

~~**AMENDMENT NO. 2 TO**~~
~~**CONTRACT NO. MA-042-20010365 FOR**~~
~~**SUICIDE PREVENTION SERVICES**~~

~~This Amendment (“Amendment No. 2”) to Contract No. MA-042-20010365 for Suicide Prevention Services is made and entered into on January 1, 2022 (“Effective Date”) between Mind OC (“Contractor”), with a place of business at 5020 Campus Drive, Newport Beach, CA 92660, 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 St., Ste. 600, 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-042-20010365 for Suicide Prevention Services, effective July 1, 2019 through June 30, 2021, in an amount not to exceed \$600,000 (“Contract”); and~~

~~**WHEREAS**, the Parties executed Amendment No. 1 to extend the Contract for a period of six (6) months, effective July 1, 2021 through December 31, 2021; and~~

~~**WHEREAS**, the Parties now desire to enter into this Amendment No. 2 to extend the Contract for three (3) months for County to continue receiving and Contractor to continue providing the services set forth in the Contract; and~~

~~**NOW THEREFORE**, Contractor and County agree to amend the Contract as follows:~~

- ~~1. The Contract is extended for a period of three (3) months, effective January 1, 2022 through March 31, 2022, with no change in the Contract’s amount not to exceed.~~

~~**AMENDMENT NO. 3 TO**~~
~~**CONTRACT NO. MA-042-20010365 FOR**~~
~~**SUICIDE PREVENTION SERVICES**~~

~~This Amendment (“Amendment No. 3”) to Contract No. MA-042-20010365 for Suicide Prevention Services is made and entered into on April 1, 2022 (“Effective Date”) between Mind OC (“Contractor”), with a place of business at 5020 Campus Drive, Newport Beach, CA 92660, 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 St., Ste. 600, 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-042-20010365 for Suicide Prevention Services, effective July 1, 2019 through June 30, 2021, in an amount not to exceed \$600,000 ("Contract"); and

WHEREAS, the Parties executed Amendment No. 1 to extend the Contract for a period of six (6) months, effective July 1, 2021 through December 31, 2021; and

WHEREAS, the Parties executed Amendment No. 2 to extend the Contract for three (3) months, effective January 1, 2022 through March 31, 2022; and

WHEREAS, the Parties now desire to enter into this Amendment No. 3 to amend the Contract to revise Paragraph VII and Exhibit A of the Contract and to renew the Contract for one (1) year and (3) months, effective April 1, 2022 through June 30, 2023, for County to continue receiving and Contractor to continue providing the services set forth in the Contract.

NOW THEREFORE, Contractor and County agree to amend the Contract as follows:

- 1. The Contract is renewed for a term of one (1) year and (3) months, effective April 1, 2022 through June 30, 2023, in an amount not to exceed \$375,000 for this renewal term, for a revised cumulative total amount not to exceed \$975,000; on the amended terms and conditions.**

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REFERENCED CONTRACT PROVISIONS

~~Term: July 1, 2019 through March 31, 2022~~

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

~~Period Two means the period from July 1, 2020 through March 31, 2022~~

Term: July 1, 2019 through June 30, 2023

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

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

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

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

~~Maximum Obligation: Period One Maximum Obligation: \$250,000~~

~~Period Two Maximum Obligation: 350,000~~

~~TOTAL MAXIMUM OBLIGATION: \$600,000~~

Maximum Obligation: Period One Maximum Obligation: \$ 250,000

Period Two Maximum Obligation: 162,697

Period Three Maximum Obligation: 262,303

Period Four Maximum Obligation: 300,000

TOTAL MAXIMUM OBLIGATION: \$ 975,000

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 11-192-2215

CONTRACTOR TAX ID Number: 82-3901590

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Mind OC
18650 MacArthur Blvd., Ste. 220
Irvine, CA 92612

Contact Name: Marshall Moncrief

Contact e-mail: Marshall.Moncrief@Mind-OC.org

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I. ACRONYMS

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

A.	ARRA	American Recovery and Reinvestment Act of 2009
B.	CAP	Corrective Action Plan
C.	CCR	California Code of Regulations
D.	CFR	Code of Federal Regulations
E.	COI	Certificate of Insurance
F.	CSW	Clinical Social Worker
G.	DHCS	California Department of Health Care Services
H.	DRS	Designated Record Set
I.	EOC	Equal Opportunity Clause
J.	FTE	Full Time Equivalent
K.	GAAP	Generally Accepted Accounting Principles
L.	HCA	County of Orange Health Care Agency
M.	HHS	Federal Health and Human Services Agency
N.	HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
O.	HSC	California Health and Safety Code
P.	IRIS	Integrated Records and Information System
Q.	MFT	Marriage and Family Therapist
R.	MH	Mental Health
S.	MHP	Mental Health Plan
T.	MHS	Mental Health Specialist
U.	MHSA	Mental Health Services Act
V.	MSN	Medical Safety Net
W.	NPI	National Provider Identifier
X.	OPM	Federal Office of Personnel Management
Y.	P&P	Policy and Procedure
Z.	PC	California Penal Code
AA.	PHI	Protected Health Information
AB.	PII	Personally Identifiable Information
AC.	PRA	California Public Records Act
AD.	SIR	Self-Insured Retention

1	AE. SMA	Statewide Maximum Allowable (rate)
2	AF. USC	United States Code
3	AG. WIC	Women, Infants and Children

4

5 **II. ALTERATION OF TERMS**

6 A. This Agreement, together with Exhibit A attached hereto and incorporated herein, fully
7 expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject
8 matter of this Agreement.

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

13

14 **III. ASSIGNMENT OF DEBTS**

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

22

23 **IV. COMPLIANCE**

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

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

30 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
31 compliance program, code of conduct and any compliance related policies and procedures.
32 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall
33 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required
34 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to
35 this Agreement. These elements include:

- 36 a. Designation of a Compliance Officer and/or compliance staff.
37 b. Written standards, policies and/or procedures.

