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BOS No.
Infor Contract No. 5417
Cobblestone ID No. 1959

**Agreement-Specialty Mental Health Services**
**(BOS Agreement No._____-_____)**

This Agreement ("Agreement") is made and entered into as of the last date signed below, by and between the County of Yolo, a political subdivision of the State of California ("County"), and Victor Community Support Services, a non-profit corporation authorized to do business in the State of California ("Contractor"), jointly referred to as "the Parties" herein.

**WHEREAS**, the County desires to obtain Mental Health Services Act (MHSA) Full Service Partnership (FSP) services for children; and

**WHEREAS**, County has entered into agreements with the State of California, Department of Health Care Services, to provide mental health services to County of Yolo residents, (i.e., State Performance Agreement and State Managed Care Mental Health Plan (MHP) Agreement, hereinafter collectively referred to as the "State Contracts"); these agreements are incorporated herein by this reference and are available to Contractor at website www.yolocounty.org/HHSAContracts; and

**WHEREAS**, the State Contracts require that all subcontracts be governed by and construed in accordance with all applicable laws, regulations, and contractual obligations set forth in the State Contracts, and that all County subcontractors (including, but not limited to, Contractor) comply with all terms and conditions of the State Contracts; and

**WHEREAS**, on or about January 25, 2024, the County circulated and distributed a Request for Proposals for Child Youth and Family Outpatient Mental Health Services including Mental Health Services Act (MHSA) Full-Service Partnership (FSP) Services for Children, identified as RFP No. GSDRFPKK2434 (2024 RFP), which can be viewed at www.bidsync.com; and

**WHEREAS**, Contractor responded to the 2024 RFP with a proposal that was subsequently chosen by County; County issued a Letter of Intent to Award a contract to Contractor; and

**WHEREAS**, Contractor represents and warrants that it is licensed by the State of California to provide the services specified in Exhibit A, Scope of Services, of this Agreement; and

**WHEREAS**, Contractor further represents and warrants that neither Contractor, nor any of its officers, agents, employees, partners, contractors, subcontractors, volunteers, or any person or entity with a beneficial ownership of five percent (5%) or more of the Contractor's equity is excluded or debarred from participating in or being paid for participation in any Federal or State program; and

**WHEREAS**, Contractor further represents and warrants that no conditions or events now exist which give rise to Contractor or any of its officers, agents, employees, partners, contractors, subcontractors, volunteers or any person or entity with a beneficial ownership of five percent (5%) or more of the Contractor's equity being excluded or debarred from any Federal or State program; and

**WHEREAS**, Contractor further represents and warrants to County that it has the necessary training, experience, expertise and competency to provide the services, goods and materials that are described in this Agreement, at a cost to County as herein specified; that it will be able to perform the herein described services at minimum cost to County by virtue of its current and specialized knowledge of relevant data, issues, and conditions; and that it will do so in a manner consistent with and furthering of the Strategic Plan Goals of Yolo County, a copy of which can be found at http://www.yolocounty.org/general-government/about-us/mission-values-strategic-plan; and

**WHEREAS**, Contractor understands County is relying upon these representations in entering into this

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Agreement; and

**NOW, THEREFORE**, County and Contractor mutually agree as follows:

## TERMS

## ARTICLE 1. GENERAL PROVISIONS

### I. TERM

The term of this Agreement shall be from **July 1, 2024 through June 30, 2027** unless sooner terminated as provided for in Article 2, Section VII. of this Agreement. At the County's option, this Agreement may be extended for two (2) additional twelve (12) month periods on the same terms and conditions as set forth in this Agreement upon written notice to the Contractor by the Yolo County Health and Human Services Agency Director or their designee ("Director").

### II. SCOPE OF WORK

**A.** Contractor shall provide the services set forth in Exhibit A in a manner satisfactory to the Yolo County Health and Human Services Agency Director, or their designee ("Director"), and in conformance with this term and conditions of this Agreement including but not limited to all other exhibits and attachments hereto.

**B.** Contractor represents and warrants to County that it has the necessary licensing, certification, training, experience, expertise, and competency to provide the services, goods, and materials that are described in this Agreement, at a cost to County as herein specified; that it will be able to perform the herein described services at minimum cost to County by virtue of its current and specialized knowledge of relevant data, issues, and conditions. County is relying upon these representations in entering into this Agreement.

### III. COMPENSATION

**A.** This Agreement shall be subject to any restrictions, limitations, and/or conditions imposed by County, state or federal funding sources that may in any way affect the fiscal provisions of, or funding for, this Agreement. This Agreement is also contingent upon sufficient funds being made available by County, state or federal funding sources for the term of the Agreement.

**B.** Subject to the satisfactory performance of the services required of Contractor pursuant to the terms and conditions set forth in this Agreement, and following Contractor's submission of an appropriate invoice, claims and such other documentation that County may require, County shall pay Contractor according to the terms set forth in Article 9 and Exhibit B.1 of this Agreement. Contractor agrees to accept the foregoing payments as full and complete payment for all services provided pursuant to this Agreement, irrespective of whether the cost of such services and related administrative expenses exceed such payments.

**C.** Funding is provided by fiscal year. For purposes of this Agreement, the fiscal year begins July 1 and ends the following June 30. Any unspent fiscal year appropriation does not roll over and is not available for services provided in subsequent years, if any.

**D.** The maximum financial obligation of County under this Agreement for the term of this Agreement shall not exceed **EIGHT HUNDRED SIXTY-ONE THOUSAND DOLLARS ($861,000)**, as follows:

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| **Fiscal Year 2024-25**<br>July 1, 2024<br>through<br>June 30, 2025 | **Fiscal Year 2025-26**<br>July 1, 2025<br>through<br>June 30, 2026 | **Fiscal Year 2026-27**<br>July 1, 2026<br>through<br>June 30, 2027 | **Total** |
|---|---|---|---|
| $287,000 | $287,000 | $287,000 | **$861,000** |

These amounts are not guaranteed but shall be paid only for services rendered and received in conformance with this Agreement.

**E. OPTION YEARS**: The County may exercise its option to extend the term of the Agreement pursuant to Section I. above. In the event that the County elects to exercise an option, County shall notify the Contractor in writing. The notice shall include the revised agreement term, approved funding amount to be added to the Agreement; and revised agreement maximum payment obligation, subject to the maximums set forth below:

| **Option Year/ Fiscal Year (OY/FY)** | **Revised Agreement Expiration Date Per OY/FY** | **Maximum Increased Funding Amount Per OY/FY** | **Revised Agreement Lifetime Maximum Per OY/FY** |
|---|---|---|---|
| OY/FY 2027-28 | On or before June 30, 2028 | Less than or equal to $287,000 | Less than or equal to $1,148,000 |
| OY/FY 2028-29 | On or before June 30, 2029 | Less than or equal to $287,000 | Less than or equal to $1,435,000 |

In no event shall the term of the Agreement extend beyond **June 30, 2029,** nor shall the total contract maximum exceed the amount of **ONE MILLION FOUR HUNDRED THIRTY-FIVE THOUSAND DOLLARS ($1,435,000),** unless otherwise agreed to in writing by the Parties and in conformity with the then-current Yolo County Procurement Policy approved by the Yolo County Board of Supervisors.

## IV. ENTIRE AGREEMENT

**A.** The complete Agreement shall include the following exhibits and attachment(s) attached hereto and incorporated herein:

| | |
|---|---|
| Exhibit A | Scope of Services |
| Exhibit B.1 | Terms of Payment |
| Exhibit B.2 | Rate Schedule/Contract Budget |
| Exhibit C | Indemnification and Insurance |
| Exhibit D | Business Associate/Qualified Services Organization Agreement Addendum |
| Exhibit E | Performance Measures |
| Attachment I | Yolo/DHCS State Managed Care Mental Health Plan Agreement |
| Attachment II | Yolo/DHCS State Performance Agreement |

**B.** This Agreement constitutes the entire agreement between County and Contractor and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the Parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

**[END ARTICLE 1]**

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## ARTICLE 2. STANDARD TERMS AND CONDITIONS

### I. INDEPENDENT CONTRACTOR

**A.** It is understood and agreed by the Parties hereto that Contractor is an independent contractor, and that no relationship of employer-employee exists between County and Contractor. Neither Contractor nor Contractor's assigned personnel shall be entitled to any benefits payable to employees of County. Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement or any services provided pursuant to this Agreement. Contractor shall determine the method and manner of performing its duties under this Agreement, and County may monitor the work performed by Contractor.

**B.** It is further understood and agreed by the Parties hereto that neither Contractor nor Contractor's assigned personnel shall have any right to act on behalf of County in any capacity whatsoever as an agent or to bind County to any obligation whatsoever.

**C.** Contractor shall provide all facilities, equipment, personnel, labor, materials, supplies, and operating expenses of any kind required for the performance of this Agreement unless otherwise provided in the scope of services.

### II. PERFORMANCE & PERSONNEL STANDARDS

**A.** Contractor shall exercise all care and judgment consistent with good practices in the performance of the services required by this Agreement and shall provide all services in accordance with any applicable laws and regulations incorporated in this Agreement and its exhibits and attachments.

**B.** Contractor shall furnish professional personnel in accordance with the regulations, including all amendments thereto, issued by County, California State Department of Healthcare Services (DHCS), United States Centers for Medicare & Medicaid Services (CMS), United States Department of Health and Human Services (US DHHS), Office of the Inspector General (OIG), the Comptroller General of the United States and any other authorized federal and state agencies.

**C.** Contractor shall operate continuously throughout the term of this Agreement with at least the minimum staff required by law for provision of services hereunder. Such personnel shall be qualified in accordance with all applicable laws.

**D.** Employment of persons to provide treatment services who do not possess the required licenses, certifications or permits to provide services under this Agreement shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by County. See also the credentialing and screening requirements of Article 9, and County's Practitioner Enrollment process detailed in Article 15.

### III. NOTICE TO PARTIES

**A.** All notices shall be deemed to have been given when made in writing and delivered or mailed to the respective representatives of County and Contractor at their respective addresses as follows:

| **Contractor:** | **County:** |
|---|---|
| Victor Community Support Services | Yolo County Health and Human Services Agency |
| 1360 East Lassen Avenue | 137 N. Cottonwood Street |
| Chico, CA 95973 | Woodland, CA 95695 |
| Edward E. Hackett, CFO | Nolan Sullivan, Director |

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**B.** In lieu of written notice to the above addresses, any Party may provide notices by email provided the following email addresses are used:

| **Contractor:** | **County:** |
|---|---|
| edward.hackett@victor.org | Contracts Unit: HHSAContracts@yolocounty.org<br>Contract Administrator: Mary.Yung@yolocounty.org |

**C.** All notices shall be effective upon receipt and shall be deemed received through delivery if personally served or served using email, or on the fifth (5th) day following deposit in the mail if sent by first class mail.

**D.** Any Party may change the designated representative, address, or email address to which such communications are to be given by providing the other Party(ies) with written notice of such change at least fifteen (15) business days prior to the effective date of the change.

## IV. ASSIGNMENT AND SUBCONTRACTS

**A.** The services and obligations required of Contractor under this Agreement are not assignable in whole or in part without the express written agreement of both Parties.

**B.** Contractor shall not subcontract any portion of the services required of Contractor by this Agreement without the express written consent of the Director.

**1.** If any portion of the services required of Contractor are subcontracted, the subcontractor(s) shall maintain the same indemnification and insurance as required of Contractor by this Agreement including Exhibit C. Contractor shall be fully responsible to County for all work undertaken by subcontractors.

**2.** Contractor shall ensure that all subcontracts are subject to the applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification, privacy, data security and confidentiality requirements set forth herein, and include the applicable provisions of Title 42 of the Code of Federal Regulations section 438.230.

**3.** Contractor shall remain legally responsible for the performance of all terms and conditions of this Agreement, including, without limitation, all Specialty Mental Health Services (SMHS) services provided by third parties under subcontracts, whether approved by County or not.

## V. MODIFICATION AND AMENDMENT

**A.** County may unilaterally amend this Agreement, in whole or in part, as needed to align terms with any applicable laws, regulations and contractual obligations or to reflect any changes to same as set forth by DHCS or other federal or state agencies with authority over Medicaid laws and regulations or to issue related sub-regulatory guidance.

**B.** Except as otherwise specifically provided herein, this Agreement may only be modified or amended by written instrument signed by both Parties. See Article 2, Section XI. regarding the Authorized Representatives for the execution of any such modification or amendment.

## VI. DISPUTES

Should a dispute arise between Contractor and County relating to performance under this Agreement other than disputes governed by a dispute resolution process in Title 9, Division 1, Chapter 11 of the California Code of Regulations, prior to exercising any other remedy which may be available, Contractor shall provide County with written notice of the particulars of the dispute within thirty (30) calendar days of the incident. Upon receipt of the written notice, County shall meet with the

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Contractor, review the facts in the dispute, and recommend a means of resolving the dispute. Final written response to the Contractor will be provided within thirty (30) days of receipt of the Contractor's original written notice.

## VII. TERMINATION

**A.** This Agreement may be terminated at any time by the mutual written agreement of both Parties.

**B.** Either Party may terminate this Agreement for convenience by providing at least sixty (60) days' advance written notice to the other party.

**C.** Should either Party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not fewer than thirty (30) days to cure the default. Such notice shall describe the default and shall not be deemed a forfeiture or termination of this Agreement. If such default is not cured within said thirty (30) day period (or such longer period as is specified in the notice or agreed to by the Parties), the party that gave notice of default may terminate this Agreement upon not fewer than fifteen (15) days advance written notice. The waiver by either Party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement. Neither Party waives the right to recover damages against the other for breach of this Agreement.

**D.** This Agreement is subject to County, the state and/or the federal government(s) appropriating and approving sufficient funds for the payments required by this Agreement. If County's adopted budget and/or its receipts from the state and/or the federal government(s) do not contain sufficient funds for this Agreement, County may terminate this Agreement by giving ten (10) days advance written notice thereof to the Contractor, in which event County shall have no obligation to pay the Contractor any further funds or provide other consideration and Contractor shall have no obligation to provide any further services pursuant to this Agreement.

**E.** County may terminate this Agreement upon ten (10) days written notice to Contractor in the event Contractor becomes excluded, debarred, or suspended from participation from federally funded programs; or if County, the state and/or the federal government(s) have otherwise determined that Contractor does not meet the requirements for participation in the Medicaid or Medi-Cal program.

**F.** If, in the Director's sole judgment, Contractor's performance of the obligations, duties and responsibilities required of Contractor by this Agreement jeopardize the health, safety, or welfare of any person, then County may terminate this Agreement immediately upon written notice served upon the Contractor.

**G.** See Article 2, Section XI. regarding the Authorized Representatives for the execution of any such termination agreement or notice.

**H.** If this Agreement is terminated, the Contractor shall promptly supply all information necessary for the reimbursement of any claims submitted to the State.

## VIII. SEVERABILITY

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

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## IX. WAIVER

The waiver by the County or any of its officers, agents, or employees, or the failure of the County or its officers, agents, or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement.

## X. INTERPRETATION; VENUE

**A.** The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. In the event of any conflict between any of the provisions of this Agreement (including any exhibits and attachments), the provision that requires the highest level of performance from Contractor for County's benefit shall prevail.

**B.** This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

**C.** This Agreement is made in Yolo County, California. The venue for any legal action in state court filed by either Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Yolo. The venue for any legal action in federal court filed by either Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying withing the jurisdiction of the federal courts shall be the Eastern District of California.

## XI. AUTHORITY TO CONTRACT

**A.** County and Contractor warrant that they are legally permitted and otherwise have the authority to enter into this Agreement, the signatories to this Agreement are authorized to execute this Agreement on behalf of their respective entities, and that any action necessary to bind each Party has been taken prior to execution of this Agreement.

**B.** Specific County Authority

**1.** Director's Authority: The Director may exercise optional extensions and execute related option notices in conformance with the conditions of Section III of Article 1, if any. The Director may also issue any other general notices regarding the administration of this Agreement.

**2.** County Procurement Manager's Authority: The Yolo County Deputy Director/Manager of Procurement ("Procurement Manager") may approve and execute amendments regarding allocation of funds between categories of services, scope of services, billing rates, and other contract language changes set forth elsewhere in this Agreement provided the modifications are generally consistent with the original approved scope of the contract. This authority includes the ability to approve and execute amendments to increase to the maximum payment obligation, provided the increase is within the Procurement Manager's Authority, as prescribed in the then current Yolo County Procurement Policy. The Yolo County Procurement Manager may also issue termination notices in conformance with Section VII. of this Article.

**3.** Yolo County Board of Supervisors' Authority: All other authority related to this Agreement is reserved by the Yolo County Board of Supervisors.

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## XII. COVENANTS AND CONDITIONS

Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both. Should County choose to excuse any given failure of Contractor to meet any given condition, covenant or obligation (whether precedent or subsequent), that decision will not be, or have the legal effect of, a waiver of the legal effect in subsequent circumstances of either that condition, covenant or obligation or any other found in this document. All conditions, covenants and obligations continue to apply no matter how often County may choose to excuse a failure to perform them.

## XIII. CONFLICT OF INTEREST

**A.** Contractor shall comply with the laws and regulations of the State of California and County regarding conflicts of interest, including, but not limited to, Title 1 Division 4, Chapter 1, Article 4 of the California Government Code, commencing with Section 1090, and Title 9, Chapter 7 of the California Government Code, commencing with Section 87100, including regulations promulgated by the California Fair Political Practices Commission.

**B.** Contractor covenants that it presently has no interest and shall not acquire any direct or indirect interest, which would conflict in any manner with the performance of Contractor's obligations and responsibilities hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed. This covenant shall remain in force until Contractor completes performance of the services required under this Agreement.

**C.** Contractor agrees that if any fact comes to its attention that raises any question as to the applicability of any conflict-of-interest law or regulation, Contractor will immediately inform County and provide all information needed for resolution of the question.

## XIV. THIRD PARTY RIGHTS

Except where specifically stated otherwise in this document, the promises in this document benefit County and Contractor only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this Agreement, nor do the Parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

## XV. OWNERSHIP OF DOCUMENTS & WORK PRODUCTS AND EQUIPMENT

**A. 1.** Any professional and/or technical documents work products. and/or information developed under this Agreement, including but not limited to writings, work sheets, reports, and related data, materials, copyrights and all other rights and interests therein, shall become the property of County.

