 ~~_____ a) Additional mental health clinical positions to provide individual and group~~
 32 ~~counseling.~~

33 ~~_____ b) A basic token economy program that identifies and rewards targeted behaviors~~
 34 ~~and skills as appropriate for each Client. Cigarettes or tobacco products shall not be provided as rewards~~

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1 for targeted behaviors.

2 ~~4) Subacute Medical Services include, but are not limited to, supervision, nursing care,~~
 3 ~~and programming for Clients requiring additional medical support specific to Clients' individual medical~~
 4 ~~needs, continual nursing, and program monitoring and reporting. Medical conditions include, but are not~~
 5 ~~limited to, Polydipsia, Human Immunodeficiency Virus—Acquired Immune Deficiency Syndrome,~~
 6 ~~Chronic Obstructive Pulmonary Disease, Diabetes, Seizure Disorders, and other medical conditions. The~~
 7 ~~following additional services provided shall include, but are not limited to, the following:~~

8 ~~a) Additional mental health clinical positions to provide individual and group~~
 9 ~~counseling;~~

10 ~~b) A basic token economy program that identifies and rewards targeted behaviors~~
 11 ~~related to their medical conditions and designed to improve self-care, monitoring, and reporting. Cigarettes~~
 12 ~~or tobacco products shall not be provided as rewards for targeted behaviors.~~

13 ~~5) Augmented Treatment Services include, but are not limited to, the following:~~

14 ~~a) Supervision and treatment programming for Clients in transition from the~~
 15 ~~Subacute Services program.~~

16 ~~b) Additional mental health clinical positions to provide individual and group~~
 17 ~~counseling.~~

18 ~~c) A basic token economy program that identifies and rewards targeted behaviors~~
 19 ~~and skills as appropriate for each Client. Cigarettes or tobacco products shall not be provided as rewards~~
 20 ~~for targeted behaviors.~~

21 ~~D. QUALITY IMPROVEMENT AND PERFORMANCE OUTCOMES~~

22 ~~1. The overall goal of the SNF and SNF/STP Services program is to increase the functional~~
 23 ~~levels of Clients, enabling them to transition to less restrictive levels of intervention, including independent~~
 24 ~~living.~~

25 ~~2. CONTRACTOR shall develop and maintain a plan for quality improvement, the overall goal~~
 26 ~~of which is the maintenance of high quality care and effective utilization of services offered. This plan~~
 27 ~~shall include utilization review, peer review, and medication monitoring as mandated by the DHCS. This~~
 28 ~~plan will contain measurable outcomes and focus on personal growth and Recovery for Clients who are~~
 29 ~~functionally impaired by psychiatric symptoms with a path to treatment in less restrictive levels of care~~
 30 ~~and a return to community living.~~

31 ~~3. CONTRACTOR shall facilitate physician to physician consultation between~~
 32 ~~CONTRACTOR physician and ADMINISTRATOR physician to review the Client's clinical course~~
 33 ~~following any adverse outcome.~~

34 ~~4. CONTRACTOR shall provide assistance to COUNTY in conducting its utilization and~~

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1 reporting functions, and medical necessity determination.

2 ~~— E. CONTRACTOR shall make its best effort to provide services pursuant to the Agreement in a~~
3 ~~manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR shall~~
4 ~~maintain documentation of such efforts which may include, but not be limited to: records of participation~~
5 ~~in COUNTY sponsored or other applicable training, recruitment and hiring Policies and Procedures, copies~~
6 ~~of literature in multiple languages and formats, as appropriate, and descriptions of measures taken to~~
7 ~~enhance accessibility for, and sensitivity to, individuals who are physically challenged.~~

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

13 ~~— G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing to modify the Services~~
14 ~~Paragraph of this Exhibit B to the Agreement.~~

15 **VII. STAFFING**

16 ~~— A. SNF Services CONTRACTOR shall provide the required staffing positions in accordance with~~
17 ~~CCR Title 22, Division 5, Chapter 3.~~

18 ~~— B. SNF/STP Services CONTRACTOR shall provide the required staffing positions in accordance~~
19 ~~with CCR Title 22, Division 5, Chapter 3, Article 4.~~

20 ~~— C. Specialized Services CONTRACTOR shall, at a minimum, provide the following staffing~~
21 ~~pattern expressed in Full-Time Equivalents (FTEs) continuously throughout the term of the Agreement to~~
22 ~~provide Specialized Services. One (1) FTE will be equal to an average of forty (40) hours work per week.~~