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

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

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

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

B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement monthly 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, the Social Security Administration's Death Master File, and/or any other list or system as identified by ADMINISTRATOR.

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

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

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

11 b. has been convicted of a criminal offense related to the provision of health care items or
12 services and has not been reinstated in the federal and state health care programs after a period of
13 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.

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

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

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

34 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or
35 entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened.
36 Such individual or entity shall be immediately removed from participating in any activity associated with
37 this Agreement. ADMINISTRATOR will determine appropriate repayment from, or sanction(s) to

1 CONTRACTOR for services provided by ineligible person or individual. CONTRACTOR shall
2 promptly return any overpayments within forty-five (45) business days after the overpayment is verified
3 by ADMINISTRATOR.

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

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

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

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

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

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

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

21 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
22 Individuals relative to this Agreement. This includes compliance with federal and state healthcare
23 program regulations and procedures or instructions otherwise communicated by regulatory agencies;
24 including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

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

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

35 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care
36 claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner
37 and are consistent with federal, state and county laws and regulations. This includes compliance with

1 federal and state health care program regulations and procedures or instructions otherwise communicated
2 by regulatory agencies including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

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

13 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
14 participate in the quality improvement activities developed in the implementation of the Quality
15 Management Program.

16 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
17 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
18 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
19 §1810.410.subds.(c)-(d).

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

26 **V. CONFIDENTIALITY**

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

30 B. Prior to providing any services pursuant to this Agreement, all members of the Board of
31 Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and
32 interns of the CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the
33 confidentiality of any and all information and records which may be obtained in the course of providing
34 such services. This Agreement shall specify that it is effective irrespective of all subsequent resignations
35 or terminations of CONTRACTOR members of the Board of Directors or its designee or authorized
36 agent, employees, consultants, subcontractors, volunteers and interns.
37

VI. CONFLICT OF INTEREST

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

VII. COST REPORT

~~A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for Period 1 and Period 2, or for a portion thereof, to COUNTY no later than sixty (60) calendar days following the period for which they are prepared or termination of this Agreement. CONTRACTOR shall prepare the individual and/or consolidated Cost Report in accordance with all applicable federal, state and COUNTY requirements, GAAP and the Special Provisions Paragraph of this Agreement. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers, services, and funding sources in accordance with such requirements and consistent with prudent business practice, which costs and allocations shall be supported by source documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice. In the event CONTRACTOR has multiple Agreements for mental health services that are administered by HCA, consolidation of the individual Cost Reports into a single consolidated Cost Report may be required, as stipulated by ADMINISTRATOR. CONTRACTOR shall submit the consolidated Cost Report to COUNTY no later than five (5) business days following approval by ADMINISTRATOR of all individual Cost Reports to be incorporated into a consolidated Cost Report.~~

A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for each Period, or for a portion thereof, to COUNTY no later than sixty (60) calendar days following the period for which they are prepared or 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

1 than five (5) business days following approval by ADMINISTRATOR of all individual Cost Reports to be
 2 incorporated into a consolidated Cost Report.

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

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

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

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

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

23 B. The individual and/or consolidated Cost Report prepared for each period shall be the final
 24 financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis
 25 for final settlement to CONTRACTOR for that period. CONTRACTOR shall document that costs are
 26 reasonable and allowable and directly or indirectly related to the services to be provided hereunder. The
 27 individual and/or consolidated Cost Report shall be the final financial record for subsequent audits, if
 28 any.

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

37 //

1 reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due
2 COUNTY.

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

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

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

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

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

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

31
32 Signed _____
33 Name _____
34 Title _____
35 Date _____"

36 //
37 //

VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS

1
2 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without
3 prior written consent of COUNTY. CONTRACTOR shall provide written notification of
4 CONTRACTOR's intent to delegate the obligations hereunder, either in whole or part, to
5 ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the delegation.
6 Any attempted assignment or delegation in derogation of this paragraph shall be void.

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

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

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

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

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

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

1 involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final
2 decision.

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

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

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

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

23 24 **X. EMPLOYEE ELIGIBILITY VERIFICATION**

25 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations
26 regarding the employment of aliens and others and to ensure that employees, subcontractors, and
27 consultants performing work under this Agreement meet the citizenship or alien status requirement set
28 forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,
29 subcontractors, and consultants performing work hereunder, all verification and other documentation of
30 employment eligibility status required by federal or state statutes and regulations including, but not
31 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist
32 and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
33 covered employees, subcontractors, and consultants for the period prescribed by the law.

34 35 **XI. EQUIPMENT**

36 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all
37 property of a Relatively Permanent nature with significant value, purchased in whole or in part by

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

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

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

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

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

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

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

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

XII. FACILITIES, PAYMENTS AND SERVICES

1
2 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance
3 with this Agreement. COUNTY shall compensate, and authorize, when applicable, said services.
4 CONTRACTOR shall operate continuously throughout the term of this Agreement with at least the
5 minimum number and type of staff which meet applicable federal and state requirements, and which are
6 necessary for the provision of the services hereunder.

7 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or
8 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation for
9 the appropriate Period as well as the Total Maximum Obligation. The reduction to the Maximum
10 Obligation for the appropriate Period as well as the Total Maximum Obligation shall be in an amount
11 proportionate to the number of days in which CONTRACTOR was determined to be unable to provide
12 services, staffing, facilities or supplies.

XIII. INDEMNIFICATION AND INSURANCE

13
14
15 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
16 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special
17 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board
18 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,
19 including but not limited to personal injury or property damage, arising from or related to the services,
20 products or other performance provided by CONTRACTOR pursuant to this Agreement. If judgment is
21 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the
22 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and
23 COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall request
24 a jury apportionment.

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

32 C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of
33 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an
34 Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for
35 CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less
36 than the level of coverage required by COUNTY from CONTRACTOR under this Agreement. It is the
37 obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and

1 to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance
 2 must be maintained by CONTRACTOR through the entirety of this Agreement for inspection by
 3 COUNTY representative(s) at any reasonable time.