**2.** Upon completion of services under this Agreement or upon any earlier termination of this Agreement, Contractor shall deliver and assign the foregoing to County. Contractor assigns the work products, as and when the same shall arise, for the full terms of protection available throughout the world.

**3.** In addition, basic data prepared or obtained under this Agreement shall be made available to County without restriction or limitation on their use.

**4.** No additional charge will be made for any of the foregoing.

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**B. 1.** County shall have and retain ownership and title to all equipment valued over five thousand dollars ($5,000) (including shipping and taxes) purchased by Contractor with County funds under this Agreement. County shall inventory tag all equipment and shall conduct, or require Contractor to conduct, an annual physical inventory of the equipment. Contractor shall make all equipment available to County during normal business hours for tagging or inventory.

**2.** Contractor shall maintain an Equipment Report listing of all equipment purchased under this Agreement together with bills of sale and any other documents as may be necessary to show clear title and reasonableness of the purchase price. The Equipment Report shall specify the quantity, name, description, purchase price, and date of purchase of all equipment.

**3.** Contractor shall submit to County the Equipment Report. This report is due by July 31 each year and will cover the period from the inception of this Agreement through June 30 of the preceding fiscal year.

## XVI. PUBLIC RECORDS ACT

Upon its execution, this Agreement (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

**[END ARTICLE 2]**

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## ARTICLE 3. SERVICES AND ACCESS PROVISIONS

### I. CERTIFICATION OF ELIGIBILITY

Contractor will, in cooperation with County, comply with California Welfare and Institutions Code section 14705.5 to obtain a certification of a client's eligibility for Specialty Mental Health Services (SMHS) under Medi-Cal.

### II. ACCESS TO SPECIALTY MENTAL HEALTH SERVICES

**A.** In collaboration with the County, Contractor will work to ensure that individuals to whom the Contractor provides SMHS meet access criteria, as per DHCS guidance specified in DHCS Behavioral Health Information Notice (BHIN) 21-073. Specifically, the Contractor will ensure that the clinical record for each client includes information as a whole, indicating that the client's presentation and needs are aligned with the criteria applicable to their age at the time-of-service provision as specified below.

**B.** For clients under 21 years of age, Contractor shall provide all medically necessary SMHS required pursuant to section 1396d(r) of Title 42 of the United States Code. Covered SMHS shall be provided to enrolled clients who meet either of the following criteria, (1) or (2) below. If a client under age 21 meets the criteria as described in (1) below, the beneficiary meets criteria to access SMHS; it is not necessary to establish that the beneficiary also meets the criteria in (2) below.

**1.** The client has a condition placing them at high risk for a mental health disorder due to experience of trauma evidenced by any of the following: scoring in the high-risk range under a trauma screening tool approved by DHCS, involvement in the child welfare system, juvenile justice involvement, or experiencing homelessness.

**2.** **a.** The client has at least one of the following:

**i.** a significant impairment.

**ii.** a reasonable probability of significant deterioration in an important area of life functioning.

**iii.** a reasonable probability of not progressing developmentally as appropriate.

**iv.** a need for SMHS, regardless of presence of impairment, that are not included within the mental health benefits that a Medi-Cal Managed Care Plan (MCP) is required to provide.

AND

**b.** The client's condition as described in subparagraph 2.a above is due to one of the following:

**i.** a diagnosed mental health disorder, according to the criteria in the current editions of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases and Related Health Problems (ICD).

**ii.** a suspected mental health disorder that has not yet been diagnosed.

**iii.** significant trauma placing the client at risk of a future mental health condition, based on the assessment of a licensed mental health professional.

**C.** If applicable, for clients 21 years of age or older, Contractor shall provide covered SMHS for clients who meet both of the following criteria, (1) and (2) below:

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**1.** The client has one or both of the following:

**a.** significant impairment, where impairment is defined as distress, disability, or dysfunction in social, occupational, or other important activities.

**b.** a reasonable probability of significant deterioration in an important area of life functioning.

**2.** The client's condition as described in paragraph (1) is due to either of the following:

**a.** a diagnosed mental health disorder, according to the criteria in the current editions of the DSM and ICD.

**b.** a suspected mental disorder that has not yet been diagnosed.

## III. ADDITIONAL CLARIFICATIONS

### A. Criteria

**1.** A clinically appropriate and covered mental health prevention, screening, assessment, treatment, or recovery service listed within Exhibit A of this Agreement can be provided and submitted to the County for reimbursement under any of the following circumstances:

**a.** The services were provided prior to determining a diagnosis, including clinically appropriate and covered services provided during the assessment process.

**b.** The service was not included in an individual treatment plan.

**c.** The client had a co-occurring substance use disorder.

### B. Diagnosis Is Not a Prerequisite

**1.** Per BHIN 21-073, a mental health diagnosis is not a prerequisite for access to covered SMHS. This does not eliminate the requirement that all Medi-Cal claims, including SMHS claims, include a current Centers for Medicare & Medicaid Services (CMS)-approved ICD diagnosis code.

## IV. MEDICAL NECESSITY

**A.** Contractor will ensure that services provided are medically necessary in compliance with BHIN 21-073 and pursuant to California Welfare and Institutions Code section 14184.402(a). Services provided to a client must be medically necessary and clinically appropriate to address the client's presenting condition. Documentation in each client's chart as a whole will demonstrate medical necessity as defined below, based on the client's age at the time-of-service provision.

**B.** If applicable, for individuals 21 years of age or older, a service is "medically necessary" or a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain as set forth in California Welfare and Institutions Code section 14059.5.

**C.** For individuals under 21 years of age, a service is "medically necessary" or a "medical necessity" if the service meets the standards set forth in Section 1396d(r)(5) of Title 42 of the United States Code (USC).

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## V. COORDINATION OF CARE

**A.** Contractor shall ensure that all care, treatment and services provided pursuant to this Agreement are coordinated among all providers who are serving the client, including all other SMHS providers, as well as providers of Non-Specialty Mental Health Services (NSMHS), substance use disorder treatment services, physical health services, dental services, regional center services and all other services as applicable to ensure a client-centered and whole-person approach to services.

**B.** Contractor shall ensure that care coordination activities support the monitoring and treatment of comorbid substance use disorder and/or health conditions.

**C.** Contractor shall include in these care coordination activities, efforts to connect, refer and link clients to community-based services and supports, including but not limited to educational, social, prevocational, vocational, housing, nutritional, criminal justice, transportation, childcare, child development, family/marriage education, cultural sources, and mutual aid support groups.

**D.** Contractor shall engage in care coordination activities beginning at intake and throughout the treatment and discharge planning processes.

**E.** To facilitate care coordination, Contractor will request a Health Insurance Portability and Accountability Act (HIPAA) and California law compliant client authorization to share client information with and among all other providers involved in the client's care, in satisfaction of state and federal privacy laws and regulations.

## VI. CO-OCCURRING TREATMENT AND NO WRONG DOOR

**A.** Per BHIN 22-011, SMHS and NSMHS can be provided concurrently, if those services are clinically appropriate, coordinated, and not duplicative. When a client meets criteria for both NSMHS and SMHS, the client should receive services based on individual clinical need and established therapeutic relationships. Clinically appropriate and covered SMHS can also be provided when the client has a co-occurring mental health condition and substance use disorder.

**B.** Under this Agreement, Contractor will ensure that clients receive timely mental health services without delay. Services are reimbursable to Contractor by County even when:

**1.** Services are provided prior to determination of a diagnosis, during the assessment or prior to determination of whether SMHS access criteria are met, even if the assessment ultimately indicates the client does not meet criteria for SMHS.

**2.** If Contractor is serving a client receiving both SMHS and NSMHS, Contractor holds responsibility for documenting coordination of care and ensuring that services are non-duplicative.

**[END ARTICLE 3]**

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## ARTICLE 4. AUTHORIZATION AND DOCUMENTATION PROVISIONS

### I. SERVICE AUTHORIZATION

**A.** Contractor will collaborate with County to complete authorization requests in line with County and DHCS policy, including authorization requests for Acute Psychiatric Inpatient Hospitals, Psychiatric Health Facilities, Crisis Residential Facilities, Adult Residential Treatment, Intensive Home-Based Services, Day Treatment Intensive, Day Rehabilitation, Therapeutic Behavioral Services, and Therapeutic Foster Care. Copies of County SMHS policies have been made available to the Contractor on the Yolo County HHSA Behavioral Health Quality Management website at https://www.yolocounty.org/government/general-government-departments/health-human-services/mental-health/behavioral-health-quality-management and are hereby incorporated by this reference.

**B.** Contractor shall have in place, and follow, written policies and procedures for completing requests for initial and continuing authorizations of services, as required by County guidance.

**C.** Contractor shall respond to County in a timely manner when consultation is necessary for County to make appropriate authorization determinations.

**D.** County shall provide Contractor with written notice of authorization determinations within the timeframes set forth in BHINs 22-016 and 22-017, or any subsequent DHCS notices.

**E.** Contractor shall alert County when an expedited authorization decision (no later than 72 hours) is necessary due to a client's specific needs and circumstances that could seriously jeopardize the client's life or health, or ability to attain, maintain, or regain maximum function.

### II. DOCUMENTATION REQUIREMENTS

**A.** Contractor will follow all documentation requirements as specified in this Article 4 inclusive in compliance with federal, state and County requirements.

**B.** All Contractor documentation shall be accurate, complete, and legible, shall list each date of service, and include the face-to-face time for each service. Contractor shall document travel and documentation time for each service separately from face-to-face time and provide this information to County upon request. Services must be identified as provided in-person, by telephone, or by telehealth.

**C.** All services shall be documented utilizing County-approved templates and contain all required elements. Contractor agrees to satisfy the chart documentation requirements set forth in BHIN 23-068 and the contract between County and DHCS. Failure to comply with documentation standards specified in this Article require corrective action plans.

### III. ASSESSMENT

**A.** Contractor shall ensure that all client medical records include an assessment of each client's need for mental health services.

**B.** Contractor will utilize the seven (7) uniform assessment domains and include other required elements as identified in BHIN 23-068 and document the assessment in the client's medical record.

**C.** For clients aged 6 through 20, the Child and Adolescent Needs and Strengths (CANS), and for clients aged 3 through 18, the Pediatric Symptom Checklist-35 (PSC-35) tools are required at

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intake, every six (6) months during treatment, and at discharge, as specified in DHCS Mental Health and Substance Use Disorder Services Information Notice (MHSUDS IN) 17-052 and MHSUDS IN 18-048.

**D.** The time period for providers to complete an initial assessment and subsequent assessments for SMHS are up to clinical discretion of County; however, Contractor's providers shall complete assessments within a reasonable time and in accordance with generally accepted standards of practice.

## IV. ICD-10

**A.** Contractor shall use the criteria set forth in the current edition of the DSM as the clinical tool to make diagnostic determinations.

**B.** Once a DSM diagnosis is determined, the Contractor shall determine the corresponding mental health diagnosis in the current edition of ICD. Contractor shall use the ICD diagnosis code(s) to submit a claim for SMHS to receive reimbursement from County.

**C.** The ICD Tabular List of Diseases and Injuries is maintained by CMS and may be updated during the term of this Agreement. Changes to the lists of ICD diagnoses do not require an amendment to this Agreement, and County may implement these changes as provided by CMS.

## V. PROBLEM LIST

**A.** Contractor will create and maintain a Problem List for each client served under this Agreement. The problem list is a list of symptoms, conditions, diagnoses, and/or risk factors identified through assessment, psychiatric diagnostic evaluation, crisis encounters, or other types of service encounters.

**B.** Contractor must document a problem list that adheres to industry standards utilizing at minimum current SNOMED International, Systematized Nomenclature of Medicine Clinical Terms (SNOMED CT®) U.S. Edition, September 2022 Release, and ICD-10-CM 2023.

**C.** A problem identified during a service encounter may be addressed by the service provider during that service encounter and subsequently added to the problem list.

**D.** The problem list shall include, but is not limited to, all elements specified in BHIN 23-068.

**E.** County does not require the problem list to be updated within a specific timeframe or have a requirement about how frequently the problem list should be updated after a problem has initially been added. However, Contractor shall update the problem list within a reasonable time such that the problem list reflects the current issues facing the client, in accordance with generally accepted standards of practice and in specific circumstances specified in BHIN 23-068.

## VI. TREATMENT AND CARE PLANS

Contractor is not required to complete treatment or care plans for clients under this Agreement, except in the circumstances specified in BHIN 22-068 and additional guidance from DHCS that may follow after execution of this Agreement.

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## VII. PROGRESS NOTES

**A.** Contractor shall create progress notes for the provision of all SMHS services provided under this Agreement.

**B.** Each progress note shall provide sufficient detail to support the service code selected for the service type as indicated by the service code description.

**C.** Progress notes shall include all elements specified in BHIN 23-068, whether the note be for an individual or a group service.

**D.** Contractor shall complete progress notes within three business days of providing a service, with the exception of notes for crisis services, which shall be completed within 24 hours.

**E.** Providers shall complete a daily progress note for services that are billed on a daily basis, such as residential and day treatment services, if applicable.

## VIII. TRANSITION OF CARE TOOL

**A.** Contractor shall use a Transition of Care Tool for any clients whose existing services will be transferred from Contractor to an Medi-Cal Managed Care Plan (MCP) provider or when NSMHS will be added to the existing mental health treatment provided by Contractor, as specified in BHIN 22-065, in order to ensure continuity of care.

**B.** Determinations to transition care or add services from an MCP shall be made in alignment with County policies and via a client-centered, shared decision-making process. Copies of County SMHS policies have been made available to the Contractor on the Yolo County HHSA Behavioral Health Quality Management website at https://www.yolocounty.org/government/general-government-departments/health-human-services/mental-health/behavioral-health-quality-management and are hereby incorporated by this reference.

**C.** Contractor may directly use the DHCS-provided Transition of Care Tool, found at https://www.dhcs.ca.gov/Pages/Screening-and-Transition-of-Care-Tools-for-Medi-Cal-Mental-Health-Services.aspx, or obtain a copy of that tool provided by the County. Contractor may create the Transition of Care Tool in its Electronic Health Record (EHR). However, the contents of the Transition of Care Tool, including the specific wording and order of fields, shall remain identical to the DHCS provided form. The only exception to this requirement is when the tool is translated into languages other than English.

## IX. TELEHEALTH

**A.** Contractor may use telehealth, when it deems clinically appropriate, as a mode of delivering behavioral health services in accordance with all applicable County, state, and federal requirements, including those related to privacy/security, efficiency, and standards of care. Such services will conform to the definitions and meet the requirements included in the Medi-Cal Provider Manual: Telehealth, available in the DHCS Telehealth Resources page at: https://www.dhcs.ca.gov/provgovpart/Pages/TelehealthResources.aspx and BHIN 23-018.

**B.** All telehealth equipment and service locations must ensure that client confidentiality is maintained.

**C.** Licensed providers and staff may provide services via telephone and telehealth as long as the service is within their scope of practice.

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**D.** Medical records for clients served by Contractor under this Agreement must include documentation of written or verbal consent for telehealth or telephone services if such services are provided by Contractor. Such consent must be obtained at least once prior to initiating applicable health care services and consent must include all elements as specified in BHIN 23-068.

**E.** County may at any time audit Contractor's telehealth practices, and Contractor must allow access to all materials needed to adequately monitor Contractor's adherence to telehealth standards and requirements.

**[END ARTICLE 4]**

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## ARTICLE 5. RECORDS

**I.** Records include but are not limited to fiscal and client records including all physical and electronic records and documents originated or prepared pursuant to Contractor's performance under this Agreement, such as working papers, reports, financial records, documents of account, client grievance and appeal records, the data information and documents specified in Title 42 of the Code of Federal Regulations sections 438.604, 438.606, 438.608, and 438.610, patient records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for clients.

**II.** Contractor shall maintain adequate fiscal records relating to all services provided and claims made pursuant to this Agreement. These may include, but are not limited to, complete service and financial records, which clearly reflect the actual cost and related fees received for each type of service for which payment is claimed and invoiced, audit work papers, beneficiary eligibility determination, and the fees charged to and collected from beneficiaries. Contractor shall comply with all applicable federal and state requirements as to retaining financial records and shall be maintained in conformance with standard procedures and accounting principles.

**III.** Contractor shall retain all fiscal records for a minimum of ten (10) years from the term end date of the State contract under which this Agreement is funded or in the event the County has been notified that an audit or investigation of the State Contract, until the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, or until final settlement, whichever is later.

**IV.** Contractor shall also maintain adequate patient records for each client ("client records") in sufficient detail to permit an evaluation of services, which shall include, but are not limited to: intake/admission information, demographic information, consent for treatment, medical history, assessment and diagnostic studies, problem lists, treatment plans, records of client interviews, client grievance and appeal records, and records of all services provided. Such records shall also comply with all applicable federal, state, and County record retention requirements. If applicable, Contractor shall comply with federal, state, and County requirements as to maintaining electronic health records. County and Contractor will collaborate to provide clients with access to their healthcare records in compliance with all applicable federal, state, and County regulations.

**V.** All client records shall be kept for whichever time period listed below is longer:

- **A.** ten (10) years from the term end date of the State Contract under which Agreement is funded; or
- **B.** in the event the County has been notified that an audit or investigation of the State Contract, until the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later. County will notify the Contractor if such event occurs; or
- **C.** ten (10) years from the patient's date of discharge, if the patient is 18 years old or older when they are discharged; or
- **D.** until the client's 28th birthday, if the client was treated and discharged while they were a minor; or
- **E.** if the client was pregnant at the time of treatment, their records shall be maintained for 25 years from last date of treatment while pregnant. In the event the client was pregnant more than once while they received treatment, the last date of treatment of the last pregnancy shall be used to calculate the appropriate time frames for record retention. In the event that the last day of treatment while pregnant cannot be ascertained from the client record, the last day of treatment while pregnant shall be calculated as one year from the initial report of pregnancy in the client record.

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**VI.** If Contractor ceases to provide the services required by this Agreement for any reason, Contractor will contact County and make appropriate arrangements for transfer of care of the clients and for County to take possession of all records within seven calendar days of such end date. If applicable, electronic health care records shall be made available to the County in an electronic format readable by the County.