23 ~~1. Hearing Impaired/Psychiatric Services~~

24 ~~— a. FTE for the Psychiatrist, Medical Director, and Internal Medicine M.D. shall be~~
25 ~~consultation time non-billable to the COUNTY. Contractor shall ensure that specialized sign language~~
26 ~~interpretation services are provided for Clients with severe hearing impairment.~~

CLINICAL STAFFING

FTEs

~~— «HEARING_PSYCH_POS_1»~~

~~«HEARING_PSYCH_FTE_1»~~

~~— «HEARING_PSYCH_POS_2»~~

~~«HEARING_PSYCH_FTE_2»~~

~~— «HEARING_PSYCH_POS_3»~~

~~«HEARING_PSYCH_FTE_3»~~

~~— «HEARING_PSYCH_POS_4»~~

~~«HEARING_PSYCH_FTE_4»~~

~~— «HEARING_PSYCH_POS_5»~~

~~«HEARING_PSYCH_FTE_5»~~

1	«HEARING_PSYCH_POS_6»	«HEARING_PSYCH_FTE_6»
2	«HEARING_PSYCH_POS_7»	«HEARING_PSYCH_FTE_7»
3	«HEARING_PSYCH_POS_8»	«HEARING_PSYCH_FTE_8»
4	«HEARING_PSYCH_POS_9»	«HEARING_PSYCH_FTE_9»
4	«HEARING_PSYCH_POS_10»	«HEARING_PSYCH_FTE_10»
5	TOTAL FTEs	0.00

~~2. Specialized Nursing Care Services~~

~~a. FTE for the Psychiatrist, Medical Director, and Internal Medicine M.D. shall be consultation time non-billable to the COUNTY.~~

	<u>CLINICAL STAFFING</u>	<u>FTEs</u>
10	«SPEC_NURS_POS_1»	«SPEC_NURS_FTE_1»
11	«SPEC_NURS_POS_2»	«SPEC_NURS_FTE_2»
12	«SPEC_NURS_POS_3»	«SPEC_NURS_FTE_3»
13	«SPEC_NURS_POS_4»	«SPEC_NURS_FTE_4»
14	«SPEC_NURS_POS_5»	«SPEC_NURS_FTE_5»
15	«SPEC_NURS_POS_6»	«SPEC_NURS_FTE_6»
16	«SPEC_NURS_POS_7»	«SPEC_NURS_FTE_7»
17	«SPEC_NURS_POS_8»	«SPEC_NURS_FTE_8»
18	«SPEC_NURS_POS_9»	«SPEC_NURS_FTE_9»
19	«SPEC_NURS_POS_10»	«SPEC_NURS_FTE_10»
17	TOTAL FTEs	0.00

~~3. Subacute Services~~

~~a. The Clinical Director shall be a licensed mental health professional.~~

~~b. 4.70 FTE of mental health clinical positions shall provide individual and group counseling.~~

~~c. CONTRACTOR shall maintain a staff-to-patient ratio of 1:5.~~

	<u>CLINICAL STAFFING</u>	<u>FTEs</u>
24	«SUBACUTE_POS_1»	«SUBACUTE_FTE_1»
25	«SUBACUTE_POS_2»	«SUBACUTE_FTE_2»

1	«SUBACUTE_POS_3»	«SUBACUTE_FTE_3»
2	«SUBACUTE_POS_4»	«SUBACUTE_FTE_4»
3	«SUBACUTE_POS_5»	«SUBACUTE_FTE_5»
4	«SUBACUTE_POS_6»	«SUBACUTE_FTE_6»
5	«SUBACUTE_POS_7»	«SUBACUTE_FTE_7»
6	«SUBACUTE_POS_8»	«SUBACUTE_FTE_8»
7	«SUBACUTE_POS_9»	«SUBACUTE_FTE_9»
8	«SUBACUTE_POS_10»	«SUBACUTE_FTE_10»
9	TOTAL FTEs	0.00

~~4. Subacute Medical Services~~

~~a. CONTRACTOR shall maintain a staff to patient ratio of 1:3.~~

~~b. 1.50 FTE of mental health clinical positions shall provide individual and group counseling.~~