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

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

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

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

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

20 F. QUALIFIED INSURER

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

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

29 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
 30 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

1 for owned, non-owned, and hired vehicles (4 passengers or less)

2
3 Workers' Compensation Statutory

4
5 Employers' Liability Insurance \$1,000,000 per occurrence

6
7 Network Security & Privacy Liability \$1,000,000 per claims made

8
9 Professional Liability Insurance \$1,000,000 per claims -made
10 \$1,000,000 aggregate

11
12 Sexual Misconduct Liability \$1,000,000 per occurrence

13 H. REQUIRED COVERAGE FORMS

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

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

18 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

13 N. If CONTRACTOR's Professional Liability and/or Network Security & Privacy Liability are
 14 "Claims-Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following
 15 the completion of the Agreement.

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

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

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

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

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

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

35 U. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

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

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

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

22 **XIV. INSPECTIONS AND AUDITS**

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

33 B. CONTRACTOR shall actively participate and cooperate with any person specified in
34 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this
35 Agreement, and shall provide the above mentioned persons adequate office space to conduct such
36 evaluation or monitoring.
37

1 C. AUDIT RESPONSE

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

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

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

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

23
24 **XV. LICENSES AND LAWS**

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

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

- 36 1. ARRA of 2009.
37 2. Trafficking Victims Protection Act of 2000.

- 1 3. WIC, Division 5, Community Mental Health Services.
- 2 4. WIC, Division 6, Admissions and Judicial Commitments.
- 3 5. WIC, Division 7, Mental Institutions.
- 4 6. HSC, §§1250 et seq., Health Facilities.
- 5 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 6 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 7 9. CCR, Title 17, Public Health.
- 8 10. CCR, Title 22, Social Security.
- 9 11. CFR, Title 42, Public Health.
- 10 12. CFR, Title 45, Public Welfare.
- 11 13. USC Title 42. Public Health and Welfare.
- 12 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 13 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 14 16. 42 USC §1857, et seq., Clean Air Act.
- 15 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 16 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 17 19. Policies and procedures set forth in Mental Health Services Act.
- 18 20. Policies and procedures set forth in DHCS Letters.
- 19 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 20 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 21 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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

25 D. CONTRACTOR shall make every reasonable effort to obtain appropriate licenses and/or
 26 waivers to provide Medi-Cal billable treatment services at school or other sites requested by
 27 ADMINISTRATOR.

28 **XVI. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

35 B. Any advertisement through radio, television broadcast, or the Internet, for educational or
 36

37 //

1 promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this
2 Agreement must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

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

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

14 **XVII. MAXIMUM OBLIGATION**

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

18 B. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten
19 percent (10%) of the first full year of funding for this Agreement.
20

21 **XVIII. MINIMUM WAGE LAWS**

22 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and
23 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the
24 federal or California Minimum Wage to all its employees that directly or indirectly provide services
25 pursuant to this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that all
26 its contractors or other persons providing services pursuant to this Agreement on behalf of
27 CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum
28 Wage.
29

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

33 C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR,
34 where applicable, shall comply with the prevailing wage and related requirements, as provided for in
35 accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the
36 State of California (§§ 1770, et seq.), as it now exists or may hereafter be amended.
37

XIX. NONDISCRIMINATION**A. EMPLOYMENT**

1
2
3 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals (as defined
4 in the "Compliance" paragraph of this Agreement) shall not unlawfully discriminate against any
5 employee or applicant for employment because of his/her race, religious creed, color, national origin,
6 ancestry, physical disability, mental disability, medical condition, genetic information, marital status,
7 sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
8 Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall
9 require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or
10 applicant for employment because of his/her race, religious creed, color, national origin, ancestry,
11 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,
12 gender identity, gender expression, age, sexual orientation, or military and veteran status.

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

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

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

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

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

34 **B. SERVICES, BENEFITS AND FACILITIES** – CONTRACTOR and/or subcontractor shall not
35 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
36 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability,
37 medical condition, genetic information, marital status, sex, gender, gender identity, gender expression,

1 age, sexual orientation, or military and veteran status in accordance with Title IX of the Education
 2 Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964
 3 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6,
 4 Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information Nondiscrimination Act of
 5 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and regulations promulgated
 6 pursuant thereto, and as otherwise provided by state law and regulations, as all may now exist or be
 7 hereafter amended or changed. For the purpose of this Nondiscrimination paragraph, discrimination
 8 includes, but is not limited to the following based on one or more of the factors identified above:

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

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

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

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

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

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

34 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply
 35 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
 36 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42
 37 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of

1 discrimination against qualified persons with disabilities in all programs or activities, and if applicable,
 2 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together
 3 with succeeding legislation.

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

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

14 **XX. NOTICES**

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

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

20 2. When faxed, transmission confirmed;

21 3. When sent by Email; or

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

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

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

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

35 **XXI. NOTIFICATION OF DEATH**

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

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

4 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by
 5 telephone immediately upon becoming aware of the death due to non-terminal illness of any person
 6 served pursuant to this Agreement; notice need only be given during normal business hours.

7 2. WRITTEN NOTIFICATION

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

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

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

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

20
 21 **XXII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

29
 30 **XXIII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

37 //

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

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

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

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

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

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

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

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

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

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

37 //

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

4 3. Fundraising.

5 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
6 CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of
7 Directors or governing body.

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

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

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

16 8. Severance pay for separating employees.

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

19 10. Supplanting current funding for existing services.

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

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

23 2. Making phone calls outside of the local area unless documented to be directly for the
24 purpose of Client care.

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

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

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

30 6. Providing inpatient hospital services or purchasing major medical equipment.