**VII.** See Article 6 and Article 7 for requirements regarding access to records.

**VIII.** All records shall be complete and current and comply with all Agreement requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of Agreement.

**IX.** Contractor shall maintain client and community service records in compliance with all regulations set forth by local, state, and federal requirements, laws and regulations, and provide access to clinical records by County staff.

**X.** Contractor shall comply with Article 14 any applicable County, state or federal regulations regarding the confidentiality, privacy and security of client records including the relinquishing or maintenance of Protected Health Information (PHI) or other protected information.

**[END ARTICLE 5]**

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## ARTICLE 6. RIGHT TO MONITOR/AUDIT

**I.** County, including a department, division or appointee thereof, DHCS, CMS, United States Department of Health and Human Services (US DHHS), including the Office of the Inspector General (OIG), the Comptroller General of the United States, the California State Auditor General and any other authorized federal and state agencies, and/or their duly authorized designees ("Monitors/Auditors") shall have absolute right to inspect, monitor, and audit Contractor's performance under this Agreement.

**II.** Contractor shall maintain and make all records, books, papers, documents, corporate minutes, financial records, staff information, client records, other pertinent items available as requested. Full cooperation shall be given by the Contractor to facilitate any review, inspection, monitoring, or audit conducted, according to this Agreement. Contractor shall make all of its employees, premises, physical facilities, equipment, books, records, documents, contracts, computers, or other electronic systems pertaining to Medi-Cal enrollees, Medi-Cal-related activities, services, and activities furnished under the terms of this Agreement, or determinations of amounts payable available at any time for inspection, examination, or copying by Monitors/Auditors, including access to any employees who might reasonably have information related to Contractor's performance under this Agreement.

**III.** This right to inspect, monitor, and audit will exist for at least ten (10) years from the final date of the Agreement period or in the event the Contractor has been notified that an audit or investigation of this Agreement has commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later [42 CFR §438.230(c)(3)(I)-(ii)]. The Contractor shall also be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under contract. [See Cal. Govt. Code §8546.7]

**IV.** Contractor shall provide Monitors/Auditors with all reasonable facilities and assistance for the safety and convenience of the Auditors in the performance of their duties.

**V.** Monitors/Auditors may inspect, monitor, and audit the Contractor at any time if there is a reasonable possibility of fraud or similar risk. The inspection shall occur at the Contractor's place of business, premises or physical facilities [42 CFR §438.230(c)(3)(iv)]. Unannounced visits, and visits other than during regular business hours, may be made if justified by the circumstances, at the discretion of County or authorized federal and state agencies.

**VI.** Any failure or refusal by Contractor to permit access to any employees, premises, physical facilities, equipment, books, records, documents, contracts, computers, other electronic systems, or other information required to be provided to the Monitors/Auditors shall constitute an express and immediate breach of this Agreement.

**VII.** Contractor shall notify County of any scheduled or unscheduled external inspection, evaluation, monitoring, and audit when it becomes aware of such visit. County shall reserve the right to attend any or all parts of external review processes.

**VIII.** This Article shall survive the termination or completion of this Agreement for the full period of time allowed by law.

**[END ARTICLE 6]**

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## ARTICLE 7. PROGRAM EVALUATION

### I. PROGRAM EVALUATION ACTIVITIES CONDUCTED BY THE COUNTY

**A.** In addition to the auditing and monitoring provisions of Article 6, County will conduct monitoring and oversight activities to review Contractor's SMHS programs and operations. The purpose of these oversight activities is to verify that medically necessary services are provided to clients, who meet medical necessity and criteria for access to SMHS as established in BHIN 21-073, in compliance with the applicable state and federal laws and regulations, and/or the terms of the Agreement between Contractor and County, and future BHINs which may spell out other specific requirements.

**B.** County reserves the right to place Contractor on probationary status should Contractor fail to meet performance requirements, which includes, but is not limited to, violations such as high disallowance rates, failure to report incidents and changes as contractually required, failure to correct issues, inappropriate invoicing, untimely and inaccurate data entry, not meeting performance outcomes expectations and violations issued directly from the State. Additionally, Contractor may be subject to Probationary Status or termination if contract monitoring and auditing corrective actions are not resolved within specified timeframes.

**C.** County has the discretion to revoke full or partial provisions of the Agreement, delegated activities or obligations, or application of other remedies permitted by state or federal law when any Monitors/Auditor determines Contractor has not performed satisfactorily.

**D.** Contractor shall cooperate with County in the implementation, evaluation, monitoring and auditing of this Agreement and comply with any and all reporting requirements established by County. Should County identify an issue or receive notification of a complaint or potential/actual/suspected violation of requirements, County may audit, monitor, and/or request information from the Contractor to ensure compliance with laws, regulations, and requirements, as applicable.

**E.** See also Article 5 and Article 6.

### II. PROGRAM EVALUATION ACTIVITIES CONDUCTED BY THE CONTRACTOR

**A.** Contractors of sufficient size as determined by County shall institute and conduct a Quality Assurance Process for all services provided hereunder. Said process shall include at a minimum a system for verifying that all services provided and claimed for reimbursement shall meet SMHS definitions and be documented accurately.

**B.** Contractor shall provide County with notification and a summary of any internal audit exceptions, and the specific corrective actions taken to sufficiently reduce the errors that are discovered through Contractor's internal audit process. Contractor shall provide this notification and summary to County in a timely manner.

**C.** See also the monthly chart auditing requirements of Exhibit A.

### III. CONFIDENTIALITY IN THE PROGRAM EVALUATION ACTIVITIES

**A.** Contractor and County mutually agree to maintain the confidentiality of Contractor's client records and information, in compliance with all applicable state and federal statutes and regulations, including but not limited to HIPAA, Title 42 the Code of Federal Regulations Part 2, and California Welfare and Institutions Code section 5328, to the extent that these requirements are applicable. Contractor shall inform all of its officers, employees and agents of the confidentiality provisions of all applicable statutes.

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**B.** Contractor's fiscal records shall contain sufficient data to enable auditors to perform a complete audit and shall be maintained in conformance with standard procedures and accounting principles.

**C.** Contractor's records shall be maintained as required by the Director and DHCS on forms furnished by DHCS or County. All statistical data or information requested by the Director shall be provided by the Contractor in a complete and timely manner.

**D.** See also Article 14.

## IV. CHART AUDITING/RECOUPMENT

**A.** County will conduct periodic audits of Contractor charts to ensure appropriate clinical documentation, high quality service provision and compliance with applicable federal, state and county regulations.

**B.** Such audits may result in requirements for Contractor to reimburse County for services previously paid in the following circumstances:

**1.** Identification of Fraud, Waste or Abuse as defined in federal regulation.

**a.** Fraud and abuse are defined in Title 42 of the Code of Federal Regulations section 455.2 and California Welfare and Institutions Code section 14107.11, subdivision (d).

**b.** Definitions for "fraud," "waste," and "abuse" can also be found in the Medicare Managed Care Manual available at: www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/mc86c21.pdf.

**2.** Identification of Fraud, Waste or Abuse as defined in California regulation. See California False Claims Act [Cal. Govt. Code §§ 12650 et. seq.].

**3.** Overpayment of Contractor by County due to errors in claiming or documentation.

**4.** Other reasons specified in the SMHS Reasons for Recoupment document released annually by DHCS and published on the DHCS BHIM website.

**C.** Contractor shall reimburse County for all overpayments identified by Contractor, County and/or state or federal oversight agencies as an audit exception within the timeframes required by law or Country or state or federal agency.

**D.** See also Exhibit B.1.

**[END ARTICLE 7]**

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## ARTICLE 8. CLIENT PROTECTIONS

### I. CLIENTS' RIGHTS

Contractor shall take all appropriate steps to fully protect clients' rights, as specified in California Welfare and Institutions Code sections 5325 et seq; California Code of Regulations (CCR), Title 9, sections 861, 862, 883, 884; CCR, Title 22, sections 72453 and 72527; and Title 42 of the Code of Federal Regulations Part 438, section 438.100.

### II. GRIEVANCES, APPEALS, AND NOTICES OF ADVERSE BENEFIT DETERMINATION

**A.** Contractor shall be responsible for processing any client grievances (as defined per Title 42 of the Code of Federal Regulations Part 438, section 438.400) that are directly expressed to the contractor, unless the client requests it be processed by the County or the nature of the grievance makes it more appropriately processed by the County. When processing client grievances, Contractor shall follow all requirements, including requirements to report to DHCS and Yolo County Quality Management, as set forth in the County's governing beneficiary protections policy and procedures.

**B.** Contractor shall not discourage the filing of grievances and clients do not need to use the term "grievance" for a complaint to be captured as an expression of dissatisfaction and, therefore, a grievance.

**C.** Aligned with Mental Health and Substance Use Disorder Services Information Notice (MHSUDS IN) 18-010E and per Title 42 of the Code of Federal Regulations Part 438, section 438.404, the appropriate and delegated Notice of Adverse Benefit Determination (NOABD) must be issued by Contractors within the specified timeframes using the template provided by County.

**D.** Contractors are responsible for issuing the following types of NOABDs directly to beneficiaries: Denial Notices, Delivery System, Termination Notices, Timely Access Notices, and NOABD Grievance and Appeal Timely Resolution Notices (as they relate to grievances made directly with the Contractor) in alignment with the County's governing beneficiary protections policy and procedures, MHSUDS 18-010E and per Title 42 of the Code of Federal Regulations Part 438, section 438.404.

**E.** NOABDs must be issued to clients anytime the Contractor has made or intends to make an adverse benefit determination that includes the reduction, suspension, or termination of a previously authorized service and/or the failure to provide services in a timely manner. The notice must have a clear and concise explanation of the reason(s) for the decision as established by DHCS and County.

**F.** Procedures and timeframes for responding to grievances, issuing, and responding to adverse benefit determinations, appeals, and state hearings must be followed as per Title 42 of the Code of Federal Regulations Part 438, Subpart F. [42 CFR §§438.400 – 438.424]

**G.** Contractor must provide clients with any reasonable assistance in completing forms and taking other procedural steps related to a grievance or appeal such as auxiliary aids and interpreter services.

**H.** Contractor must maintain records of grievances and appeals and must review the information as part of its ongoing monitoring procedures. The record must be accurately maintained in a manner accessible to County and available upon request to DHCS.

### III. ADVANCE DIRECTIVES

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Contractor must comply with all County policies and procedures regarding Advanced Directives in compliance with the requirements of Title 42 of the Code of Federal Regulations Part 438, sections 422.128 and 438.6(i)(l), (3) and (4). Copies of County SMHS policies have been made available to the Contractor on the Yolo County HHSA Behavioral Health Quality Management website at https://www.yolocounty.org/government/general-government-departments/health-human-services/mental-health/behavioral-health-quality-management and are hereby incorporated by this reference.

## IV. CONTINUITY OF CARE

Contractor shall follow the County's continuity of care policy that is in accordance with applicable state and federal regulations, MHSUDS IN 18-059 and any BHINs issued by DHCS for parity in mental health and substance use disorder benefits subsequent to the first day of the contract term of this Agreement as specified in Article I, Section 1. [42 CFR §§438.62(b)(1)-(2)]

**[END ARTICLE 8]**

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## ARTICLE 9. PROGRAM INTEGRITY

### I. GENERAL

As a condition of receiving payment under a Medi-Cal managed care program, the Contractor shall comply with the provisions of Title 42 of the Code of Federal Regulations Part 438 sections 438.604, 438.606, 438.608 and 438.610. [See 42 CFR §438.600 (b)]

### II. CREDENTIALING AND RE-CREDENTIALING OF PROVIDERS

**A.** Contractor must follow the uniform process for credentialing and recredentialing of service providers established by County, including disciplinary actions such as reducing, suspending, or terminating provider's privileges. Failure to comply with specified requirements can result in suspension or termination of a provider.

**B.** Upon request, the Contractor must demonstrate to the County that each of its providers are qualified in accordance with current legal, professional, and technical standards, and that they are appropriately licensed, registered, waivered, and/or certified.

**C.** Contractor must not employ or subcontract with providers debarred, suspended or otherwise excluded (individually, and collectively referred to as "Excluded") from participation in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in Title 42 of the Code of Federal Regulations Part 438, section 438.610. See relevant section below regarding specific requirements for exclusion monitoring.

**D.** Contractor shall ensure that all of their network providers delivering covered services, sign and date an attestation statement on a form provided by County, in which each provider attests to the following:

**1.** Any limitations or inabilities that affect the provider's ability to perform any of the position's essential functions, with or without accommodation.

**2.** A history of loss of license or felony convictions.

**3.** A history of loss or limitation of privileges or disciplinary activity.

**4.** A lack of present illegal drug use.

**5.** The application's accuracy and completeness.

**E.** Contractor must file and keep track of attestation statements for all of their providers and must make those available to the County upon request at any time.

**F.** Contractor is required to sign an annual attestation statement at the time of Agreement renewal in which they will attest that they will follow County's Credentialing Policy and MHSUDS IN 18-019 and ensure that all of their rendering providers are credentialed as per established guidelines.

**G.** Contractor is required to verify and document at a minimum every three years that each network provider that delivers covered services continues to possess valid credentials, including verification of each of the credentialing requirements as per the County's uniform process for credentialing and recredentialing. If any of the requirements are not up-to-date, updated information should be obtained from network providers to complete the re-credentialing process.

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## III. SCREENING AND ENROLLMENT REQUIREMENTS

**A.** County shall ensure that all Contractor providers are enrolled with the state as Medi-Cal providers consistent with the provider disclosure, screening, and enrollment requirements of Title 42 of the Code of Federal Regulations Part 455, Subparts B and E. [42 CFR §438.608(b).]

**B.** County may execute this Agreement, pending the outcome of screening, enrollment, and revalidation of Contractor, of up to 120 days but must terminate this Agreement immediately upon determination that Contractor cannot be enrolled, or the expiration of one 120-day period without enrollment of the Contractor, and notify affected clients. [42 CFR §438.602(b)(2).]

**C.** Contractor shall ensure that all Providers and/or subcontracted Providers consent to a criminal background check, including fingerprinting to the extent required under state law and Title 42 of the Code of Federal Regulations section 455.434(a). Contractor shall provide evidence of completed consents when requested by County, DHCS or the US DHHS.

## IV. COMPLIANCE PROGRAM REQUIREMENTS

**A.** Contractor shall have in place a compliance program designed to detect and prevent fraud, waste and abuse, as per Title 42 of the Code of Federal Regulations section 438.608(a)(1), that must include:

**1.** Written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable requirements and standards under the Agreement, and all applicable federal and state requirements.

**2.** A Compliance Office (CO) who is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of this Agreement and who reports directly to the CEO and the Board of Directors.

**3.** A Regulatory Compliance Committee on the Board of Directors and at the senior management level charged with overseeing the organization's compliance program and its compliance with the requirements under the Agreement.

**4.** A system for training and education for the Compliance Officer, the organization's senior management, and the organization's employees for the federal and state standards and requirements under the Agreement.

**5.** Effective lines of communication between the Compliance Officer and the organization's employees.

**6.** Enforcement of standards through well-publicized disciplinary guidelines.

**7.** The establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, corrections of such problems promptly and thoroughly to reduce the potential for recurrence, and ongoing compliance with the requirements under the Agreement.

**8.** The requirement for prompt reporting and repayment of any overpayments identified.

**B.** Contractor must have administrative and management arrangements or procedures designed to detect and prevent fraud, waste and abuse of federal or state health care funding. Contractor must report fraud and abuse information to County including but not limited to:

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1. Any potential fraud, waste, or abuse per Title 42 of the Code of Federal Regulations sections 438.608(a), (a)(7) and Cal. Govt. Code section 12650 et. seq.
2. All overpayments identified or recovered, specifying the overpayment due to potential fraud as per Title 42 of the Code of Federal Regulations sections 438.608(a), (a)(2).
3. Information about change in a client's circumstances that may affect the client's eligibility including changes in the client's residence or the death of the client as per Title 42 of the Code of Federal Regulations section 438.608(a)(3).
4. Information about a change in the Contractor's circumstances that may affect the network provider's eligibility to participate in the managed care program, including the termination of this Agreement with the Contractor as per Title 42 of the Code of Federal Regulations section 438.608(a)(6).

**C.** Contractor shall implement written policies that provide detailed information about the False Claims Act and other federal and state Laws described in Section 1902(a)(68) of the False Claims Act, including information about rights of employees to be protected as whistleblowers.

**D.** Contractor shall make prompt referral of any potential fraud, waste or abuse to County or potential fraud directly to the State Medicaid Fraud Control Unit.

**E.** County may suspend payments to Contractor if DHCS or County determine that there is a credible allegation of fraud in accordance with Title 42 of the Code of Federal Regulations section 455.23. [42 CFR §438.608 (a)(8).]

**F.** Contractor shall report to County all identified overpayments and reason for the overpayment, including overpayments due to potential fraud. Contractor shall return any overpayments to County within 60 calendar days after the date on which the overpayment was identified. [42 CFR §438.608 (a)(2), (c)(3).]

## V. INTEGRITY DISCLOSURES

**A.** Contractor shall provide information on ownership and controlling interests, disclosures related to business transactions, and disclosures related to persons convicted of crimes in the form and manner requested by County, upon execution of this Agreement, each time the Agreement is renewed and within thirty-five (35) days of any change in ownership or controlling interest of Contractor. [42 CFR §§455.104, 455.105, and 455.106.]

**B.** Upon the execution of this Agreement, Contractor shall furnish County a Provider Disclosure Statement, which, upon receipt by County, shall be kept on file with County and may be disclosed to DHCS. If there are any changes to the information disclosed in the Provider Disclosure Statement, an updated statement should be completed and submitted to County within thirty-five (35) days of the change. [42 CFR §455.104.]

**C.** Contractor must disclose the following information as requested in the Provider Disclosure Statement:

1. Disclosure of 5% or More Ownership Interest:
   - **a.** In the case of corporate entities with an ownership or control interest in the disclosing entity, the primary business address as well as every business location and P.O. Box address must be disclosed. In the case of an individual, the date of birth and Social Security Number must be disclosed.

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**b.** In the case of a corporation with ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has a five percent (5%) or more interest, the corporation tax identification number must be disclosed.

**c.** For individuals or corporations with ownership or control interest in any subcontractor in which the disclosing entity has a five percent (5%) or more interest, the disclosure of familial relationship is required.