CLINICAL STAFFING

FTEs

15	«SUB_MED_POS_1»	«SUB_MED_FTE_1»
16	«SUB_MED_POS_2»	«SUB_MED_FTE_2»
17	«SUB_MED_POS_3»	«SUB_MED_FTE_3»
18	«SUB_MED_POS_4»	«SUB_MED_FTE_4»
19	«SUB_MED_POS_5»	«SUB_MED_FTE_5»
20	«SUB_MED_POS_6»	«SUB_MED_FTE_6»
21	«SUB_MED_POS_7»	«SUB_MED_FTE_7»
22	«SUB_MED_POS_8»	«SUB_MED_FTE_8»
23	«SUB_MED_POS_9»	«SUB_MED_FTE_9»
24	«SUB_MED_POS_10»	«SUB_MED_FTE_10»
25	TOTAL FTEs	0.00

~~5. Augmented Treatment Services~~

~~a. The Clinical Director shall be a licensed clinical psychologist.~~

~~b. 1.50 FTE of mental health clinical positions shall provide individual and group~~

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1 counseling.

2 ~~c. CONTRACTOR shall maintain a counseling staff to patient ratio of 1:6.~~

3 CLINICAL STAFFING

FTEs

4 ~~«AUG_TRTMT_POS_1»~~

~~«AUG_TRTMT_FTE_1»~~

5 ~~«AUG_TRTMT_POS_2»~~

~~«AUG_TRTMT_FTE_2»~~

6 ~~«AUG_TRTMT_POS_3»~~

~~«AUG_TRTMT_FTE_3»~~

7 ~~«AUG_TRTMT_POS_4»~~

~~«AUG_TRTMT_FTE_4»~~

8 ~~«AUG_TRTMT_POS_5»~~

~~«AUG_TRTMT_FTE_5»~~

9 ~~«AUG_TRTMT_POS_6»~~

~~«AUG_TRTMT_FTE_6»~~

10 ~~«AUG_TRTMT_POS_7»~~

~~«AUG_TRTMT_FTE_7»~~

11 ~~«AUG_TRTMT_POS_8»~~

~~«AUG_TRTMT_FTE_8»~~

12 ~~«AUG_TRTMT_POS_9»~~

~~«AUG_TRTMT_FTE_9»~~

13 ~~«AUG_TRTMT_POS_10»~~

~~«AUG_TRTMT_FTE_10»~~

14 TOTAL FTEs

0.00

15 ~~D. CONTRACTOR shall adhere to the following requirements at each facility:~~

16 ~~1. All therapeutic treatment activities shall be carried out by personnel with appropriate specialized mental health training.~~

17 ~~2. Documentation of employment qualifications and job descriptions which include duties and responsibilities bilingual/bicultural capabilities, and proof of licensure, if appropriate, for each staff position.~~

18 ~~3. A written policy for the use of volunteers and part time student interns which may augment paid staff. An intern is a person enrolled in an accredited undergraduate or graduate level program in a health care or mental health discipline or a related field.~~

19 ~~4. Make available to ADMINISTRATOR, upon request, a list of the persons who provide services under the Agreement. The list must include the name, title, professional degree, license number (if applicable) and job description of each person.~~

20 ~~5. Provide additional administrative/support staff as necessary to all programs.~~

21 ~~E. CONTRACTOR shall provide effective administrative management of the budget, staffing, recording, and reporting portion of the Agreement with the COUNTY. If administrative responsibilities are delegated to subcontractors, CONTRACTOR must ensure that any subcontractor(s) possesses the qualifications and capacity to perform all delegated responsibilities. Responsibilities include, but are not limited to the following:~~

- ~~1. Designate the responsible position(s) in your organization for managing the funds allocated to this program;~~
- ~~2. Maximize the use of the allocated funds;~~
- ~~3. Ensure timely and accurate reporting of monthly expenditures;~~
- ~~4. Maintain appropriate staffing levels;~~
- ~~5. Request budget and/or staffing modifications to the Agreement;~~
- ~~6. Effectively communicate and monitor the program for its success;~~
- ~~7. Track and report expenditures electronically;~~
- ~~8. Maintain electronic and telephone communication between key staff and CONTRACTOR agrees to the compensation marked with an "X" below.~~

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

26 of 27 EXHIBIT B

27 \\ochca.com\hcashares\Contracts I\BH K Mgmt\BH Vendor Folder(s)\Adult\CYNTHIA AGUIRRE\MAIMD01 - Skilled Nursing Srvcs (IMDs)\FY 2022-23\K-Admin\ASR\ATTACHMENT I-Redlined to Attachment A.docx«C_CODE»-MAAMH01MHKK19