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

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

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

- 3 1. The loss by CONTRACTOR of legal capacity.
- 4 2. Cessation of services.
- 5 3. The delegation or assignment of CONTRACTOR's services, operation or administration to
6 another entity without the prior written consent of COUNTY.
- 7 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
8 required pursuant to this Agreement.
- 9 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this
10 Agreement.
- 11 6. The continued incapacity of any physician or licensed person to perform duties required
12 pursuant to this Agreement.
- 13 7. Unethical conduct or malpractice by any physician or licensed person providing services
14 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR
15 removes such physician or licensed person from serving persons treated or assisted pursuant to this
16 Agreement.

17 E. CONTINGENT FUNDING

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

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

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

- 33 1. Comply with termination instructions provided by ADMINISTRATOR in a manner which is
34 consistent with recognized standards of quality care and prudent business practice.
- 35 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract
36 performance during the remaining contract term.

37 //

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

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

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

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

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

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

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

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

25 **XXX. THIRD PARTY BENEFICIARY**

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

30 **XXXI. WAIVER OF DEFAULT OR BREACH**

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

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

3
4 MIND OC

5
6
7 BY: _____ DATED: _____

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10 TITLE: _____

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18 COUNTY OF ORANGE

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21 BY: _____ DATED: _____

22 HEALTH CARE AGENCY

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

EXHIBIT A
 TO AGREEMENT FOR PROVISION OF
 SUICIDE PREVENTION SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 MIND OC
 JULY 1, 2019 THROUGH JUNE 30, 2021

I. COMMON TERMS AND DEFINITIONS

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

1. Admission means documentation, by CONTRACTOR, of completion of the entry and evaluation documents into the ADMINISTRATOR's IRIS or other database as approved by administrator.

2. At Risk means a state of high stress and low protective factor that would increase likelihood of development of a mental illness.

3. Behavioral Health Condition means diminished cognitive, emotional, or social abilities, but not to the extent that the criteria for a mental disorder are met.

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

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

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

c. Emerging Practices means that the practice(s) seems like a logical approach to addressing a specific behavior which is becoming distinct, recognizable among individuals and clinicians in practice, or innovators in academia or policy makers; and at least one recognized expert, group of researchers or other credible individuals have endorsed the practice as worthy of attention based on outcomes; and finally, it produces specific outcomes.

1 5. Collaboration means a process of participation through which groups, agencies, coalitions
2 and/ or task forces work together in a beneficial and well-defined relationship towards the service goals.

3 6. Community Planning Meetings means meetings that are facilitated by the CONTRACTOR
4 for the purpose of gathering feedback from local stakeholders, including consumers/clients, family
5 members, community-based behavioral health providers, COUNTY staff and other individuals related to
6 the services described under this Agreement.

7 7. Data Mining and Analysis Specialist means a person who is responsible for ensuring the
8 program maintains a focus on outcomes, by reviewing outcomes, and analyzing data as well as working
9 on strategies for gathering new data from the individuals' perspective, which will improve
10 understanding of individuals' needs and desires towards furthering their Recovery. This individual will
11 provide feedback to the program and work collaboratively with other staff in the program in strategizing
12 improved outcomes in these areas. This position will be responsible for attending all data and outcome
13 related meetings and ensuring that program is being proactive in all data collection requirements and
14 changes at the local and state level.

15 8. DHCS means Department of Health Care Service and refers to the California Health and
16 Human Services Agency that finances and administers a number of individual health care service
17 delivery programs, including Medi-Cal, which provides health care services to low-income people.

18 9. Engagement means the process by which a trusting relationship between worker and
19 individual(s) is established with the goal to link the individual(s) to the appropriate services.
20 Engagement of individual(s) is the objective of a successful Outreach.

21 10. Evaluation means systematic collection, analysis, and use of program information for
22 monitoring, improving programs, assessing Outcomes, planning, and policy-making in relation to this
23 Agreement.

24 11. Family Member means any traditional and/ or non-traditional support system, significant
25 other, or natural support designated by the Participant.

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

30 13. Information Dissemination means the distribution of a collection of facts or data.

31 14. Level of Well-being means the state of satisfaction, happiness, and/or in control that a
32 participant feels about his/her present situation/condition as measured by a validated instrument/scale.

33 15. Linkage means when an individual is connected to programs or services through warm
34 hand-off or follow-up to ensure connection is made.

35 16. Mental Health Field means a business or service providing mental health Outreach,
36 Assessment, or treatment services to mental health Participants, or providing housing, educational,
37 counseling, employment, recreational or social services to mental health Participants.

1 17. Mental Health Services means interventions designed to provide the maximum reduction of
2 mental disability and restoration or maintenance of functioning consistent with the requirements for
3 learning, development and enhanced self-sufficiency.

4 18. Media Events means culturally relevant activities conducted by CONTRACTOR which are
5 coordinated with and publicized by the media, including radio and TV appearances.

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

8 20. Mental Health Services Oversight and Accountability Commission (MHSOAC) means the
9 Commission responsible for the oversight and implementation of MHSA and refers to Section 10 of the
10 MHSA (Welfare and Institutions Code Section 5845).

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

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

18 23. Outcome means measurable change that occurs as a result of a project’s overall
19 performance in implementing its services.

20 24. Outreach means activities that are intended to engage and inform potential participants
21 about project services.

22 25. Participant means an individual who engages in activities aimed at preventing and/or
23 eliminating the development of mental illness.

24 26. Prevention means intentional group or individual interventions that occur before the initial
25 onset of a behavioral health condition. Prevention promotes positive cognitive, social, and emotional
26 development and encourages a state of well-being that allows the individuals to function well in the face
27 of changing and sometimes challenging circumstances.

28 27. PEI Plan means the most recent County of Orange MHSA Prevention and Early
29 Intervention Plan approved by the Orange County MHSA Steering Committee and Board of
30 Supervisors.

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

37 //

1 29. PII means any information that could be readily used to identify a specific person, including
2 but not limited to: name, address, telephone number, E-Mail address, driver's license number, Social
3 Security number, bank account information, credit card information, or any combination of data that
4 could be used to identify a specific person, such as birth date, zip code, mother's maiden name and
5 gender.