**d.** For individuals with five percent (5%) or more direct or indirect ownership interest of a disclosing entity, the individual shall provide evidence of completion of a criminal background check, including fingerprinting, if required by law, prior to execution of Agreement. [42 CFR §455.434.]

**2.** Disclosures Related to Business Transactions:

**a.** The ownership of any subcontractor with whom Contractor has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request.

**b.** Any significant business transactions between Contractor and any wholly owned supplier, or between Contractor and any subcontractor, during the 5-year period ending on the date of the request. [42 CFR §455.105(b).]

**3.** Disclosures Related to Persons Convicted of Crimes:

**a.** The identity of any person who has an ownership or control interest in the Contractor or is an agent or managing employee of the Contractor who has been convicted of a criminal offense related to that person's involvement in any program under the Medicare, Medicaid, or the Title XXI services program since the inception of those programs. [42 CFR §455.106.]

**b.** County shall terminate the enrollment of Contractor if any person with five percent (5%) or greater direct or indirect ownership interest in the disclosing entity has been convicted of a criminal offense related to the person's involvement with Medicare, Medicaid, or Title XXI program in the last ten (10) years.

**D.** Contractor must provide disclosure upon execution of this Agreement, extension for renewal, and within thirty-five (35) days after any change in Contractor ownership or upon request of County. County may refuse to enter into an Agreement or terminate an existing Agreement with a Contractor if the Contractor fails to disclose ownership and control interest information, information related to business transactions and information on persons convicted of crimes, or if the Contractor did not fully and accurately make the disclosure as required.

**E.** Contractor must provide County with written disclosure of any prohibited affiliations under Title 42 of the Code of Federal Regulations section 438.610. Contractor must not employ or subcontract with providers or have other relationships with providers Excluded from participating in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in Title 42 of the Code of Federal Regulations section 438.610.

**F.** All disclosures required under this section shall be emailed to: HHSA.BHCompliance@yolocounty.org; HHSAQualityManagement@yolocounty.org, and the Contract Administrator listed in Article 2, Section III.B.

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## VI. CERTIFICATION OF NON-EXCLUSION OR SUSPENSION FROM PARTICIPATION IN A FEDERAL HEALTHCARE PROGRAM

**A.** By signing this Agreement, Contractor certifies and warrants that it is not excluded from participation in Federal Health Care Programs under either Section 1128 or 1128A of the Social Security Act. Failure to certify will render all provisions of this Agreement null and void and may result in the immediate termination of the Agreement.

**B.** By signing this Agreement, Contractor certifies and warrants that it does not and will not employ or subcontract with providers or have other relationships with providers Excluded from participation in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in Title 42 of the Code of Federal Regulations section 438.610. Contractor shall conduct initial and monthly Exclusion & Suspension searches of the following databases and provide evidence of these completed searches when requested by County, DHCS or the US DHHS:

**1.** www.oig.hhs.gov/exclusions - LEIE Federal Exclusions.

**2.** www.sam.gov/portal/SAM - GSA Exclusions Extract.

**3.** www.Medi-Cal.ca.gov - Suspended & Ineligible Provider List.

**4.** https://nppes.cms.hhs.gov/#/ - National Plan and Provider Enumeration System (NPPES).

**5.** any other database required by DHCS or DHHS.

**C.** By signing this Agreement, Contractor certifies and warrants it does not employ staff or individual contractors/vendors that are on the Social Security Administration's Death Master File. Contractor shall check the following database prior to employing staff or individual contractors/vendors and provide evidence of these completed searches when requested by County, DHCS or the US DHHS. https://www.ssdmf.com/ - Social Security Death Master File

**D.** Contractor is required to notify County immediately if Contractor becomes aware of any information that may indicate their (including employees/staff and individual contractors/vendors) potential placement on an exclusions list.

**E.** Contractor shall screen and revalidate annually all network providers in accordance with the requirements of Title 42 of the Code of Federal Regulations Part 455, Subparts B and E.

**F.** Contractor must confirm the identity and determine the exclusion status of all its providers, as well as any person with an ownership or control interest, or who is an agent or managing employee of the contracted agency through routine checks of federal and state databases. This includes the Social Security Administration's Death Master File, NPPES, the Office of Inspector General's List of Excluded Individuals/Entities (LEIE), the Medi-Cal Suspended and Ineligible Provider List (S&I List) as consistent with the requirements of Title 42 of the Code of Federal Regulations section 455.436.

**G.** If a Contractor finds a provider that is Excluded, it must promptly notify County as per Title 42 of the Code of Federal Regulations sections 438.608(a)(2), (4). Contractor shall not certify or pay any Excluded provider with Medi-Cal funds, must treat any payments made to an Excluded provider as an overpayment, and any such inappropriate payments may be subject to recovery.

**[END ARTICLE 9]**

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## ARTICLE 10. QUALITY IMPROVEMENT PROGRAM

### I. QUALITY IMPROVEMENT ACTIVITIES AND PARTICIPATION

**A.** Contractor shall comply with the County's ongoing comprehensive Quality Assessment and Performance Improvement (QAPI) Program [42 CFR §438.330(a)] and work with the County to improve established outcomes by following structural and operational processes and activities that are consistent with current practice standards.

**B.** Contractor shall participate in quality improvement (QI) activities, including clinical and non-clinical performance improvement projects (PIPs) and the County's BH Quality Improvement Committee, as requested by the County in relation to state and federal requirements and responsibilities, to improve health outcomes and clients' satisfaction over time. Other QI activities include quality assurance, collection and submission of performance measures specified by the County, mechanisms to detect both underutilization and overutilization of services, client and system outcomes, utilization management, utilization review, provider appeals, provider credentialing and re-credentialing, and client grievances. Contractor shall measure, monitor, and annually report to the County its performance.

**C.** Contractor shall implement mechanisms to assess client/family satisfaction based on County's guidance. The Contractor shall assess client/family satisfaction by:

**1.** Surveying client/family satisfaction with the Contractor's services at least annually.

**2.** Evaluating client grievances, appeals and State Hearings at least annually.

**3.** Evaluating requests to change persons providing services at least annually.

**4.** Informing the County and clients of the results of client/family satisfaction activities.

**D.** Contractor, if applicable, shall implement mechanisms to monitor the safety and effectiveness of medication practices. This mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs, at least annually.

**E.** Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually and shared with the County.

**F.** Contractor shall collaborate with County to create a QI Work Plan with documented annual evaluations and documented revisions as needed. The QI Work Plan shall evaluate the impact and effectiveness of its quality assessment and performance improvement program.

**G.** Contractor shall attend and participate in County's Quality Improvement Committee (QIC) to recommend policy decisions, review and evaluate results of QI activities, including PIPs, institute needed QI actions, and ensure follow-up of QI processes. Contractor shall ensure that there is active participation by the Contractor's practitioners and providers in the QIC.

**H.** Contractor shall assist County, as needed, with the development and implementation of Corrective Action Plans.

**I.** Contractor shall participate, as required, in annual, independent external quality reviews (EQR) of the quality, timeliness, and access to the services covered under this Agreement, which are

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conducted pursuant to Subpart E of Part 438 of the Code of Federal Regulations. [42 CFR §§438.350(a) and 438.320.]

## II. NETWORK ADEQUACY

**A.** The Contractor shall ensure that all services covered under this Agreement are available and accessible to clients in a timely manner and in accordance with the network adequacy standards required by regulation. [42 CFR §438.206 (a), (c).]

**B.** Contractor shall submit, when requested by County and in a manner and format determined by the County, network adequacy certification information to the County, utilizing a provided template or other designated format.

**C.** Contractor shall submit updated network adequacy information to County any time there has been a significant change that would affect the adequacy and capacity of services and as requested by County. Significant changes include, but are not limited to, changes in services or providers available to clients, and changes in geographic service area.

**D.** To the extent possible and appropriately consistent with Title 9 of the California Code of Regulations section 1830.225 and Title 42 of the Code of Federal Regulations section 438.3(l), the Contractor shall provide a client the ability to choose the person providing services to them.

## III. TIMELY ACCESS

**A.** Contractor shall comply with the requirements set forth in, Title 9 of the California Code of Regulations, section 1810.405, including meeting standards of the County and the State Contract for timely access to care and services, taking into account the urgency of need for services. The County shall monitor Contractor to determine compliance with timely access requirements and shall take corrective action in the event of noncompliance.

**B.** Timely access standards include:

**1.** Contractor must have hours of operation during which services are provided to Medi-Cal clients that are no less than the hours of operation during which the provider offers services to non-Medi-Cal clients. If the Contractor's provider only serves Medi-Cal clients, the provider must provide hours of operation comparable to the hours the provider makes available for Medi-Cal services that are not covered by the Agreement or another County.

**2.** Appointments data, including wait times for requested services, must be recorded and tracked by Contractor, and submitted to the County on a monthly basis in a format specified by the County. Appointments data should be submitted to the County's Quality Management Department or other designated persons.

**3.** Urgent care appointments for services that do not require prior authorization must be provided to clients within forty-eight (48) hours of a request. Urgent appointments for services that do require prior authorization must be provided to clients within ninety-six (96) hours of request.

**4.** Non-urgent non-psychiatry mental health services, including, but not limited to Assessment, Targeted Case Management, and Individual and Group Therapy appointments (for both adult and children/youth) must be made available to Medi-Cal clients within ten (10) business days from the date the client or a provider acting on behalf of the client, requests an appointment for a medically necessary service. Non-urgent psychiatry appointments (for both adult and children/youth) must be made available to Medi-Cal clients within fifteen (15) business days

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from the date the client or a provider acting on behalf of the client, requests an appointment for a medically necessary service.

**5.** Applicable appointment time standards may be extended if the referring or treating provider has determined and noted in the client's record that a longer waiting period will not have a detrimental impact on the health of the client.

**6.** Periodic office visits to monitor and treat mental health conditions may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed mental health provider acting within the scope of his or her practice.

## IV. PRACTICE GUIDELINES

**A.** Contractor shall adopt practice guidelines (or adopt County's practice guidelines) that meet the following requirements:

**1.** They are based on valid and reliable clinical evidence or a consensus of health care professionals in the applicable field;

**2.** They consider the needs of the clients;

**3.** They are adopted in consultation with contracting health care professionals; and

**4.** They are reviewed and updated periodically as appropriate [42 CFR §438.236(b) & 9 CCR §1810.326].

**B.** Contractor shall disseminate the guidelines to all affected providers and, upon request, to clients and potential clients [42 CFR §438.236(c).]

## V. PROVIDER APPLICATION AND VALIDATION FOR ENROLLMENT (PAVE)

**A.** Contractor shall ensure that all of its required clinical staff, who are rendering SMHS to Medi-Cal clients on behalf of Contractor, are registered through DHCS' Provider Application and Validation for Enrollment (PAVE) portal, pursuant to BHIN 20-071 requirements, the 21st Century Cures Act and the CMS Medicaid and Children's Health Insurance Program (CHIP) Managed Care Final Rule.

**B.** SMHS licensed individuals required to enroll via the "Ordering, Referring and Prescribing" (ORP) PAVE enrollment pathway (i.e. PAVE application package) available through the DHCS PED Pave Portal, include: Licensed Clinical Social Worker (LCSW), Licensed Marriage and Family Therapist (LMFT), Licensed Professional Clinical Counselor (LPCC), Psychologist, Licensed Educational Psychologist, Physician (MD and DO), Physician Assistant, Registered Pharmacist/Pharmacist, Certified Pediatric/Family Nurse Practitioner, Nurse Practitioner, Occupational Therapist, and Speech-Language Pathologist. Interns, trainees, and associates are not eligible for enrollment.

## VI. REPORTING UNUSUAL OCCURRENCES

**A.** Contractor shall report unusual occurrences to the Director. An unusual occurrence is any event which jeopardizes the health and/or safety of clients, staff and/or members of the community, including, but not limited to, physical injury and death.

**B.** Unusual occurrences are to be reported to County within timelines specified in County policy after becoming aware of the unusual event. Reports are to include the following elements:

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1. Complete written description of event including outcome;
2. Written report of Contractor's investigation and conclusions; and
3. List of persons directly involved and/or with direct knowledge of the event.

**C.** County and DHCS retain the right to independently investigate unusual occurrences and the Contractor will cooperate in the conduct of such independent investigations.

**[END ARTICLE 10]**

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## ARTICLE 11. ORIENTATION, TRAINING AND TECHNICAL ASSISTANCE

**I.** County will endeavor to provide Contractor with training and support in the skills and competencies to (a) conduct, participate in, and sustain the performance levels called for in the Agreement and (b) conduct the quality management activities called for by the Agreement.

**II.** County will provide the Contractor with all applicable standards for the delivery and accurate documentation of services.

**III.** County will make ongoing technical assistance available in the form of direct consultation to Contractor upon Contractor's request to the extent that County has capacity and capability to provide this assistance. In doing so, County is not relieving Contractor of its duty to provide training and supervision to its staff or to ensure that its activities comply with applicable regulations and other requirements included in the terms and conditions of this agreement.

**IV.** Any requests for technical assistance by Contractor regarding any part of this Agreement shall be emailed to the Contract Administrator listed in Article 2, Section III.B. and the HHSA Behavioral Health Quality Management team at HHSAQualityManagement@yolocounty.org.

**V.** Contractor shall require all new employees in positions designated as "covered individuals" to complete compliance trainings within the first thirty (30) days of their first day of work. Contractor shall require all covered individuals to attend, at minimum, one compliance training annually.

**A.** These trainings shall be conducted by County or, at County's discretion, by Contractor staff, or both, and may address any standards contained in this agreement.

**B.** Covered individuals who are subject to this training are any Contractor staff who have or will have responsibility for, or who supervises any staff who have responsibility for, ordering, prescribing, providing or documenting client care or medical items or services.

**VI.** Contractor shall require all staff who deliver Medi-Cal billable services, and management staff who oversee such programs, to complete all California Advancing and Innovating Medi-Cal (CalAIM) trainings related to their role, via CalMHSA's Learning Management System, within thirty (30) days of their first day of work.

**[END ARTICLE 11]**

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## ARTICLE 12. FINANCIAL TERMS

**I. CLAIMING/INVOICING -**See Exhibit B.1 and Exhibit B.2.

**II. ADDITIONAL FINANCIAL REQUIREMENTS**

**A.** County has the right to monitor the performance of this Agreement to ensure the accuracy of claims for reimbursement and compliance with all applicable laws and regulations. See also Article 5, Article 6 and Article 7 of this Agreement.

**B.** Contractor must comply with the False Claims Act employee training and policy requirements set forth in Title 42 of the United States Code section 1396a(a)(68) and as the Secretary of the US DHHS may specify.

**C.** Contractor agrees that no part of any federal funds provided under this Agreement shall be used to pay the salary of an individual per fiscal year at a rate in excess of Level 1 of the Executive Schedule at https://www.opm.gov/ (U.S. Office of Personnel Management), as from time to time amended.

**D.** Federal Financial Participation (FFP) is not available for any amount furnished to an Excluded individual or entity, or at the direction of a physician during the period of exclusion when the person providing the service knew or had reason to know of the exclusion, or to an individual or entity when County failed to suspend payments during an investigation of a credible allegation of fraud. [42 USC §1396b(i)(2).]

**III. CONTRACTOR PROHIBITED FROM REDIRECTION OF CONTRACTED FUNDS**

**A.** Contractor may not redirect or transfer funds from one funded program to another funded program under which Contractor provides services pursuant to this Agreement except through a duly executed amendment to this Agreement.

**B.** Contractor may not charge services delivered to an eligible client under one funded program to another funded program unless the client is also eligible for services under the second funded program.

**IV. FINANCIAL AUDIT REPORTING REQUIREMENTS**

**A.** Contractor shall submit audited financial reports from an independent Certified Public Accountant (CPA) firm on an annual basis to County due by June 30th. The audit shall be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards. Audited financial reports shall be submitted via email to: HHSA-BHClaims@yolocounty.org.

**B.** If County determines that Contractor is a "subrecipient" (also known as a "pass-through entity") as defined in Title 2 of the CFR section 200 et. seq., Contractor represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by County as set forth in Title 2 of the CFR section 200 et. seq., as may be amended from time to time. Contractor shall observe and comply with all applicable financial audit report requirements and standards.

**C.** Financial audit reports must contain a separate schedule that identifies all funds included in the audit that are received from or passed through County. County programs must be identified by Agreement number, Agreement amount, Agreement period, and the amount expended during the fiscal year by funding source.

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**D.** Contractor shall provide these Audited Financial Reports including all attachments to the report, the management letter, and corresponding response by June 30, if the Agreement expires or terminates on June 30. In the event that this Agreement expires or is terminated on a date other than June 30, Contractor shall provide County such an Audit Report covering the preceding period of July 1 through the date of expiration or termination within forty-five (45) days of the expiration or termination unless otherwise specified by the Director.

**E.** Contractor must submit any required corrective action plan to County simultaneously with the audit report or as soon thereafter as it is available. County shall monitor implementation of the corrective action plan as it pertains to services provided pursuant to this Agreement.

**F.** Should an Audit Report or any County, State and/or Federal government audit subsequently disallow any paid goods and/or services, or determine that Contractor has misspent funds, or been overpaid based on the requirements of this Agreement and applicable laws and regulations, County shall demand repayment from Contractor in the amount of such audit findings. Method of Repayment is detailed in Exhibit B.1.

**[END ARTICLE 12]**

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## ARTICLE 13. ADDITIONAL FINAL RULE PROVISIONS

### I. NON-DISCRIMINATION

**A.** Contractor shall not discriminate against Medi-Cal eligible individuals in its county who require an assessment or meet medical necessity criteria for SMHS in the provision of SMHS because of race, color, religion, ancestry, marital status, national origin, ethnic group identification, sex, sexual orientation, gender, gender identity, age, medical condition, genetic information, health status or need for health care services, or mental or physical disability as consistent with the requirements of applicable federal law, such as Title 42 of the Code of Federal Regulations Part 438, sections 438.3(d)(3) and (4), BHIN 23-048 Enclosure 4 and state law.

**B.** Contractor shall take affirmative action to ensure that services to intended Medi-Cal clients are provided without use of any policy or practice that has the effect of discriminating on the basis of race, color, religion, ancestry, marital status, national origin, ethnic group identification, sex, sexual orientation, gender, gender identity, age, medical condition, genetic information, health status or need for health care services, or mental or physical disability.