«LC_NAME» «LC_DBA»

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~~This Amendment No. 1 modifies the Contract and Program Administrators; and~~

~~9. Act quickly to identify and solve problems.~~

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

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27 of 27 EXHIBIT B

27 \\ochca.com\hca\shares\Contracts I\BH K Mgmt\BH Vendor Folder(s)\Adult\CYNTHIA AGUIRRE\MAIMD01 - Skilled Nursing Srvcs (IMDs)\FY 2022-23\K-Admin\ASR\ATTACHMENT I-Redlined to Attachment A.docx«C_CODE»-MAAMH01MHKK19

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EXHIBIT C
TO AGREEMENT FOR PROVISION OF
ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES
BETWEEN
COUNTY OF ORANGE
AND
«UC_NAME»
«UC_DBA»
JULY 1, 2017 THROUGH JUNE 30, 2019

I. Business Associate Contract

~~A. GENERAL PROVISIONS AND RECITALS~~

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

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

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

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

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

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

~~B. DEFINITIONS~~

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

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

~~a. Breach excludes:~~

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

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

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

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

~~1) The nature and extent of the PHI involved, including the types of identifiers and the~~

1 ~~likelihood of re-identification;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in~~

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EXHIBIT C

27 \\ochca.com\hca\shares\Contracts I\BH K Mgmt\BH Vendor Folder(s)\Adult\CYNTHIA AGUIRRE\MAIMD01 - Skilled Nursing Srvcs (IMDs)\FY 2022-23\K-Admin\ASR\ATTACHMENT I-Redlined to Attachment A.docx«C_CODE»-MAAMH01MHKK19

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1 ~~45 CFR § 160.103.~~

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

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

7 ~~18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §~~
 8 ~~160.103.~~

9 ~~C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:~~

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

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

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

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

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

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

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

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

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

10 ~~10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to~~
 11 ~~CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,~~
 12 ~~and to make information related to such Disclosures available as would be required for COUNTY to~~
 13 ~~respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR~~
 14 ~~§ 164.528.~~

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

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

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

26 ~~14. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant in a~~
 27 ~~criminal proceeding for a violation of HIPAA. COUNTY may terminate the Agreement, if~~
 28 ~~CONTRACTOR is found guilty of a criminal violation in connection with HIPAA. COUNTY may~~
 29 ~~terminate the Agreement, if a finding or stipulation that CONTRACTOR has violated any standard or~~
 30 ~~requirement of the privacy or security provisions of HIPAA, or other security or privacy laws are made~~
 31 ~~in any administrative or civil proceeding in which CONTRACTOR is a party or has been joined.~~
 32 ~~COUNTY will consider the nature and seriousness of the violation in deciding whether or not to terminate~~
 33 ~~the Agreement.~~

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

~~16. The Parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to provide for procedures to ensure compliance with such developments. The Parties conflict in the terms or conditions between this Amendment No. 1 and the Contract, the terms and conditions of this Amendment No. 1 prevail. In all other respects, the terms and conditions of the Contract, not specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY concerning an amendment to this Business Associate Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the event:~~

~~#~~

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

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

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

~~D. SECURITY RULE~~

~~1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR shall develop and maintain a written information privacy and security program that includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of~~

~~CONTRACTOR's operations and the nature and scope of its activities.~~

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

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

~~a. Complying with all of the data system security precautions listed under subparagraphs E, below;~~

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

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

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

~~#~~

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

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

~~E. DATA SECURITY REQUIREMENTS~~

~~1. Personal Controls~~

~~a. Employee Training. All workforce members who assist in the performance of functions or activities on behalf of COUNTY in connection with Agreement, or access or disclose PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, must complete information privacy and security training, at least annually, at~~

~~CONTRACTOR's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following the termination of Agreement.~~

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

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

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

~~2. Technical Security Controls~~

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

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

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

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

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

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

~~g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three (3) of the following four (4) groups from the standard keyboard: by this Amendment No. 1 remain in full force and effect.~~

SIGNATURE PAGE FOLLOWS

1 ~~must be wiped using the Gutmann or DoD 5220.22-M (7 Pass) standard, or by degaussing. Media may~~
 2 ~~also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require~~
 3 ~~prior written permission by COUNTY.~~