6 30. Program Development means the ongoing systematic process of planning, implementing
7 and evaluating a program, which involves a collaborative relationship between the CONTRACTOR and
8 ADMINISTRATOR.

9 31. Program Director means an individual who has complete responsibility for the day-to-day
10 function of the program. The Program Director is the highest level of decision-making at a local,
11 program level.

12 32. Quality Assurance means the systematic process of ensuring services are meeting specified
13 requirements as set forth by the ADMINISTRATOR.

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

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

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

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

23 d. Community: Relationships and social networks that provide support, friendship, love,
24 and hope.

25 34. Referral means the process of sending an individual from one service to another for health
26 care, behavioral health services, and/ or other support services, or an unsuccessful Linkage attempt.

27 35. Social Support means assistance that may include companionship, emotional backing,
28 cognitive guidance, material aid and special services.

29 36. Stakeholder means adults and seniors with severe mental illness, families of children, adults
30 and seniors with severe mental illness, providers of services, law enforcement agencies, education,
31 social services agencies, veterans, representatives from veterans organizations, providers of alcohol and
32 drug services, health care organizations, and other important interests.

33 37. Support Group means a meeting/group, facilitated by program staff, consisting of two (2) or
34 more people (or a number mutually agreed upon in the contract) who have similar experiences and
35 concerns and who meet in order to provide emotional help, advice and encouragement for one another.

36 38. Training means the action or method used to transfer skills and/or knowledge to a target
37 audience.

39. Train the Trainer means the process in which an individual or group passes on the skills, knowledge, and abilities of course work to others so they may become educators, coaches, tutors, mentors, etc., to disseminate information, material, and skills to others.

40. Unduplicated Participant means an individual who is counted only once, despite how many programs the individual is enrolled in during a contractual agreement period. For example; if a participant receives individual and group services, they can only be counted once.

41. Units of Service mean the number and/or type of activities the CONTRACTOR will fulfill during the term of the Agreement.

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

II. BUDGET

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

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>TOTAL</u>
ADMINISTRATIVE COSTS			
—Indirect Costs	\$ 37,250	\$ 52,150	\$ 89,400
SUBTOTAL ADMIN COSTS	\$ 37,250	\$ 52,150	\$ 89,400
PROGRAM COSTS			
—Salaries	\$ 73,828	\$ 84,375	\$ 158,203
—Benefits	22,145	25,313	47,458
—Services & Supplies	63,277	116,762	180,039
—Subcontractors	51,000	71,400	122,400
—Start-up Costs	2,500	0	2,500
SUBTOTAL PROGRAM COSTS	\$ 212,750	\$ 297,850	\$ 510,600
TOTAL GROSS COSTS	\$ 250,000	\$ 350,000	\$ 600,000
REVENUE			
—MHSA	250,000	350,000	600,000
TOTAL REVENUE	\$ 250,000	\$ 350,000	\$ 600,000

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>	<u>PERIOD FOUR</u>	<u>TOTAL</u>
ADMINISTRATIVE COSTS					
<u>Indirect Costs</u>	\$ 37,250	\$ 21,098	\$ 40,778	\$ 38,903	\$ 138,029
SUBTOTAL ADMIN COSTS	\$ 37,250	\$ 21,098	\$ 40,778	\$ 38,903	\$ 138,029
PROGRAM COSTS					
<u>Salaries</u>	\$ 73,828	\$ 23,518	\$ 68,158	\$ 29,203	\$ 194,707
<u>Benefits</u>	22,145	5,648	21,125	5,841	54,759
<u>Services & Supplies</u>	63,277	23,233	108,767	132,153	345,230
<u>Subcontractors</u>	51,000	89,200	23,475	93,900	239,775
<u>Start-up Costs</u>	2,500	0	0	0	2,500
SUBTOTAL PROGRAM COSTS	\$ 212,750	\$ 141,599	\$ 221,525	\$ 261,097	\$ 836,971
TOTAL GROSS COSTS	\$ 250,000	\$ 162,697	\$ 262,303	\$ 300,000	\$ 975,000
REVENUE					
<u>MHSA</u>	250,000	162,697	262,303	300,000	975,000
TOTAL REVENUE	\$ 250,000	\$ 162,697	\$ 262,303	\$ 300,000	\$ 975,000
TOTAL MAXIMUM OBLIGATION	\$ 250,000	\$ 162,697	\$ 262,303	\$ 300,000	\$ 975,000

B. CONTRACTOR shall not collect fees and insurance, including Medicare, for services

1 specifically provided pursuant to the Agreement.

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

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

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

23 **III. PAYMENTS**

24 ~~A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amount of~~
25 ~~\$20,833 per month for Period One and \$29,167 per month for Period Two and as specified in the~~
26 ~~Referenced Contract Provisions of the Agreement. All payments are interim payments only, and subject~~
27 ~~to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which~~
28 ~~CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided,~~
29 ~~however, the total of such payments does not exceed COUNTY's Maximum Obligation as specified in~~
30 ~~the Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are~~
31 ~~reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its~~
32 ~~discretion, pay supplemental invoices for any month for which the provisional amount specified above~~
33 ~~has not been fully paid.~~

34 A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amount of
35 \$20,833 per month for Period One, \$13,558 per month for Period Two, \$21,858 per month for Period
36 Three and \$25,000 per month for Period Four, as specified in the Referenced Contract Provisions of the
37

1 Agreement. All payments are interim payments only, and subject to Final Settlement in accordance
2 with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for
3 the actual cost of providing the services hereunder; provided, however, the total of such payments does
4 not exceed COUNTY's Maximum Obligation as specified in the Referenced Contract Provisions of the
5 Agreement and, provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY,
6 state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for
7 any month for which the provisional amount specified above has not been fully paid.

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

12 2. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the
13 provisional amount payments exceed the actual cost of providing services, ADMINISTRATOR may
14 reduce payments to CONTRACTOR by an amount not to exceed the difference between the
15 year-to-date provisional amount payments to CONTRACTOR's and the year-to-date actual cost
16 incurred by CONTRACTOR.