### II. PHYSICAL ACCESSIBILITY

In accordance with the accessibility requirements of Section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973, Contractor must provide physical access, reasonable accommodations, and accessible equipment for Medi-Cal clients with physical or mental disabilities.

### III. APPLICABLE FEES

**A.** Contractor shall not charge any clients or third-party payers any fee for service unless directed to do so by the Director at the time the client is referred for services. When directed to charge for services, Contractor shall use the uniform billing and collection guidelines prescribed by DHCS.

**B.** Contractor will perform eligibility and financial determinations, in accordance DHCS' Uniform Method of Determining Ability to Pay (UMDAP), for all clients unless directed otherwise by the Director.

**C.** Contractor shall not submit a claim to, or demand or otherwise collect reimbursement from, the client or persons acting on behalf of the client for any specialty mental health or related administrative services provided under this Contract, except to collect other health insurance coverage, share of cost, and co-payments. [Cal. Code Regs., tit. 9, §1810.365(c).]

**D.** The Contractor must not bill clients, for covered services, any amount greater than would be owed if the County provided the services directly as per and otherwise not bill client as set forth in per Title 42 of the Code of Federal Regulations Part 438, section 438.106.

### IV. CULTURAL COMPETENCE

All services, policies and procedures must be culturally and linguistically appropriate. Contractor must participate in the implementation of the most recent Cultural Competency Plan for the County and shall adhere to all cultural competency standards and requirements. Contractor shall participate in the County's efforts to promote the delivery of services in a culturally competent and equitable manner to all clients, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation, or gender identity. At a minimum Contractor must be able to provide services in the County's threshold languages of English, Spanish and Russian.

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## V. CLIENT INFORMING MATERIALS

### A. Basic Information Requirements

**1.** Contractor shall provide information in a manner and format that is easily understood and readily accessible to clients. [42 CFR §438.10(c)(1).] Contractor shall provide all written materials for clients in easily understood language, format, and alternative formats that take into consideration the special needs of clients in compliance with Title 42 of the Code of Federal Regulations section 438.10(d)(6). Contractor shall inform clients that information is available in alternate formats and how to access those formats in compliance with Title 42 of the Code of Federal Regulations section 438.10.

**2.** Contractor shall provide the required information in this section to each client receiving SMHS services under this Agreement and upon request.

**3.** Contractor shall utilize County's website that provides the content required in this section and Title 42 of the Code of Federal Regulations section 438.10 and complies with all the requirements regarding the same set forth in Title 42 of the Code of Federal Regulations section 438.10.

**4.** Contractor shall use DHCS/County developed model beneficiary handbook and client notices. [42 CFR §§438.10(c)(4)(ii), 438.62(b)(3).]

**5.** Client information required in this section may only be provided electronically by the Contractor if all of the following conditions are met:

**a.** The format is readily accessible.

**b.** The information is placed in a location on the Contractor's website that is prominent and readily accessible.

**c.** The information is provided in an electronic form which can be electronically retained and printed.

**d.** The information is consistent with the content and language requirements of this Agreement.

**e.** The client is informed that the information is available in paper form without charge upon request and the Contractor provides it upon request within five (5) business days. [42 CFR §438.10(c)(6).]

### B. Language and Format

**1.** Contractor shall provide all written materials for potential clients and clients in a font size no smaller than 12 point. [42 CFR §438.10(d)(6)(ii).]

**2.** Contractor shall ensure its written materials that are critical to obtaining services are available in alternative formats, upon request of the client or potential client at no cost.

**3.** Contractor shall make its written materials that are critical to obtaining services, including, at a minimum, provider directories, beneficiary handbook, appeal and grievance notices, denial and termination notices, and the Contractor's mental health education materials, available in the prevalent non-English languages in County. [42 CFR §438.10(d)(3).]

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**a.** Contractor shall notify clients, prospective clients, and members of the public that written translation is available in prevalent languages free of cost and how to access those materials. [See 42 CFR §438.10(d)(5)(i), (iii); Calif. Welf. & Instit. Code §14727(a)(1); 9 CCR §1810.410(e)(4).]

**4.** Contractor shall make auxiliary aids and services available upon request and free of charge to each client. [42 CFR §438.10(d)(3)- (4).]

**5.** Contractor shall make oral interpretation and auxiliary aids, such as Teletypewriter Telephone/Text Telephone (TTY/TDY) and American Sign Language (ASL), available and free of charge for any language in compliance with Title 42 of the CFR section 438.10(d)(2), (4)-(5).

**6.** Taglines for written materials critical to obtaining services must be printed in a conspicuously visible font size.

**C. Beneficiary Informing Materials**

**1.** Each client must receive and have access to the beneficiary informing materials upon request by the client and when first receiving SMHS from Contractor. Beneficiary informing materials include but are not limited to:

**a.** Guide to Medi-Cal Mental Health Services

**b.** County Beneficiary Handbook (BHIN 23-048)

**c.** Provider Directory

**d.** Advance Health Care Directive Form (required for adult clients only)

**e.** Notice of Language Assistance Services available upon request at no cost to the client

**f.** Language Taglines

**g.** Grievance/Appeal Process and Form

**h.** Notice of Privacy Practices

**i.** Early & Periodic Screening, Diagnostic and Treatment (EPSDT) poster (if serving clients under the age of 21)

**2.** Contractor shall provide each client with a beneficiary handbook at the time the client first accesses services.

**3.** Contractor shall give each client notice of any significant change to the information contained in the beneficiary handbook at least thirty (30) days before the intended effective date of change as per BHIN 23-048.

**4.** Required informing materials must be electronically available on Contractor's website and must be physically available at the Contractor agency facility lobby for clients' access.

**5.** Informing materials must be made available upon request, at no cost, in alternate formats (i.e., Braille or Audio) and Auxiliary Aids (i.e., California Relay Service (CRS) 711 and American Sign Language) and must be provided to clients within five business days. Large print materials shall be in a minimum 18-point font size.

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**6.** Informing materials will be considered provided to the client if Contractor does one or more of the following:

**a.** Mails a printed copy of the information to the client's mailing address before the client first receives a specialty mental health service;

**b.** Mails a printed copy of the information upon the client's request to the client's mailing address;

**c.** Provides the information by email after obtaining the client's agreement to receive the information by email;

**d.** Posts the information on the Contractor's website and advises the client in paper or electronic form that the information is available on the internet and includes applicable internet addresses, provided that clients with disabilities who cannot access this information online are provided auxiliary aids and services upon request and at no cost; or,

**e.** Provides the information by any other method that can reasonably be expected to result in the client receiving that information. If Contractor provides informing materials in person, when the client first receives specialty mental health services, the date and method of delivery shall be documented in the client's file.

**D. Provider Directory**

**1.** Contractor must follow the County's provider directory policy, in compliance with MHSUDS IN 18-020.

**2.** Contractor must make available to clients, in paper form upon request and electronic form, specified information about the county provider network as per Title 42 of the Code of Federal Regulations section 438.10(h). The most current provider directory is electronically available on the County website and is updated by the County no later than thirty (30) calendar days after information is received to update provider information. A paper provider directory must be updated as set forth in Title 42 of the Code of Federal Regulations section 438.10(h)(3)(i).

**3.** Any changes to information published in the provider directory must be reported to the County within two weeks of the change.

**4.** Contractor will only need to report changes/updates to the provider directory for licensed, waivered, or registered mental health providers.

**[END ARTICLE 13]**

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## ARTICLE 14. DATA, PRIVACY AND SECURITY REQUIREMENTS

### I. CONFIDENTIALITY AND SECURE COMMUNICATIONS

**A.** Contractor shall comply with all applicable Federal and State laws and regulations pertaining to the confidentiality of individually identifiable protected health information (PHI) or personally identifiable information (PII) including, but not limited to, requirements of the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act, the California Confidentiality of Medical Information Act, the California Welfare and Institutions Code regarding confidentiality of client information and records and all relevant County policies and procedures.

**B.** Contractor will comply with all County policies and procedures related to confidentiality, privacy, and secure communications.

**C.** Contractor shall have all employees read and enter into a "Confidentiality and Privacy Agreement for Behavioral Health Services Employees and Contractors" available to Contractor at https://www.yolocounty.org/home/showpublisheddocument/53795/636718368487830000.

**D.** Contractor shall not use or disclose PHI or PII other than as permitted or required by law.

**E.** Copies of County SMHS policies have been made available to the Contractor on the Yolo County HHSA Behavioral Health Quality Management website at https://www.yolocounty.org/government/general-government-departments/health-human-services/mental-health/behavioral-health-quality-management and are hereby incorporated by this reference.

### II. ELECTRONIC PRIVACY AND SECURITY

**A.** Contractor shall have a secure email system and send any email containing PII or PHI in a secure and encrypted manner. Contractor's email transmissions shall display a warning banner stating that data is confidential, systems activities are monitored and logged for administrative and security purposes, systems use is for authorized users only, and that users are directed to log off the system if they do not agree with these requirements.

**B.** Contractor shall institute compliant password management policies and procedures, which shall include but are not limited to procedures for creating, changing, and safeguarding passwords. Contractor shall establish guidelines for creating passwords and ensuring that passwords expire and are changed at least once every ninety (90) days.

**C.** Any Electronic Health Records (EHRs) maintained by Contractor that contain any PHI or PII for clients served through this Agreement shall contain a warning banner regarding the PHI or PII contained within the EHR. Contractor that utilizes an EHR shall maintain all parts of the clinical record that are not stored in the EHR, including but not limited to the following examples of client signed documents: discharge plans, informing materials, and health questionnaire.

**D.** If Contractor's staff will enter data into any County electronic systems, Contractor shall ensure said staff are trained prior to entering and/or maintaining data within the County's electronic systems.

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## III. BUSINESS ASSOCIATES AGREEMENT/QUALIFIED SERVICE ORGANIZATION AGREEMENT

**A.** Contractor may perform or assist County in the performance of certain health care administrative duties that involve the use and/or disclosure of client identifying information as defined by HIPAA. For these duties, the Contractor shall be a Business Associate of County and shall comply with the applicable provisions set forth in the Business Associates/Qualified Service Organization Agreement attached hereto as Exhibit D.

**B.** Contractor shall follow all requirements listed within the Business Associates/Qualified Service Organization Agreement and shall comply with all applicable County policies, state laws and regulations and federal laws pertaining to breaches of confidentiality. Contractor agrees to hold County harmless for any breaches or violations. Copies of County SMHS policies have been made available to the Contractor on the Yolo County HHSA Behavioral Health Quality Management website at https://www.yolocounty.org/government/general-government-departments/health-human-services/mental-health/behavioral-health-quality-management and are hereby incorporated by this reference.

**[END ARTICLE 14]**

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## ARTICLE 15. PERFORMANCE OUTCOMES AND OTHER REPORTS

**I.** Contractor shall comply with all requests regarding local, state, and federal performance outcomes measurement requirements and participate in the outcomes measurement processes as requested including providing outcome measures as specified in Exhibit E.

**II.** Contractor shall also work collaboratively with County to develop process benchmarks and monitor progress in the following areas:

**A.** Contractor will collaborate with County in the collection and reporting of performance outcomes data, including data relevant to Healthcare Effectiveness Data and Information Set (HEDIS®) measures, as required by DHCS. Measures relevant to this Agreement are indicated below (check all that apply):

☒ Adherence to Antipsychotic Medications for Individuals with Schizophrenia (BH Core Set measure SAA-AD)

☒ Antidepressant Medication Management (BH Core Set measure AMM-AD)

☒ Use of First-Line Psychosocial Care for Children and Adolescents on Antipsychotics (BH Core Set measure APP-CH)

☒ Follow-Up After Hospitalization for Mental Illness (BH Core Set measure FUH)

☒ Percentage of clients offered timely initial appointments, and timely psychiatry appointments, by child and adult.

☒ Percentage of high-cost clients receiving case management services

☒ Follow up After Emergency Department Visit for Mental Illness (FUM)

**III.** Contractor shall submit to County the following listed reports. All reports must be submitted as prescribed by this Agreement or as otherwise reasonably requested by the Director.

**A. Practitioner Information Report**

**1.** A Practitioner Information Report must be provided for all personnel for the first month of this Agreement, and thereafter, for new personnel immediately upon hire or changed information.

**2.** A Practitioner Information Report shall include the following:

**a.** Practitioner Enrollment Form: available on the Yolo County website, or by request to HHSAQualityManagement@yolocounty.org

**b.** Supporting Documentation: a copy of current license and NPI provider registry date printout. Note that the practitioner's legal name must appear on both the current license and NPI printout. The NPI printout may be accessed at: https://npiregistry.cms.hhs.gov/.

**c.** Additional documents may be required for specific provider classifications.

**3.** The Practitioner Enrollment Form and any accompanying documentation must be submitted to Yolo County HHSA, Behavioral Health Quality Management before any payments for services can be issued. Reports may be faxed to the phone number listed on the practitioner enrollment form or submitted via email to: HHSAQualityManagement@yolocounty.org.

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**B. Annual Training Report**

This report shall summarize all training provided to Contractor's staff. Due date: July 31, following the completion of a fiscal year. Submit electronically via email to: HHSAQualityManagement@yolocounty.org.

**C. Equipment Report (See Article 2. Section XV.)**

Due date: July 31, following the completion of a fiscal year. Submit electronically via email to: HHSA-BHClaims@yolocounty.org.

**D. Certified Audited Financial Reports**

Due Date: by June 30, if the Agreement expires or terminates on June 30. In the event that this Agreement expires or is terminated on a date other than June 30, Contractor shall provide County such an Audit Report covering the preceding period of July 1 through the date of expiration or termination within forty-five (45) days of the expiration or termination unless otherwise specified by the Director.

**E.** Contractor shall make further reports as may be reasonably requested by Director, the State and/or Federal government concerning Contractor's activities as they affect the services and obligations required by this Agreement.

**[END ARTICLE 15]**

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## ARTICLE 16. OTHER STATE AND FEDERAL LAWS AND REGULATIONS

**I.** Contractor shall provide services in conformance with all applicable state and federal statues, regulations and sub-regulatory guidance, as from time to time amended, including but not limited to the applicable provisions of:

**A.** The State Contracts, which are attached hereto as Attachments I & II and are hereby incorporated by this reference, including provisions not specifically set forth in this Agreement.

**B.** Applicable Medi-Cal laws and regulations, including applicable sub-regulatory guidance, such as BHINs, MHSUDS INs, and provisions of County's state or federal contracts governing client services:

**C.** California Code of Regulations, Title 9;

**D.** California Code of Regulations, Title 22;

**E.** California Welfare and Institutions Code, Division 5;

**F.** United States Code of Federal Regulations, Title 42, including but not limited to Parts 438 and 455;

**G.** United States Code of Federal Regulations, Title 45;

**H.** United States Code, Title 42 (The Public Health and Welfare), as applicable;

**I.** Balanced Budget Act of 1997;

**J.** Health Insurance Portability and Accountability Act (HIPAA); and

**K.** Applicable Medi-Cal laws and regulations, including applicable sub-regulatory guidance, such as BHINs, MHSUDS INs, and provisions of County's, state or federal contracts governing client services.

**II.** **ADDITIONAL REQUIREMENTS FOR FEDERALLY FUNDED AGREEMENTS**

**A. No Obligation by the Federal Government.**

The Federal Government is not a party to this Agreement and is not subject to any obligations or liability to County, Contractor, or any other party pertaining to any matter resulting from this Agreement.

**B. Clean Air Act**

**1.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended. [42 USC §7401 et. seq.]

**2.** The Contractor agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to DHCS, CMS, SAMSHA, and the appropriate Environmental Protection Agency Regional Office.

**3.** The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by CMS or SAMSHA.

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### C. Federal Water Pollution Control Act

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended. [33 USC §1251 et. seq.]
2. The Contractor agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to DHCS, CMS, SAMSHA, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole.

## III. ONGOING CONFORMANCE

In the event any law, regulation, or guidance referred to above or throughout this Agreement, is amended during the term of this Agreement, the Parties agree to comply with the amended authority as of the effective date of such amendment without amending this Agreement.

**[END ARTICLE 16]**

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## ARTICLE 17. ADDITIONAL REQUIREMENTS FOR MENTAL HEALTH SERVICES ACT (MHSA) FUNDED AGREEMENTS

### I. PEI DATA COLLECTION & REPORTING

Contractors who provide Prevention and Early Intervention programs (PEI) under MHSA shall complete and submit required Data Performance Measure report quarterly on the form specified by the County.

### II. INFORMATION CONFIDENTIALITY, SECURITY, AND PRIVACY REQUIREMENTS

Contractor shall comply with the information confidentiality, security and privacy requirements as specified in the State Contracts including but not limited to the exhibits D and E of the DHCS/Yolo Performance Agreement attached hereto as Attachment II.

**[END ARTICLE 17]**

[SIGNATURES FOLLOW]

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Cobblestone ID No. 1959

**IN WITNESS WHEREOF**, the Agreement is made and entered into as of the last date signed below. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The Parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by DocuSign, PDF or email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

**CONTRACTOR**

DocuSigned by:
Edward Hackett
BA3D35015A75458...
Edward E. Hackett, Chief Financial Officer
Victor Community Support Services

Date: 6/11/2024

**COUNTY OF YOLO**

_____
Lucas Frerichs, Chair
Board of Supervisors

Date: _____

DocuSigned by:
Nolan Sullivan
D190B33D5DAB46E...
Nolan Sullivan, Director
Health and Human Services Agency

Attest:
Julie Dachtler, Senior Deputy Clerk
Board of Supervisors

By:_____
Deputy (Seal)

Approved as to Form:
Philip J. Pogledich, County Counsel

By: Hope P. Welton
Hope P. Welton, Senior Deputy

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BOS No.
Infor Contract No.
Cobblestone ID No. 1959

# EXHIBIT A – SCOPE OF WORK

Contractor shall provide services in accordance with the following provisions.

## I. SERVICE LOCATIONS

Full-Service partnership services may be provided in the office, home, or community. Services rendered pursuant to this Agreement may be provided at the following location(s):

Victor Community Support Services
3050 Beacon Blvd., Suite 200A
West Sacramento, CA 95691
Service Hours: M-F 8AM-5PM

Legal Entity Number: 01042
Provider Number: 57B2
NPI Number: 1417264185

## II. PURPOSE

To provide administrative and direct program services to County's Medi-Cal clients as defined in Title 9, Division 1, Chapter 11 of the California Code of Regulations and as further described herein.