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

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

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

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

23 ~~_____ m. Transmission encryption. All data transmissions of PHI COUNTY discloses to~~
 24 ~~CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY~~
 25 ~~outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is~~
 26 ~~128bit or higher, such as AES. Encryption can be end-to-end at the network level, or the data files~~
 27 ~~containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as website~~
 28 ~~access, file transfer, and E-Mail.~~

29 ~~_____ n. Intrusion Detection. All systems involved in accessing, holding, transporting, and~~
 30 ~~protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,~~
 31 ~~#~~
 32 ~~or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a~~
 33 ~~comprehensive intrusion detection and prevention solution.~~

34 ~~3. Audit Controls~~

~~1 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that
2 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY
3 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
4 COUNTY must have at least an annual system risk assessment/security review which provides assurance
5 that administrative, physical, and technical controls are functioning effectively and providing adequate
6 levels of protection. Reviews should include vulnerability scanning tools.~~

~~7 b. Log Reviews. All systems processing and/or storing PHI COUNTY discloses to
8 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
9 must have a routine procedure in place to review system logs for unauthorized access.~~

~~10 c. Change Control. All systems processing and/or storing PHI COUNTY discloses to
11 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
12 must have a documented change control procedure that ensures separation of duties and protects the
13 confidentiality, integrity and availability of data.~~

~~14 4. Business Continuity/Disaster Recovery Control~~

~~15 a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan
16 to enable continuation of critical business processes and protection of the security of PHI COUNTY
17 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
18 COUNTY kept in an electronic format in the event of an emergency. Emergency means any circumstance
19 or situation that causes normal computer operations to become unavailable for use in performing the work
20 required under this Agreement for more than 24 hours.~~

~~21 b. Data Backup Plan. CONTRACTOR must have established documented procedures to
22 backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular schedule
23 for making backups, storing backup offsite, an inventory of backup media, and an estimate of the amount
24 of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly
25 full backup and monthly offsite storage of DHCS data. BCP for contractor and COUNTY (e.g. the
26 application owner) must merge with the DRP.~~

~~27 5. Paper Document Controls~~

~~28 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
29 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left unattended
30 at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that
31 information is not being observed by an employee authorized to access the information. Such PHI
32 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
33 baggage on commercial airplanes.~~

~~34 #~~

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

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

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

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

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

~~F. BREACH DISCOVERY AND NOTIFICATION~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~8. CONTRACTOR shall continue to provide all additional pertinent information about the Breach to COUNTY as it may become available, in reporting increments of five (5) business days after~~

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EXHIBIT C

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1 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests
 2 for further information, or follow up information after report to COUNTY, when such request is made by
 3 COUNTY.

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

8 ~~G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR~~

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

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

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

18 ~~1) The Disclosure is required by law; or~~

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

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

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

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

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

~~H. PROHIBITED USES AND DISCLOSURES~~

~~1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or~~
~~CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to~~

~~a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).~~

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

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

~~2. Upon termination of the Agreement, 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~~

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~~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.~~

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EXHIBIT D

TO AGREEMENT FOR PROVISION OF
ADULT MENTAL HEALTH PSYCHIATRIC SKILLED NURSING FACILITY SERVICES

BETWEEN

COUNTY OF ORANGE

AND

«UC_NAME»

«UC_DBA»

JULY 1, 2017 THROUGH JUNE 30, 2019

I. Personal Information Privacy and Security Contract

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

A. DEFINITIONS

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

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

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

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

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

6. "Notice triggering Personal Information" shall mean the personal information identified in California Civil Code § 1798.29(e) whose unauthorized access may trigger

~~notification requirements under California Civil Code § 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 California Civil Code § 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 the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.~~

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

~~B. TERMS OF AGREEMENT~~

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

~~2. Responsibilities of CONTRACTOR~~

~~CONTRACTOR agrees:~~

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

~~b. Safeguards. To implement appropriate and reasonable administrative, technical,~~

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

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

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

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

~~_____ 3) If the data obtained by CONTRACTOR from COUNTY includes PII, CONTRACTOR shall also comply with the substantive privacy and security requirements in the CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that any of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that apply to CONTRACTOR with respect to such information.~~

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

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~~EXHIBIT D~~

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

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

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

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

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

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#Office of the County Counsel
Orange County, California

Brittany McLean
Print Name

Deputy County Counsel
Title

Signature

Date

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EXHIBIT D

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