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

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

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

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

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

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

37

IV. REPORTS

1
2 A. PROGRAMMATIC – Throughout the term of the Agreement, CONTRACTOR shall submit
3 monthly Programmatic reports to ADMINISTRATOR. These reports shall be in a format approved by
4 ADMINISTRATOR and shall include but not limited to, a summary of contract productivity; a
5 summary of activities; a summary of activities intended to build relationships and increase collaboration
6 with external agencies; descriptions of any performance objectives, outcomes, and or interim findings as
7 directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the
8 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not
9 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve
10 satisfactory progress.

11 B. FISCAL

12 1. Expenditure and Revenue Report. Throughout the term of the Agreement, CONTRACTOR
13 shall submit monthly Expenditure and Revenue Reports to ADMINISTRATOR. These reports will be
14 on a form acceptable to, or provided by, ADMINISTRATOR and will report actual costs and revenues
15 for CONTRACTOR's program described in the Services Paragraph of this Exhibit A to the Agreement.
16 Such reports will also include actual productivity as defined by ADMINISTRATOR.

17 2. Year-End Projections. CONTRACTOR shall provide monthly year-end projections that
18 shall include year-to-date actual costs and revenues and anticipated year-end actual costs and revenues
19 for CONTRACTOR's program described in the Services Paragraph of this Exhibit A to the Agreement.
20 Year-End Projection Reports will be submitted in conjunction with the Monthly Expenditure and
21 Revenue Reports.

22 3. Staffing Report. CONTRACTOR shall submit monthly Staffing Reports to
23 ADMINISTRATOR. These reports shall be on a form provided by ADMINISTRATOR and shall, at a
24 minimum, report overall FTEs of the positions stipulated in the Staffing Paragraph of this Exhibit A to
25 the Agreement, and staff hours worked by position. Staffing Reports will be submitted in conjunction
26 with the monthly Expenditure and Revenue and Year-End Projection Reports.

27 C. The monthly Programmatic, Expenditure and Revenue, Year-End Projection, and Staffing
28 reports shall be received by ADMINISTRATOR no later than the twentieth (20th) day following the end
29 of the month being reported. CONTRACTOR must request in writing any extensions to the due date of
30 the monthly required reports. If an extension is approved by ADMINISTRATOR, the total extension
31 will not exceed more than five (5) calendar days.

32 D. ADDITIONAL REPORTS – CONTRACTOR shall, as mutually agreed between
33 CONTRACTOR and ADMINISTRATOR, make additional reports as reasonably required by
34 ADMINISTRATOR concerning CONTRACTOR's activities as they affect the duties and purposes
35 contained in this Agreement. ADMINISTRATOR will provide CONTRACTOR with at least thirty (30)
36 calendar days' notice if such additional reports are required, and shall explain any procedures for
37 reporting the required information.

1 E. CONTRACTOR shall provide effective Administrative management of the budget, staffing,
 2 recording, and reporting portion of the Agreement with the COUNTY. If administrative responsibilities
 3 are delegated to subcontractors, CONTRACTOR must ensure that any subcontractor(s) possess the
 4 qualifications and capacity to perform all delegated responsibilities. These responsibilities include, but
 5 not limited to the following:

- 6 1. Designate the responsible position(s) in your organization for managing the funds allocated
 7 to this program;
- 8 2. Maximize the use of the allocated funds;
- 9 3. Ensure timely and accurate reporting of monthly expenditures;
- 10 4. Maintain appropriate staffing levels;
- 11 5. Request budget and/or staffing modifications to the Agreement;
- 12 6. Effectively communicate and monitor the program for its success;
- 13 7. Track and report expenditures electronically;
- 14 8. Maintain electronic and telephone communication between key staff and the Contract and
 15 Program Administrators; and
- 16 9. Have a system in place to respond to and act quickly to identify and solve problems that
 17 may be occurring with any of the subcontractors.

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

20 **V. SERVICES**

21 **A. FACILITY**

22 1. CONTRACTOR shall provide or make available services as required by this Agreement at
 23 the following location, or any other facility designated, in writing, by ADMINISTRATOR:

24 Mind OC
 25 18650 MacArthur Blvd., Ste. 220
 26 Irvine, CA 92612
 27

28 **B. SERVICES TO BE PROVIDED**

29 1. CONTRACTOR shall be responsible to build the necessary infrastructure for planning,
 30 developing and implementing a countywide suicide prevention initiative.

31 a. CONTRACTOR shall coordinate the Suicide Prevention Leadership Committee formed
 32 under a countywide initiative called Be Well which aims to bring together public, private, academic,
 33 advocates, and faith-based organizations to create a coordinated system of mental health care and
 34 support for all Orange County residents. Designated CONTRACTOR staff shall be responsible for
 35 coordinating and facilitating the Leadership Committee meetings which shall include securing the
 36 location for the meetings, planning the agenda in collaboration with the stakeholders, preparing meeting
 37 minutes and facilitating the meetings by aligning and expanding existing suicide prevention efforts with

1 the goal of developing strategic suicide prevention priorities in the County. Designated
 2 CONTRACTOR staff shall also facilitate the process of creating a formal structure for this Committee,
 3 including defining the mission statement, defining the roles and responsibilities of Leadership
 4 Committee members and ensuring there is representation from key stakeholder groups including, but not
 5 limited to, survivors of suicide, family members, behavioral health and other health care providers, first
 6 responders, law enforcement, the Coroner's office, faith-based organizations, media, and Health Care
 7 Agency staff. CONTRACTOR staff shall be responsible for the following:

- 8 1) Preparing the Agenda and minutes of the Leadership Committee meetings;
- 9 2) Follow-up on action items;
- 10 3) Develop a Mission Statement;
- 11 4) Develop a roles/responsibility of Leadership Committee document.