For clients under the age of 21, the Contractor shall provide all medically necessary specialty mental health services required pursuant to Section 1396d(r) of Title 42 of the United States Code (Welfare & Inst. Code §14184.402 (d)).

A Child and Youth Full-Service Partnership (CY/FSP) program is for children and their families who would benefit from and are interested in participating in a program designed to address the total needs of a family whose child (and possibly other family members) is experiencing significant emotional, psychological or behavioral problems that are interfering with their wellbeing. Full-Service Partnership (FSP) programs are capable of providing an array of services beyond the scope of traditional clinic-based outpatient mental health services. Those participating in a FSP program will have the support of a service provider 24 hours a day, seven (7) days a week which includes after hours support for clients and/or families.

## III. TARGET POPULATION

**A.** County referred children and youth who are Medi-Cal beneficiaries and are suffering from significant disorders and involve services that have been determined to be medically necessary by a qualified staff person and in accordance with an individualized treatment plan. Medically necessary Intensive Care Coordination (ICC) and Intensive Home-Based Services (IHBS), and Specialty Mental Health Services (SMHS) are provided through the EPSDT benefit to all children and youth who:

**1.** Are under the age of twenty-one (21)

**2.** Are eligible for the full scope of Medi-Cal services; and

**3.** Meet medical necessity criteria for SMHS as set forth in Article 3, section IV of this Agreement.

**4.** FSP services are very likely to be medically necessary for children and youth who:

**a.** are being considered for Wraparound.

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**b.** may not have responded well to traditional outpatient mental health and or psychiatric rehabilitation services or those individuals who may have incurred high cost related to acute psychiatric hospitalizations or long-term care.

**c.** Have a history of suicidal and/or homicidal ideations.

**d.** Experiencing prodromal or first episode of psychosis.

**e.** Experiencing school suspensions and/or expulsions and/or considered chronically absent from school.

**f.** are being considered for other intensive SMHS, including, but not limited to, TBS, or are receiving crisis stabilization/intervention services;

**g.** are currently in, or being considered for, high-level-care institutional settings, such as group homes or Short-Term Residential Therapeutic Programs (STRTPs);

**h.** considered for placement in, a psychiatric hospital or 24-hour mental health treatment facility (e.g. psychiatric inpatient hospital, psychiatric health facility (PHF), community treatment facility, etc.);

**i.** have experienced two or more mental health hospitalizations in the last 12 months;

**j.** have two or more emergency room visits in the last 6 months due to primary mental health condition or need, including, but not limited to, involuntary treatment under California Welfare and Institutions Code section 5585.50;

**k.** have been detained, pursuant to California Welfare and Institutions sections 601 and 602, primarily due to mental health needs; or

**l.** have been treated with two or more antipsychotic medications, at the same time, over a three-month period [Healthcare Effectiveness Data Information Set (HEDIS) Specification for Antipsychotics in Children and Adolescents (APC)];

**i.** if the child is zero (0) through five (5) years old and has more than one psychotropic medication, the child is six (6) through eleven (11) years old and has more than two psychotropic medications, or the child is twelve (12) through seventeen (17) years old and has more than three psychotropic medications;

**ii.** if the child is zero (0) through five (5) years old and has more than one mental health diagnosis, the child is six (6) through eleven (11) years old and has more than two mental health diagnoses, or the child is twelve (12) through seventeen (17) years old and has more than three mental health diagnoses;

**B.** There are thirteen (13) FSP slots. Prioritization will be given to those at highest risk for hospitalization and/or involvement with the child welfare or juvenile justice systems and/or at highest risk for posing danger to self or others.

**C. Welfare and Institutions Code section 5600.3**

For the purposes of this Agreement, "seriously emotionally disturbed children or adolescents" means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in a behavior inappropriate to the child's age according to expected developmental norms.

**1.** Members of this target population shall meet one of the two following criteria:

1. As a result of the mental disorder the child has substantial impairment in at least two of the following areas:

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**i.** self-care,

**ii.** school functioning,

**iii.** family relationships, or

**iv.** ability to function in the community;

**and**

2. one of the following conditions occurs:

**i.** The child is at risk for removal from his/her home,

**ii.** The child has been removed from his/her home, or

**iii.** The mental disorder/impairments have been present for six months or are likely to continue for more than one year without treatment.

**iv.** The client and family have encountered barriers to accessing and engaging in treatment.

**D.** The child displays psychotic features, risk of suicide, and/or risk of violence due to a mental disorder.

## IV. SERVICES

**A.** Contractor shall provide the following medically necessary covered specialty mental health services as defined in the DHCS Billing Manual available at https://www.dhcs.ca.gov/Documents/SMHS-Billing-Manual-v1-5.pdf , or subsequent updates to this billing manual to clients who meet access criteria for receiving specialty mental health services. Contractor shall observe and comply with all lockout and non-reimbursable service rules, as specified in the DHCS Billing Manual

**B. MHSA Child and Youth Full-Service Partnership (CY/FSP) Services**

**1.** Contractor shall provide CY/FSP Services to up to thirteen (13) Seriously Emotionally Disturbed (SED) children or youth under the age of 21 years who are unserved, underserved or inappropriately served and who otherwise lack access to mental health treatment services.

**2.** CY/FSP services and treatment shall be community centered rather than facility based and patterned upon evidence-based or best practice-based models of treatment incorporating principles of resiliency and recovery. Given the intensive nature of FSP services, the expectation is that children and families receiving FSP services would have more than one service per week.

**3.** CY/FSP services shall align with the MHSA criteria of focusing on and incorporating concepts of wellness, recovery and resiliency, with attention to the importance of client-driven services while reducing disparities in access to mental health services and thereby improving outcomes.

**4.** CY/FSP services shall be provided at the family's convenience and client's needs which includes during traditional office hours, between 5 p.m. and 8 a.m., and/or weekends and holidays. Crisis support must be available as needed—with access to be provided via pager or cell phone and response in person as needed, within one (1) hour from receipt of first call.

**5.** CY/FSP services shall meet the following requirements:

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**a.** Will actively engage clients as well as their families, parents, and guardians in order to provide appropriate strength-based services that meet the needs of the client.

**b.** Program staff will provide community-based intensive services to clients with the ability to respond to their needs 24 hours a day, 7 days a week when deemed medically necessary.

**6.** CY/FSP services shall be providing using a service delivery model that includes a:

**a.** Therapist

The therapist shall be the Primary Case Holder for the client and shall provide assessments and treatment plans, individual, family and group therapy, and treatment coordination with other system providers.

**b.** Family Coordinator

The Family Coordinator shall provide additional case management activities, collateral, skill building, and rehabilitation supports and well as coordinate and facilitate the Child and Family Team meetings.

**c.** Family Advocate

The Family Advocate shall meet with parents regarding any service concerns or additional support they may need from paraprofessional support to resource linkage and facilitate parent or peer support groups.

**7.** Accept referrals that are screened and triaged through HHSA CYF Children's Access team. Clients will then be referred to the contractor who will evaluate and assess each client for medically necessary services within ten (10) days of referral.

**a.** If the Contractor is unable to accept a referral for any eligible Yolo County resident referred through an HHSA access point, or the needs of the consumer exceed the capacity of the Contractor, or during the course of treatment can no longer serve an existing consumer, the Contractor shall inform the CYF Clinical Manager, provide an explanation and as applicable, work with the CYF Clinical Manager.

**b.** Accept referrals from HHSA CYF and treat those referrals as authorization to conduct an assessment for planned services.

**8.** Contractor will participate in:

**a.** peer review as County directs

**b.** all County led quality reviews,

**c.** provider meetings,

**d.** case staffing or HHSA Yolo County Interagency Placement Committee (IPC) Team (previously known as M-DART),

**e.** EPSDT audits,

**f.** EQRO activities,

**g.** workgroup panels,

**h.** MHSA stakeholder groups,

**i.** County contracting meetings, and

**j.** any other activities identified by HHSA as pertinent to the provision of effective services.

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**9.** Contractor will adhere to all regulations regarding Senate Bill 785 services provided to Adoption Assistance Program (AAP), Kinship Guardianship Assistance Payment Program (Kin- Gap), and out of county foster youth residing in Yolo County. Contractor will adhere to Yolo County HHSA's implementation of Senate Bill number 785 and Assembly Bill 1299 for authorization, services, and payment according to all direction, guidance, and documents provided or updated throughout the course of this Agreement.

**10.** Therapeutic Behavioral Services (TBS) Notification

**a.** Provide notification to all eligible members of the class as required by the State Department of Mental Health (DMH) Letter number 01-07 (see link below), and County.

**b.** Perform coordination duties as primary mental health service as directed by County when serving Early Periodic Screening, Diagnosis and Treatment (EPSDT) clients receiving TBS.

**11.** Contractor shall use Evidence Based Practices (EBPs), based on the needs of the youth and family in an effort to determine the most effective treatment model. EBPs may include the following:

**a.** Applied Behavioral Analysis (ABA)

**b.** Dialectical Behavioral Therapy (DBT)

**c.** Trauma – Focused Cognitive Behavioral Therapy (TF-CBT)

**d.** Play Therapy

**e.** Functional Family Therapy (FFT)

**f.** Cognitive Behavioral Therapy (CBT)

**g.** Aggression Replacement Training (ART)

**h.** Child Parent Psychotherapy

**i.** Parent-Child Interaction Therapy (PCIT)

**j.** Seeking Safety

**k.** Eye Movement Desensitization and Reprocessing (EMDR)

**12.** Contractor shall perform chart reviews monthly. Reviews shall be conducted by a clinical supervisor. The results of the reviews shall be submitted to HHSA upon request by manager.

## V. REQUIREMENTS

**A.** Services shall be provided in accordance with the following California Code of Regulations (CCR), Title 9, Chapter 11, Medi-Cal Specialty Mental Health Services definitions.

**1. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Supplemental Specialty Mental Health Services 1810.215.**

"Early and Periodic Screening, Diagnosis and Treatment (EPSDT) supplemental specialty mental health services" means mental health related diagnostic services and treatment, other than physical health care, available under the Medi-Cal program only to persons under 21 years of age pursuant to Title 42, Section 1396d(r), United States Code, that have been determined by the State Department of Health Services to meet the criteria of Title 22, Section

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51340(e)(3) or (f); and that are not otherwise covered by this Chapter as specialty mental health services.

**2. Specialty Mental Health Services 1810.247.**

- **a.** Rehabilitative Mental Health Services, including:
  - **i.** Mental health services
  - **ii.** Medication support services
  - **iii.** Day treatment intensive;
  - **iv.** Day rehabilitation;
  - **v.** Crisis intervention;
  - **vi.** Crisis stabilization;
  - **vii.** Adult residential treatment services;
  - **viii.** Crisis residential treatment services;
  - **ix.** Psychiatric health facility services;
- **b.** Psychiatric Inpatient Hospital Services;
- **c.** Targeted Case Management;
- **d.** Psychiatrist Services;
- **e.** Psychologist Services;
- **f.** EPSDT Supplemental Specialty Mental Health Services; and
- **g.** Psychiatric Nursing Facility Services.

**3. Mental Health Services 1810.227.**

"Mental Health Services" means individual or group therapies and interventions that are designed to provide reduction of mental disability and restoration, improvement or maintenance of functioning consistent with the goals of learning, development, independent living and enhanced self-sufficiency and that are not provided as a component of adult residential services, crisis residential treatment services, crisis intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service activities may include but are not limited to assessment, plan development, therapy, rehabilitation and collateral.

**4. Intensive Home-Based Services (IHBS)**

Intensive home-based mental health services (IHBS) are mental health rehabilitation services provided to Medi-Cal beneficiaries as medically necessary. IHBS are individualized, strength-based interventions designed to ameliorate mental health conditions that interfere with a child or youth's functioning and are aimed at helping the child or youth build skills necessary for successful functioning in the home and community and improving the child or youth's family ability to help the child or youth successfully function in the home and community.

*These services may be provided in any setting where the child/youth is naturally located, including the home (biological, foster or adoptive), schools, recreational settings, childcare centers, and other community settings

They may not be provided to child/youth in group home settings except that IHBS may be provided outside of the group home setting during visits home (biological parents, relatives or foster parents) or visits to another community-based setting to facilitate a child/youth's transition to a permanent home environment.

These services should be made available whenever needed including weekends and evenings.

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**5. Intensive Care Coordination (ICC)**

Intensive care coordination (ICC) is a targeted case management (TCM) service that facilitates assessment of care planning for and coordination of services, including urgent services for beneficiaries with intensive needs. An ICC coordinator serves as the single point of accountability to: • Ensure that medically necessary services are accessed, coordinated and delivered in a strength-based, individualized, family/youth driven and culturally and linguistically relevant manner and that services and supports are guided by the needs of the child or youth. • Facilitate a collaborative relationship among the child or youth, his/her family and involved child-serving systems • Support the parent/caregiver in meeting their child or youth's needs • Help establish the Child and Family Team (CFT) and provide ongoing support • Organize and match care across providers and child serving systems to allow the child or youth to be served in his/her home community.

**6. 1810.204. Assessment**

"Assessment" means a service activity designed to evaluate the current status of a beneficiary's mental, emotional, or behavioral health. Assessment includes but is not limited to one or more of the following: mental status determination, analysis of the beneficiary's clinical history; analysis of relevant cultural issues and history; diagnosis; and the use of testing procedures.

**7. 1810.232. Plan Development**

"Plan Development" means a service activity that consists of development of client plans, approval of client plans, and/or monitoring of a beneficiary's progress.

**8. 1810.249. Targeted Case Management**

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

**9. 1810.250. Therapy**

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

**10. Code 90853. Group Therapy**

Group therapy is provided in a group setting with the purpose of assisting clients in meeting goals. These groups can include Psychotherapeutic Groups.

**11. 1810.209. Crisis Intervention Services**

"Crisis Intervention" means a service, lasting less than 24 hours, to or on behalf of a beneficiary for a condition that requires more timely response than a regularly scheduled visit. Service activities include but are not limited to one or more of the following: assessment, collateral and therapy. Crisis intervention is distinguished from crisis stabilization by being

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delivered by providers who do not meet the crisis stabilization contact, site, and staffing requirements described in Sections 1840.338 and 1840.348.

**12. 1810.225. Medication Support Services**

"Medication Support Services" means those services that include prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals that are necessary to alleviate the symptoms of mental illness. Service activities may include but are not limited to evaluation of the need for medication; evaluation of clinical effectiveness and side effects; the obtaining of informed consent; instruction in the use, risks and benefits of and alternatives for medication; and collateral and plan development related to the delivery of the service and/or assessment of the beneficiary.

**13. 1810.240. Psychiatrist Services.**

"Psychiatrist Services" means services provided by licensed physicians, within their scope of practice, who have contracted with the MHP to provide specialty mental health services, who have indicated a psychiatrist specialty as part of the provider enrollment process for the Medi-Cal program, to diagnose or treat a mental illness or condition. For the purposes of this Chapter, psychiatrist services may only be provided by physicians who are individual or group providers.

**14. 1810.243. Rehabilitation**

"Rehabilitation" means a service activity which includes, but is not limited to assistance in improving, maintaining, or restoring a beneficiary's or group of beneficiaries' functional skills, daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and support resources; and/or medication education.

**[END EXHIBIT A]**

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# EXHIBIT B.1 – TERMS OF PAYMENT

## I. THIRD PARTY PAYMENTS (See also Article 12, Section III. of this Agreement.)

When applicable, Contractor shall determine if a client has any funding sources other than County funds, including private insurance or sufficient income to fund services. Contractor shall only bill County for client services after all other funding sources for a client have been exhausted or if a Medi-Cal or EPSDT only provider, bill accordingly. Contractor shall use due diligence in determining and collecting client and third-party payments.

## II. AVAILABLE FUNDING

County shall utilize appropriate funds to pay Contractor for any approved claims. SMHS eligible services are eligible for Federal Financial Participation (FFP) by the Medi-Cal program.

## III. TRACKING UNITS OF SERVICE AND CLAIMING

**A.** Contractor shall establish an internal tracking system that will accurately track and maintain units of service.

**B.** **1.** If the Contractor has access to AVATAR, Contractor shall also enter service and claims data into AVATAR, in the format specified by the County and within the timeframes established by County. Timely documentation expectations, per CalAIM, are within three (3) business days for routine services and twenty-four (24) hours for urgent services.

**2.** If the Contractor does not have access to AVATAR, shall submit claims data with invoices in the format specified by the County to HHSA-BHClaims@yolocounty.org.

**C.** 1. Contractor shall use Yolo County-approved Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) codes, as adapted by County in the then current Approved Yolo County SMHS Code Workbook. A copy of the current Approved Yolo County SMHS Code Workbook was provided to the Contractor prior to the execution of this Agreement. Contractor is also expected to follow County prescribed scope of practice guidelines for service provision contained in the then current Approved Yolo County SMHS Code Workbook.

**2.** The codes are subject to change in accordance with changes in federal, state or County guidelines. Changes to the Yolo County SMHS Code Workbook do not require an amendment to this Agreement and County may implement these changes upon written notice to the Contractor. To obtain a copy of the then current codes, please email HHSA-QualityManagement@yolocounty.org.

**D.** Contractor shall maximize the FFP reimbursement by claiming all possible Drug Medi-Cal services and correcting denied services for resubmission as needed.

## IV. INVOICING

**A.** Invoices shall be submitted to County no later than thirty (30) days after completion of the month in which the claimed services have been rendered. (i.e. invoices for services provided in July must be submitted via email by August 30, invoices for services provided in August must be submitted via email by September 30, etc.)

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**B.** Invoices for claimed services that must first be billed to a third party, e.g. Medicare, insurance, etc., must be submitted no later than sixty-five (65) days after completion of the month in which services have been rendered.

**C.** Any claim that is submitted and rejected due to lack of necessary information must be resubmitted within twenty (20) days of the date of the initial rejection.

**D.** County reserves the right to deny any late claim. Any late claims submitted to County must be submitted separately from the regular monthly claim, grouped by month of service, and supported with evidence of good cause.

**E.** Invoices for payment may be submitted to County in an electronic format at HHSA.AccountsPayable@yolocounty.org. All invoices shall be submitted with any required supporting documentation accompanying the invoice. If an invoice or any of the supporting documents contains confidential client information, the invoice and supporting documentation must be encrypted for transmission.

**F.** Contractor shall submit a monthly invoice in accordance with these Terms of Payment. Invoices shall be complete and accurate and must include all required information regarding the claimed services, including:

**1.** The invoice must be accompanied with the following required supporting documentation.

**a.** Completed Yolo County Claim Form

**b.** AVATAR Client Template Report (if Contractor has access to AVATAR)

**c.** AVATAR Client Daily Charges Report (if Contractor has access to AVATAR)

**d.** AVATAR Client Template Form (if Contractor does not have access to AVATAR)

**e.** Medi-Cal Swipes (determine if client is a Yolo County beneficiary)

**f.** If applicable, Explanation of Benefits (EOB) (determine if client has Medicare or other health coverage

**2.** Upon request by County, Contractor shall also provide additional supporting documentation which may include, but is not necessarily limited to:

**a.** written authorization for services,

**b.** daily transactions certified by the individual service providers,

**c.** progress notes,

**d.** time sheets,

**e.** labor distribution,

**f.** general-ledger printouts.

**3.** For MHSA funded agreements, Contractor shall also provide the MHSA information as specified by the County on the Yolo County Claim Form.

**G.** All supporting documentation created by Contractor must be retained for audit purposes, as specified in Article 5 and Article 6, even if not requested by County during the claiming/invoicing process.

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## V. PAYMENTS

**A.** Monthly payments for invoiced outpatient services shall be based on the units of time assigned to each CPT or HCPCS code provided by a specific provider type entered in AVATAR multiplied by the outpatient service rates in Exhibit B.2. Invoices for daily services based on CPT or HCPCS code shall be based on the number of service days multiplied by the daily rates in Exhibit B.2.

**B.** County shall make payments to Contractor for services claimed and invoiced by Contractor prior to submitting a claim for FFP reimbursement.

**1.** In the event any FFP claim is denied/rejected by the Federal and/or State government, Contractor shall take all actions necessary to obtain such approval.

**2.** If any denied claim by Federal and/or State government is not finally approved for payment reimbursement, Contractor's next payment from County shall be reduced by the amount of FFP denied/rejected claims.

**3.** Contractor disallowances are the Contractor's fiscal and programmatic responsibility, per Section VII., below.

**C.** County's payments to Contractor for performance of invoiced services are provisional and subject to adjustment until the completion of all settlement activities. County's adjustments to provisional payments for claimed services shall be based on the terms, conditions, and limitations of this Agreement or the reasons for recoupment set forth in Article 7 and this Exhibit B.1, Section VII.

## VI. NONCOMPLIANCE

**A.** SMHS Medi-Cal services may only be provided by Contractor at specific sites as approved by County and DHCS. Contractor shall ensure that claiming for each Contractor site has been approved by County and DHCS prior to SMHS Medi-Cal service delivery. In no event shall County pay Contractor for SMHS Medi-Cal services that were not approved by County and DHCS for a specific site.

**B.** In the event that the Contractor fails to comply with any provision of this Agreement, County may withhold payment otherwise due to Contractor pursuant to this Agreement or any other agreement between Contractor and County until such noncompliance has been corrected.

## VII. REPAYMENT/RECOUPMENT

**A.** County will demand repayment from Contractor for compensation made to the Contractor, if any goods and/or services related to such compensation are subsequently determined disallowable, regardless of reason, including denials for FFP reimbursement to County due to Contractor's failure to submit timely claims and invoices.

**B.** Any such disallowance related to the current term of this Agreement will be due and payable immediately to County. County will recoup from Contractor by offsetting any payment otherwise due Contractor pursuant to this Agreement or any other agreement between Contractor and County.

**C.** Any such disallowance related to the prior terms of this Agreement or any other agreement between Contractor and County will be due and payable within forty-five (45) days of mailing a demand letter from County to Contractor. Thereafter, unless otherwise negotiated with and approved by the Director, County will recoup from Contractor the amount due, by offsetting any

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payment otherwise due Contractor pursuant to this Agreement or any other agreement between Contractor and County.

**D.** In the event that the aggregated payment otherwise due Contractor pursuant to this Agreement or any other agreement between Contractor and County is less than the amount due, and when all payments otherwise due Contractor have been exhausted, Contractor shall make payment to County for any balance due based on a payment plan negotiated with and approved by the Director.

## VIII. ADDITIONAL PROVISIONS

**A.** Contractor shall hold harmless the federal and/or state governments and clients in the event that County does not pay for services in accordance with this Agreement.

**B.** Contractor shall use the funds provided by County exclusively for the purposes of performing the services required by this Agreement. No funds provided by County pursuant to this Agreement shall be used for any political activity or political contribution.

**C.** See also Article 12 of this Agreement.

**[END EXHIBIT B.1]**

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# EXHIBIT B.2 – RATE SCHEDULE/CONTRACT BUDGET

## I. Rates for Medi-Cal Billable Services

| SMHS Outpatient Services Hourly Rates | |
|---|---|
| **Provider Type** | **Hourly Rate** |
| Psychiatrist | $1,118.69/hour |
| Physician's Assistant | $463.24/hour |
| Nurse Practitioner | $513.62/hour |
| Registered Nurse | $419.54/hour |
| Certified Nurse Specialist | $513.62/hour |
| Licensed Vocation Nurse | $220.39/hour |
| Pharmacist | $494.40/hour |
| Licensed Psychiatric Technician | $188.95/hour |
| Psychologist (licensed/pre-licensed) | $415.39/hour |
| Licensed Practitioner of the Healing Arts (LMFT/AMFT, LPCC/APCC, LCSW/ACSW) | $268.81/hour |
| Occupational Therapist | $357.82/hour |
| Mental Health Rehab Specialist | $202.25/hour |
| Certified Peer Recovery Specialist | $212.35/hour |
| Other Qualified Providers (i.e., MHW) | $202.25/hour |

## II. Contract Budget for Non Medi-Cal FSP Services

| FSP Services | | |
|---|---|---|
| | Cost Items | Fiscal Year 2024-25<br>July 1, 2024 through June 30, 2025 |
| 1 | a. Personnel (Salary, Benefits, and Payroll Taxes) | $30,808 |
| | b. Indirect/Overhead/Administration, not to exceed 15% of Personnel Costs (Item 1a) | $4,621 |
| 2 | Operating | $8,647 |
| 3 | Direct to Clients | $0 |
| 4 | **Total*** | **$44,076** |

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| Services | | |
|---|---|---|
| | Cost Items | Fiscal Year 2025-26<br>July 1, 2025 through June 30, 2026 |
| 1 | a. Personnel (Salary, Benefits, and Payroll Taxes) | $30,808 |
| | b. Indirect/Overhead/Administration, not to exceed 15% of Personnel Costs (Item 1a) | $4,621 |
| 2 | Operating | $8,647 |
| 3 | Direct to Clients | $0 |
| 4 | **Total*** | **$44,076** |

| Services | | |
|---|---|---|
| | Cost Items | Fiscal Year 2026-27<br>July 1, 2026 through June 30, 2027 |
| 1 | a. Personnel (Salary, Benefits, and Payroll Taxes) | $30,808 |
| | b. Indirect/Overhead/Administration, not to exceed 15% of Personnel Costs (Item 1a) | $4,621 |
| 2 | Operating | $8,647 |
| 3 | Direct to Clients | $0 |
| 4 | **Total*** | **$44,076** |

| Services | | |
|---|---|---|
| | Cost Items | Optional Year(s)<br>July 1st through June 30th |
| 1 | a. Personnel (Salary, Benefits, and Payroll Taxes) | $30,808 |
| | b. Indirect/Overhead/Administration, not to exceed 15% of Personnel Costs (Item 1a) | $4,621 |
| 2 | Operating | $8,647 |
| 3 | Direct to Clients | $0 |
| 4 | **Total*** | **$44,076** |

*Contractor may only be reimbursed for Medi-Cal billable services under the rates specified in Section I above. By signing this Agreement, Contractor affirms that no costs for Medi-Cal billable services are included in this Contract Budget, including any indirect costs. Contractor shall track these non Medi-Cal expenses separately, and County shall pay Contractor actual expenditures incurred.

**[END EXHIBIT B.2]**

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# EXHIBIT C – INDEMNIFICATION AND INSURANCE

## I. INDEMNIFICATION

**A.** Contractor shall exercise all care and judgment consistent with good practices in the performance of the services required by this Agreement.

**B.** With the exception that this Section shall in no event be construed to require indemnification by Contractor to a greater extent than permitted under the laws or public policy of the State of California, Contractor shall indemnify, defend and hold harmless County of Yolo and its officers, agents, employees and volunteers from and against any and all claims, damages, demands, losses, defense costs, expenses (including attorneys' fees) and liability of any kind or nature arising out of or resulting from performance of the work, provided that any such claim, damage, demand, loss, cost, expense or liability is caused in whole or in part by any negligent or intentional act or omission of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Contractor and/or any subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. In providing any defense under this Section, Contractor shall utilize counsel approved by the Office of the County Counsel in its reasonable discretion.

**C.** Any subcontractor must agree to be bound to County of Yolo in the same manner and to the same extent as Contractor is bound to County of Yolo under this Agreement. Any subcontractors must further agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work.

## II. INSURANCE

**A**. During the term of this Agreement, Contractor shall at all times maintain, at its expense, the following coverages and requirements:

1. Minimum Scope of Insurance – Coverage shall be at least as broad as the latest version of the following:
   - **a.** Commercial General Liability: Insurance Services Office form CG 000. The policy shall not contain any exclusions contrary to the Contract, including but not limited to endorsements or provisions limiting coverage for 1) Contractual liability such as ISO CG 24 26 or 21 29; or 2) cross liability or suits by one insured against another.
   - **b.** Automobile Liability: Insurance Services Office form CA 00 01, code 1- Any Auto or including Hired and Non-Owned vehicles.
   - **c.** Workers' Compensation and Employers' Liability: Workers' Compensation insurance as required by the State of California and Employers' Liability.
   - **d.** Professional Liability (Errors and Omissions) (If applicable, see below)
2. Minimum Limits (as applicable) - Insurance coverage shall be with limits not less than the following:

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**a.** Commercial General Liability – $2,000,000/occurrence and $4,000,000 annual aggregate or an aggregate of $2,000,000 that applies separately to this project (ISO CG 25 03 or 25 04).

**b.** Automobile Liability – $1,000,000 per accident for bodily injury and property damage

**c.** Professional Liability/Malpractice/Errors and Omissions –$2,000,000 per occurrence and annual aggregate (If any engineer, architect, attorney, accountant, medical professional, psychologist, or other licensed professional performs work under a contract, or other professional contractors, such as computer and software designers the contractor must provide this insurance. If not, then this requirement automatically does not apply.)

**d.** Workers' Compensation – Statutory Limits/Employers' Liability - $1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater.

**3. OTHER INSURANCE PROVISIONS**

**a. Additional Insured Status** - County, its officers, agents, employees and volunteers shall be named as additional insured on the CGL policy with respect to liability arising out of work or operations performed by or in behalf of the Contractor including, materials, parts, or equipment furnished in connection with such work or operations. Coverage can be provided in the form or an endorsement to the Contractor's insurance (at least as broad as CG 20 10 11 85 or if not available, through the addition of both CG 20 37 and one of the following: CG 20 10, CG 20 26, or CG 20 33). [NOTE: Evidence of additional insured is needed as a separate endorsement or comparable policy language due to wording on the certificate negating any additional coverage listed writing in the description box.]

**b. Primary Coverage** - The Contractor's policy shall be "primary and non-contributory" and will not seek contribution from County's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

**c. Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to County.

**d. Waiver of Subrogation** – Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractors may acquire against County by virtue of the payment or any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not County has received a waiver of subrogation endorsement from the insurer.

**4.** The limits of Insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of County of Yolo (if agreed to in a written contract or agreement) before County's own Insurance or self-insurance shall be called upon to protect it as a named insured.

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**5.** Said policies shall remain in force through the life of this Agreement and, with the exception of professional liability coverage, shall be payable on a "per occurrence" basis unless the County Risk Manager specifically consents in writing to a "claims made" basis. For all "claims made" coverage, in the event that the Contractor changes insurance carriers Contractor shall purchase "tail" coverage covering the term of this Agreement and not less than three years thereafter. Proof of such "tail" coverage shall be required at any time that the Contractor changes to a new carrier prior to receipt of any payments due.

**6.** The Contractor shall declare all aggregate limits on the coverage before commencing performance under this Agreement, and the County Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.

**7.** Any deductibles or self-insured retentions must be declared to and are subject to the approval of the County Risk Manager. All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied either by the named Insured or Yolo County.

**8.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by the County Risk Manager.

**9.** The policies shall cover all activities of Contractor, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.

**10.** For any claims relating to this Agreement, the Contractor's insurance coverage shall be primary, including as respects County, its officers, agents, employees and volunteers. Any insurance maintained by County shall apply in excess of, and not contribute with, insurance provided by Contractor's liability insurance policy.

**B.** Prior to commencing services pursuant to this Agreement, Contractor shall furnish County with original policies or endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, County Risk Manager before work commences. Upon County's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

**C.** During the term of this Agreement, Contractor shall furnish County with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon County's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications. Yolo County reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

**D.** Contractor agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by Contractor agree to be bound to Contractor and the County of Yolo in the same manner and to the same extent as Contractor is bound to the County of Yolo under the Contract Documents. Subcontractor further

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agrees to include these same provisions with any Sub-subcontractor. A copy of the Owner Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The General Contractor and/or Contractor shall require all Subcontractors to provide a valid certificate of insurance and the required endorsements included in the Contract prior to commencement of any work and General Contractor and/or Contractor will provide proof of compliance to the County of Yolo. (Coverage can be provided in the form or an endorsement to the Contractor's insurance (at least as broad as CG 20 38 for operations and CG 20 40 for completed operations).

**E.** Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, County at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

## III. WORKERS' COMPENSATION

Contractor shall provide workers' compensation coverage as required by State law, and prior to commencing services pursuant to this Agreement shall file the following statement with County in a form substantially as set forth below.

**WORKERS' COMPENSATION CERTIFICATE**

I am aware of the provisions of the California Labor Code, Section 3700 that requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing any services required by this Agreement.

The person executing this certificate on behalf of Contractor affirmatively represents that she/he has the requisite legal authority to do so on behalf of Contractor; both the person executing this Agreement on behalf of Contractor and Contractor understand that County is relying on this representation in entering into this Agreement.

**[END EXHIBIT C]**

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# EXHIBIT D – HIPAA BUSINESS ASSOCIATE & QUALIFIED SERVICE ORGANIZATION AGREEMENT ADDENDUM

## RECITALS

**A.** The purpose of this Business Associate Agreement Addendum ("this Addendum") to comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the HIPAA Omnibus Rule, Title 45 of the Code of Federal Regulations Parts 160 and 164, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable privacy and security laws, including the Federal Confidentiality of Substance Abuse Disorder Patient Records laws and regulations, Title 42 of the United States Code section 290dd-2 and Title 42 of the Code of Federal Regulations Part 2.

**B.** Definitions. All terms and phrases used, but not otherwise defined in this Addendum, shall have the same meaning as those terms are defined in Title 45 of the Code of Federal Regulations Parts 160 and 164 and Title 42 of the Code of Federal Regulations Part 2.

(a) Business Associate. "Business Associate" shall mean the party with whom the County of Yolo ("the County") is contracting or Contractor, as referenced above. If applicable, Business Associate may also be a Qualified Service Organization (QSO) as defined by Title 42 of the Code of Federal Regulations Part 2, sections 2.11 and 2.12.

(b) Underlying Agreement. "Underlying Agreement" shall mean the Agreement between the County and the Business Associate, to which this Addendum is attached and incorporated.

(c) Covered Entity. "Covered Entity" shall mean the covered components of the County of Yolo hybrid entity which are subject to the standards for privacy and security of Title 45 of the Code of Federal Regulations Parts 160 and 164. If applicable, Covered Entity may also a be a "federally assisted Part 2 program" as defined by Title 42 of the Code of Federal Regulations Part 2, sections 2.11 and 2.12.

(d) Protected Health Information. "Protected Health Information" shall have the same meaning as defined in Title 45 of the Code of Federal Regulations Parts 160 and 164.

(e) Patient Identifying Information. "Patient identifying information" shall have the same meaning as defined in Title 42 of the Code of Federal Regulations Part 2, section 2.11.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter addressed, the Parties agree as follows:

1. Permitted Uses and Disclosures by Business Associate.

Pursuant to the Underlying Agreement Contractor will provide the services delineated in Exhibit A, Scope of Services of the Underlying Agreement as specifically requested by the County that may involve the use and disclosure of protected health information (PHI) or Electronic Protected Health Information (EPHI) related to the treatment and care of clients.

Except as otherwise specified herein, Contractor may be given access to the County's Electronic Health Record and Practice Management System (AVATAR). Such access will be granted to specific individuals by named user accounts/logons and user roles, upon completion of the County's AVATAR Practitioner ID enrollment process. Contractor agrees to abide by all County policies and procedures regarding AVATAR. Contractor may only access AVATAR and make use of it in order to perform its

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obligations under the Underlying Agreement between the Parties. Copies of County SMHS policies have been made available to the Contractor on the Yolo County HHSA Behavioral Health Quality Management website at https://www.yolocounty.org/government/general-government-departments/health-human-services/mental-health/behavioral-health-quality-management and are hereby incorporated by this reference.

As otherwise limited in this Addendum and the Underlying Agreement, Business Associate may use or disclose PHI and EPHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the law if done by Covered Entity and the use or disclosure of PHI and EPHI is limited to the minimum amount necessary for Business Associate to perform its obligations pursuant to the Underling Agreement.

2. Obligations and Activities of Business Associate.

Business Associate shall:

(a) Not use or disclose PHI or EPHI, other than as permitted or required by this Addendum or as required by law.

(b) Use appropriate safeguards and comply with Title 45 of the Code of Federal Regulations Part 164 with respect to EPHI, to prevent use or disclosure of PHI or EPHI other than as provided for by this Addendum and the Underlying Agreement.

(c) If a pattern of activity or practice of an agent, including a subcontractor, constitutes a material breach or violation of the requirements of this Addendum and/or the Underlying Agreement, cure the breach or end the violation, as applicable, and if such steps are unsuccessful, terminate the subcontract or other agreement.