12 b. CONTRACTOR staff shall develop the initial draft of the suicide prevention,
 13 intervention and postvention priorities that include the short and long-term priorities, based on relevant
 14 Orange County data, identified gaps, community input and ongoing discussions from the Leadership
 15 Committee meetings, and specific needs of Orange County. CONTRACTOR staff shall be responsible
 16 for preparing draft suicide prevention, intervention and postvention priorities for Orange County.

17 c. CONTRACTOR staff shall organize grassroots efforts in the community. This shall
 18 include but not be limited to facilitation of community suicide prevention forums across Orange County
 19 with the goal of reaching multi-ethnic/linguistic communities and other high-risk underserved
 20 populations such as transitional age youth, lesbian, gay, bisexual, transgender individuals, veterans and
 21 their family members. CONTRACTOR staff shall ensure that these forums are held at easy to reach
 22 locations throughout the county. CONTRACTOR staff shall track the following:

- 23 1) number of individuals reached;
- 24 2) frequency of meetings;
- 25 3) locations;
- 26 4) topics of discussion; demographic data of individuals attending the meeting.

27 d. CONTRACTOR staff shall collaborate with existing stakeholders participating in the
 28 Leadership Committee and seek out new partnerships by actively outreaching to key stakeholders,
 29 particularly those who may not be currently represented. CONTRACTOR shall create and maintain a
 30 comprehensive list of existing and new stakeholders.

31 e. CONTRACTOR staff shall organize at a minimum eight (8) large-scale countywide
 32 suicide prevention/stigma reduction/mental health events such as a suicide prevention conference,
 33 summit, forum, community event and/or a social media campaign. The intended audience shall be
 34 located within Orange County. CONTRACTOR staff shall work closely with state, county, community
 35 private and public entities involved in suicide prevention efforts to achieve an effective unified approach
 36 for events. The events shall be delivered to one or more of the groups of interest, including but not
 37 limited to: youth, adults, older adults, LGBTQI, Veterans, deaf and hard of hearing, monolingual non-

1 English speakers. The message of the performance/event(s) about mental health shall be positive and
 2 designed to educate; dispel myths; reduce stigma, negative thinking, and behaviors; and affect positive
 3 attitudes toward mental illness in the community. Behavioral health service resources shall be made
 4 available to persons in attendance. When necessary, individual support shall be made available
 5 immediately following each performance/event for referral and/or linkage to various COUNTY and
 6 community-based behavioral health service programs.

7 f. CONTRACTOR shall provide oversight on all aspects of the development and
 8 implementation of all events, from concept through execution, and ensure ADMINISTRATOR is
 9 provided with appropriate and periodic review at all phases.

10 g. CONTRACTOR shall prepare a Plan for organizing events including the total number
 11 of events planned, location and date of events. CONTRACTOR shall track and report to the
 12 ADMINISTRATOR 1) the number of events organized in the county; 2) total number of individuals
 13 attending each event; 3) demographic data of individuals attending these events.

14 h. CONTRACTOR staff shall ensure that countywide suicide prevention/stigma
 15 reduction/mental health events, including the events organized by the CONTRACTOR, are promoted on
 16 websites including but not limited to, stigma free OC, Be Well as well as via emails, list serves, social
 17 media platforms, flyer distribution via the grassroots efforts to ensure maximum attendance.
 18 CONTRACTOR staff shall 1) submit a Plan for promoting events to the ADMINISTRATOR; 2) track
 19 the events in the county; 3) track the website hits wherever applicable; 4) collect any other data
 20 necessary to demonstrate events were held.

21 i. CONTRACTOR staff shall participate in all Be Well Pillar Result Area meetings to
 22 inform and liaison between Result Areas and the Suicide Prevention Leadership Committee.
 23 CONTRACTOR staff shall report any topics of significance for suicide prevention back to the
 24 Leadership Committee to further inform and assist with establishing priorities for suicide prevention in
 25 Orange County.

26 C. OUTCOME MEASURES

27 1. CONTRACTOR shall implement, track, and evaluate ADMINISTRATOR approved
 28 outcome measures across all event services and provide analysis to ADMINISTRATOR at the end of
 29 each event, and in a format agreeable to both parties.

30 2. CONTRACTOR's outcome measures shall include, but not be limited to the demographic
 31 data questionnaire, satisfaction surveys, analysis of attendees' satisfaction and comments, and a post
 32 survey measuring shifts in attitudes and feelings about mental illness, stigma, and recovery through
 33 participation in the stigma art event. CONTRACTOR shall ask participants to identify their relationship
 34 to mental illness (i.e. family member, lived experience, consumer advocate, etc.).

35 3. CONTRACTOR shall request all attendees complete the surveys and questionnaires upon
 36 exiting the events.

37 4. CONTRACTOR's surveys and questionnaires shall assess participants' beliefs about the

1 social worth of people with mental illness; participants' beliefs about the potential for recovery from
 2 serious mental illness; and attitudinal changes in the participants after viewing the video and/or
 3 consumer art. CONTRACTOR shall measure and report on the outcomes of services in accordance with
 4 the following:

5 a. On average, participants in suicide prevention/stigma reduction/mental health
 6 awareness activities will demonstrate an increase in knowledge and awareness regarding mental
 7 health/stigma/suicide prevention/intervention.

8 b. On average, participants in suicide prevention/stigma reduction/mental health
 9 awareness activities will demonstrate an increase in positive attitudes and beliefs surrounding mental
 10 illness.

11 c. On average, participants in suicide prevention/stigma reduction/mental health
 12 awareness activities will demonstrate an increase in knowledge of mental health and suicide prevention
 13 resources.

14 5. CONTRACTOR shall incorporate additional outcome measurements as appropriate, to
 15 measure effectiveness of projects.

16 6. CONTRACTOR shall complete and submit to ADMINISTRATOR an outcome report
 17 within thirty (30) calendar days of the final event with an analysis of the effectiveness and impact of the
 18 events on its participants. CONTRACTOR's analysis and report shall include all data collected during
 19 the funded events.

20 7. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 21 Services Paragraph of this Exhibit A to the Agreement.

22 **VI. STAFFING**

23 A. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold
 24 languages as determined by COUNTY. Whenever possible, bilingual/bicultural staff should be retained.
 25 Salary savings resulting from such vacant positions may not be used to cover costs other than salaries
 26 and employees benefits unless otherwise authorized, in writing and in advance, by ADMINISTRATOR.

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

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

36 D. CONTRACTOR shall notify ADMINISTRATOR, in writing, at least seven (7) days in advance
 37

1 of any new staffing changes, including promotions, temporary FTE changes and internal or external
 2 temporary staffing assignment requests that occur during the term of the Agreement.

3 E. CONTRACTOR shall ensure that all staff complete the COUNTY’s Annual Provider Training
 4 and Annual Compliance Training.

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

8		
9	SERVICES	FTE
10	— Director of Community Prevention	0.50
11	— Subcontractor	0.24
12	PROGRAM TOTAL FTE	0.74

13

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

17		
18	<u>SERVICES</u>	<u>FTE</u>
19	<u>Director of Community Prevention</u>	<u>0.50</u>
20	<u>Director of Community Prevention/Subcontractor</u>	<u>0.50</u>
21	<u>Community Resident/Subcontractor</u>	<u>0.20</u>
22	<u>TOTAL FTE</u>	<u>1.20</u>

23

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

28 H. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 29 Staffing Paragraph of this Exhibit A to the Agreement.

30 //
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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
SUICIDE PREVENTION SERVICES
BETWEEN
COUNTY OF ORANGE
AND
MIND OC

I BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

1. The parties agree that the terms used, but not otherwise defined below in Subparagraph B., shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and their implementing regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

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

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

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

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

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

1 CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the
 2 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and
 3 electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

4 B. DEFINITIONS

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

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

11 a. Breach excludes:

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

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

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

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

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

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

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

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

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

34 4. “Designated Record Set” shall have the meaning given to such term under the HIPAA
 35 Privacy Rule in 45 CFR § 164.501.

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

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

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

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

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

11 10. “Protected Health Information” or “PHI” shall have the meaning given to such term under
12 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
14 Rule in 45 CFR § 164.103.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

11 D. SECURITY RULE

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

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

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

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

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

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

36 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or
37 transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to

1 the same restrictions and requirements contained in this Paragraph D of this Business Associate
2 Contract.

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

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

9 E. DATA SECURITY REQUIREMENTS

10 1. Personal Controls

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

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

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

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

36 2. Technical Security Controls

37 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY

1 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
2 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which
3 is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full
4 disk unless approved by the COUNTY.

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

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

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

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

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

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

1 compromised. Passwords must be composed of characters from at least three of the following four
2 groups from the standard keyboard:

3 1) Upper case letters (A-Z)

4 2) Lower case letters (a-z)

5 3) Arabic numerals (0-9)

6 4) Non-alphanumeric characters (punctuation symbols)

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

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

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

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

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

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

37 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and

1 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
 2 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a
 3 comprehensive intrusion detection and prevention solution.

4 3. Audit Controls

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

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

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

18 4. Business Continuity/Disaster Recovery Control

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

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

31 5. Paper Document Controls

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

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

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

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

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

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

22 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or
37 other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs

1 in addressing the Breach and consequences thereof, including costs of investigation, notification,
2 remediation, documentation or other costs associated with addressing the Breach.

3 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

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

28 H. PROHIBITED USES AND DISCLOSURES

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

34 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
35 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
36 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §
37 17935(d)(2).

1 I. OBLIGATIONS OF COUNTY

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

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

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

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

13 J. BUSINESS ASSOCIATE TERMINATION

14 1. Upon COUNTY's knowledge of a material breach or violation by CONTRACTOR of the
15 requirements of this Business Associate Contract, COUNTY shall:

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

18 b. Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to cure
19 the material breach or end the violation within (30) days, provided termination of the Agreement is
20 feasible.

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

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

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

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

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

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EXHIBIT C
TO AGREEMENT FOR PROVISION OF
SUICIDE PREVENTION SERVICES
BETWEEN
COUNTY OF ORANGE
AND
MIND OC

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 California Information Practices Act, Civil Code § 1798.29(d).

3. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).

4. "DHCS PI" shall mean Personal Information, as defined below, accessed in a database maintained by the COUNTY or California Department of Health Care Services (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 Social Security Administration (SSA) and DHCS.

6. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29(e) whose unauthorized access may trigger notification requirements under 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 Personal Information includes PI in electronic, paper or any other medium.

7. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.

8. "Personal Information" (PI) shall have the meaning given to such term in California Civil Code § 1798.3(a).

1 9. "Required by law" means a mandate contained in law that compels an entity to make a use
 2 or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court
 3 orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental
 4 or tribal inspector general, or an administrative body authorized to require the production of information,
 5 and a civil or an authorized investigative demand. It also includes Medicare conditions of participation
 6 with respect to health care providers participating in the program, and statutes or regulations that require
 7 the production of information, including statutes or regulations that require such information if payment
 8 is sought under a government program providing public benefits.

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

12 B. TERMS OF AGREEMENT

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

18 2. Responsibilities of CONTRACTOR

19 CONTRACTOR agrees:

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

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

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

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

37 2) Providing a level and scope of security that is at least comparable to the level and

1 scope of security established by the Office of Management and Budget in OMB Circular No. A-130,
 2 Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for
 3 automated information systems in Federal agencies.

4 3) If the data obtained by CONTRACTOR from COUNTY includes PII,
 5 CONTRACTOR shall also comply with the substantive privacy and security requirements in the
 6 Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health
 7 and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the
 8 Information Exchange Agreement (IEA). The specific sections of the IEA with substantive privacy and
 9 security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA,
 10 Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State
 11 and Local Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to
 12 ensure that any of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides
 13 DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that
 14 apply to CONTRACTOR with respect to such information.

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

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

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

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

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

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

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