(d) Report, as soon as reasonably practicable, and within twenty-four (24) hours for security incidents, as defined in Title 45 of the Code of Federal Regulations section 164.304, and within one (1) hour for breaches of unsecured PHI as defined by Title 45 of the Code of Federal Regulations to:

i. Herbert Lester, County's Risk Manager/Safety Officer herbert.lester@yolocounty.org, and
ii. Lee Gerney, County's Information Security Officer-Chief Technology Officer at lee.gerney@yolocounty.org, and
iii. Charles Egbert, HHSA Privacy Officer at Charles.Egbert@yolocounty.org, and
iv. Katherine Barrett, HHSA Behavioral Health Compliance Officer at HHSA.BHCompliance@yolocounty.org.

This report will include at least the following information:

(i) the nature of the non-permitted or violating use or disclosure or Security Incident; and

(ii) the PHI and EPHI used or disclosed.

This report does not relieve Business Associate of his/her/their continuing obligations under the underlying Agreement or any State or Federal reporting requirements.

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(e) Ensure that any agent, including a subcontractor, to whom it provides PHI or EPHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Addendum and the Underlying Agreement to Business Associate with respect to such information.

(f) Provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to PHI and EPHI information in a designated record set, to Covered Entity or, as directed by Covered Entity, to an individual in order to meet the requirements under Title 45 of the Code of Federal Regulations section 164.524.

(g) Make any amendment(s) to PHI and EPHI in a designated record set that the Covered Entity directs or agrees to make pursuant to Title 45 of the Code of Federal Regulations section 164.526 at the request of Covered Entity or an individual, and in the time and manner designated by Covered Entity.

(h) Make internal practices, books, and records, including policies and procedures and PHI and EPHI, relating to the use and disclosure of PHI and EPHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary (i.e., the Secretary of Health and Human Services [HHS], or to any officer or employee of HHS to the authority involved has been delegated), in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the law.

(i) Document disclosures of PHI and EPHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures in accordance with Title 45 of the Code of Federal Regulations section 164.528.

(j) Provide to Covered Entity or an individual, in the time and manner designated by Covered Entity, information collected of disclosures of PHI and EPHI, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures in accordance with Title 45 of the Code of Federal Regulations section164.528.

(k) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and EPHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity, as required by law. In addition, Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI or EPHI agrees to implement reasonable and appropriate safeguards to protect it.

(1) Ensure that all employees of Business Associate that handle or access PHI or EPHI undergo annual training regarding the safeguarding of PHI and EPHI.

(m) To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of Title 45, Code of Federal Regulations Part 164, comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.

(n) Business Associate will ensure than any agent, including a subcontractor, to whom it provides PHI or EPHI agrees in a written contract to implement and use administrative, physical and technical safeguards that reasonably protect the integrity and availability of the electronic protected health information.

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Business Associates must enter into the written contract before any use or disclosure of PHI or EPHI by such agent or subcontractor. The written contract must identity Yolo County as a direct and intended third party beneficiary, with the right to enforce any breach of the contract concerning the use or disclosure of electronic protected health information. Business Associate will provide a copy of the written contract to the County upon request. The Business Associate Agreement or written contract will include notification of a breach of unsecured PHI as referenced in section 2d., above.

(o) Business Associate will comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under HIPAA, the HITECH Act, HIPAA Regulations, and other applicable privacy and security laws.

(p) To the extent that in performing its services for or on behalf of Covered Entity, Business Associate uses, discloses, maintains, or transmits PHI or EPHI that is patient identifying information protected by Title 42 of the United State Code section 290dd-2 and Title 42 of the Code of Federal Regulations Part 2 (otherwise known as "Part 2 Regulations".) Business Associate acknowledges and agrees that:

(i) that it is a QSO as defined by Title 42 of the Code of Federal Regulations Part 2, sections 2.11 and 2.12;

(ii) in receiving, storing, processing or otherwise dealing with any such patient records, Business Associate is fully bound by the Part 2 Regulations and Business Associate shall comply in full with those requirements, including the prohibition against redisclosure;

(iii) Business Associate will resist, in judicial proceedings or otherwise, any efforts to obtain access to patient records, except as permitted by the Part 2 Regulations; and

(iv) any unauthorized disclosure/redisclosure or use of information under the Part 2 Regulations is a federal criminal offense.

3. Obligations of Covered Entity.

Covered Entity shall:

(a) Notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with Title 45 of the Code of Federal Regulations section 164.520, to the extent that such limitation(s) may affect Business Associate's use or disclosure of PHI and EPHI.

(b) Notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI and EPHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI and EPHI.

(c) Notify Business Associate of any restriction to the use or disclosure of PHI and EPHI that Covered Entity has agreed to in accordance with Title 45 of the Code of Federal Regulations section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI and EPHI.

(d) Not request Business Associate to use or disclose PHI and EPHI in any manner that would not be permissible under the law if done by Covered Entity. Consultant may use or disclose the CANS PHI for data aggregation or management and administrative activities of Business

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Associate as necessary to fulfill the terms of the main agreement and in accordance with and as permitted by with HIPAA, the HITECH Act, HIPAA Regulations, and other applicable privacy and security laws.

4. Term and Termination.

The provisions of this Addendum shall supersede the provisions of the Underlying Agreement insofar as they relate to the term and termination of the Underlying Agreement.

(a) Term. The provisions of this Addendum shall be effective as of the first day of the contract term of the Underlying Agreement and shall terminate when all of the PHI and EPHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy, protections are extended to such information, in accordance with the termination provisions in this Addendum.

(b) Termination for Cause. Upon County of Yolo's knowledge of a material breach by Business Associate of the provisions of this Addendum, County of Yolo may terminate this Addendum and the Underlying Agreement immediately upon written notice.

(c) Effect of Termination.

(i) Except as provided in paragraph (ii) of this provision, upon termination of this Addendum and the Underlying Agreement, for any reason, Business Associate shall return, in a confidential manner, all PHI and EPHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI and EPHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of said PHI and EPHI. Business Associate shall not destroy any PHI or EPHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity without the express written approval of Covered Entity.

(ii) In the event that Business Associate determines that returning the PHI and EPHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make its return infeasible. Upon the agreement of Covered Entity that return is infeasible, Business Associate shall extend the protections of this Addendum to such PHI and EPHI and limit further uses and disclosures to those purposes that make the return infeasible, for so long as Business Associate maintains such PHI and EPHI, or until Covered Entity authorizes it destruction.

5. Miscellaneous Terms:

(a) Mutual Representation and Warranty. Each party represents and warrants to the other party that all of its employees, agents, representatives and members of its work force, whose services may be used to fulfill obligations under the Underlying Agreement, are or will be appropriately informed of the terms of this Addendum and are under legal obligation to fully comply with all provisions of this Addendum.

(b) Survival. The respective rights and obligations of Business Associate under the provision of this Addendum shall survive the termination, expiration, or cancellation of the Underlying Agreement, regardless of reason.

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(c) No Third-Party Beneficiaries. Nothing express or implied in the Underlying Agreement or this Addendum is intended to confer, nor will anything herein confer, upon any person other than the Parties hereto any rights, remedies, obligations, or liabilities whatsoever.

(d) Notices. Any notices required or permitted to be sent pursuant to this Addendum will be in writing and will be sent, Certified Mail, Return Receipt Requested, or by a recognized international courier. Notices will be sent to the addresses set forth above in the Terms and Conditions Exhibit of the Underlying Agreement, or to such other address as a party may designate by notice pursuant hereto. Notices will be effective upon the date when delivery is either effected or refused.

(e) Amendment. The Parties agree to take such action as is necessary to amend this Addendum and the Underlying Agreement from time to time as is necessary for Covered Entity to comply with HIPAA, the HITECH Act, HIPAA Regulations, Part 2 Regulations, and other applicable privacy and security laws.

(f) Interpretation. Any ambiguity in this Addendum and the Underlying Agreement shall be resolved to permit Covered Entity to comply with of HIPAA, the HITECH Act, HIPAA Regulations, Part 2 Regulations, and other applicable privacy and security laws.

(g) Binding Effect. This Agreement shall be binding upon the Parties hereto, and their respective legal representatives, trustees, receivers, successors and permitted assigns.

(h) Severability. Should any provision of this Agreement be found unenforceable, it shall be deemed severable, and the balance of the Agreement shall continue in full force and effect as if the unenforceable provision had never been made a part hereof.

**[END EXHIBIT D]**

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BOS No.
Infor Contract No.
Cobblestone ID No. 1959

# EXHIBIT E – PERFORMANCE MEASURES

| Children's Outpatient Behavioral Health Services | Victor Community Support Services | Edward Hackett, Chief Executive Officer |
|---|---|---|
| **Program Purpose** | Reduce symptoms and functional impairments related to primary diagnosis, increase caregiver resources and ensure at home placement. | |
| **Program Information** | The program serves Yolo County residents who are Medi-Cal eligible and meet medical necessity criteria for specialty mental health services (SMHS). Clients are between the ages of 0-17, and 18-21 if involved in Child Welfare Services and is a non-minor dependent. Specialty Mental Health Services include individual or group therapies and interventions that are designed to reduce mental disability and/or facilitate improvement or maintenance of functioning consistent with the goals of learning, development, independent living and enhanced self-sufficiency. Services are directed toward achieving the client's/family's goals and must be consistent with the current Client Treatment Plan. | |
| **PM1: How much did we do?** | | |
| **1.1** | Submission of the Yolo Community Based Monthly Monitoring Tool (as described in Article 15) | |
| **PM2: How well did we do it?** | | |
| 2.1 | % of clients admitted to FSP who have an FSP service documented (assessment of plan development) within 5 calendar days of being admitted to the program. (Objective: 60%) | |
| 2.2 | Of clients discharged in the report quarter, # of days to successful discharge (quarterly average) | |
| 2.3 | # and % of provider changes per client (Objective: less than 50%) | |
| 2.4 | % of clients who are ICC and IHBS eligible with a facilitated CFT every 90 days. (Objective: 100%) | |
| 2.5 | % of clients who received their 1st clinical appointment within 7 days post psychiatric hospitalization. (Objective: 100%) | |
| 2.6 | % of clients who received their first psychiatric follow up within 30 days post psychiatric hospitalization. (Objective: 100%) | |
| **PM3: Is anyone better off?** | | |
| 3.1 | Of clients discharged in the quarter, what % had a positive discharge (met treatment plan goals)? (Objective: 70%) | |
| 3.2 | % of clients discharged in quarter who demonstrate improvement in functioning using the CANS assessment. (Objective: 70%) | |
| 3.3 | % of discharged clients who demonstrated a maintenance or increase in strengths using the CANS assessment. (Objective: 70%) | |
| 3.4 | % of caregivers with significant needs in CANS Caregiver Resource & Needs Domain at intake will show improvement at discharge. (Objective: 70%) | |
| 3.5 | % of clients with significant needs in CANS Child/Behavioral/Emotional Needs Domain at intake will show improvement at discharge. (Objective: 70%) | |

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| | |
|---|---|
| 3.6 | % of clients with significant needs in CANS Risk Behaviors Domain at intake will show improvement at discharge. (Objective: 70%) |
| 3.7 | % of clients who remained in their home placement (without jail or psychiatric hospital admissions and without out of home foster or group home placement). (Objective: 80%) |
| 3.8 | % of unduplicated clients with a successful discharge will not experience recidivism to a higher level of care, admission to a detention facility or any psychiatric hospital within 90 days after discharge from the program. (Objective: 85%) * Measured by county, not provider |

Performance Measures Reports are due Quarterly as follows:

Submit October 31st for the period of July 1st through September 30th
Submit January 31st for the period of October 1st through December 31st
Submit April 31st for the period of January 1st through March 30th
Submit July 31st for the period of April 1st through June 30th

Contractor shall submit the Performance Outcome Measures report electronically via email to: CYFBHRBA@yolocounty.org

**[END EXHIBIT E]**

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
**STANDARD AGREEMENT**
STD 213 (Rev. 04/2020)

| AGREEMENT NUMBER | PURCHASING AUTHORITY NUMBER (If Applicable) |
|---|---|
| 22-20147 | |

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
Department of Health Care Services

CONTRACTOR NAME
County of Yolo

2. The term of this Agreement is:

START DATE
July 1, 2022

THROUGH END DATE
June 30, 2027

3. The maximum amount of this Agreement is:
$0.00 (Zero Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

| Exhibits | | Title | Pages |
|---|---|---|---|
| | Exhibit A | Scope of Work | 2 Pages |
| | Exhibit A - Attachment 1 | Organization and Administration | 6 Pages |
| | Exhibit A - Attachment 2 | Scope of Services | 10 Pages |
| + - | Exhibit A - Attachment 3 | Financial Requirements | 5 Pages |
| + - | Exhibit A - Attachment 4 | Management Information Systems | 3 Pages |
| + - | Exhibit A - Attachment 5 | Quality Improvement System | 6 Pages |
| + - | Exhibit A - Attachment 6 | Utilization Management Program | 3 Pages |
| + - | Exhibit A - Attachment 7 | Access and Availability of Resources | 4 Pages |
| + - | Exhibit A - Attachment 8 | Provider Network | 12 Pages |
| + - | Exhibit A - Attachment 9 | Documentation Requirements | 1 Page |
| + - | Exhibit A - Attachment 10 | Coordination and Continuity of Care | 3 Pages |
| + - | Exhibit A - Attachment 11 | Information Requirements | 12 Pages |

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
**STANDARD AGREEMENT**
STD 213 (Rev. 04/2020)

| AGREEMENT NUMBER | PURCHASING AUTHORITY NUMBER (If Applicable) |
|---|---|
| 22-20147 | |

| Exhibits | Title | Pages |
|---|---|---|
| + - Exhibit A - Attachment 12 | Beneficiary Problem Resolution | 23 Pages |
| + - Exhibit A - Attachment 13 | Program Integrity | 7 Pages |
| + - Exhibit A - Attachment 14 | Reporting Requirements | 3 Pages |
| + - Exhibit A - Attachment 15 | Peer Support Services | 2 Pages |
| + - Exhibit B | Budget Detail and Payment Provisions | 6 Pages |
| + - Exhibit C * | General Terms and Conditions (04/2017) | |
| + - Exhibit D(F) | Special Terms and Conditions (Notwithstanding Provisions 2, 3, 4, 6 ,8, 13, 15, 23, 26, 30, and 31 which do not apply to this agreement.) | 39 Pages |
| + - Exhibit E | Additional Provisions | 17 Pages |
| + - Exhibit E Attachment 1 | Definitions | 6 Pages |
| + - Exhibit E Attachment 2 | Service Definitions | 6 Pages |
| + - Exhibit F | Privacy and Security Provisions | 6 Pages |

*Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.*
*These documents can be viewed at https://www.dgs.ca.gov/OLS/Resources*

*IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.*

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)
County of Yolo

| CONTRACTOR BUSINESS ADDRESS | CITY | STATE | ZIP |
|---|---|---|---|
| 137 North Cottonwood Street | Woodland | CA | 95695 |

| PRINTED NAME OF PERSON SIGNING | TITLE |
|---|---|
| Nolan Sullivan | Director of Health and Human Services Agency |

CONTRACTOR AUTHORIZED SIGNATURE
DocuSigned by:
Nolan Sullivan
D196B33D5DAB46E...

DATE SIGNED
November 4, 2022

DocuSigned by:
Hope P. Welton
8F31C94E8C8240F...
Hope P. Welton Senior Deputy County Counsel

October 31, 2022

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

| AGREEMENT NUMBER | PURCHASING AUTHORITY NUMBER (If Applicable) |
|---|---|
| 22-20147 | |

**STATE OF CALIFORNIA**

| CONTRACTING AGENCY NAME | | | |
|---|---|---|---|
| Department of Health Care Services | | | |
| CONTRACTING AGENCY ADDRESS | CITY | STATE | ZIP |
| 1501 Capitol Ave, MS 4200 | Sacramento | CA | 95814 |
| PRINTED NAME OF PERSON SIGNING | TITLE | | |
| Robert Strom | Chief, Contracts Section | | |
| CONTRACTING AGENCY AUTHORIZED SIGNATURE | DATE SIGNED | | |
| DocuSigned by: Robert Strom. FE0E2A0E26AE4E5... | November 4, 2022 | | |
| CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL | EXEMPTION (If Applicable) | | |
| | WIC 14703 | | |

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**Exhibit A**
**SCOPE OF WORK**

## 1. Service Overview

The Contractor agrees to provide to the California Department of Health Care Services (DHCS) the services described herein.

The Contractor will provide or arrange for the provision of specialty mental health services to eligible Medi-Cal beneficiaries of Yolo County within the scope of services defined in this contract.

## 2. Service Location

The services shall be performed at all contracting and participating facilities of the Contractor.

## 3. Service Hours

The services shall be provided on a 24-hour, seven (7) days a week basis.

## 4. Project Representatives

A. The project representatives during the term of this contract will be:

| **Department of Health Care Services** | **County of Yolo** |
|---|---|
| Erika Cristo<br>Telephone: (916) 713-8546<br>Email: Erika.Cristo@dhcs.ca.gov | Mila Green<br>Deputy Branch Director, Adult and Aging Branch<br>Telephone: 530-666-8544<br>Fax: 530-666-8294<br>Email: Mila.Green@yolocounty.org |

B. Direct all inquiries to:

| **Department of Health Care Services** | **County of Yolo** |
|---|---|
| Medi-Cal Behavioral Health<br>Division/Program Policy Section<br>Attention: Dee Taylor<br>1501 Capitol Avenue, MS 2702<br>Sacramento, CA, 95814<br>Telephone: (916) 713-8509<br>Email: Dee.Taylor@dhcs.ca.gov | Attention: Mila Green<br>137 North Cottonwood Street<br>Woodland, CA 95695<br>Telephone: 530-666-8544<br>Fax: 530-666-8294<br>Email: Mila.Green@yolocounty.org |

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**Exhibit A**
**SCOPE OF WORK**

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this contract.

**5. General Authority**

This Contract is entered into in accordance with the Welfare and Institutions (Welf. & Inst.) Code § 14680 through §14727. Welf. & Inst. Code § 14712 directs the California Department of Health Care Services (Department) to implement and administer Managed Mental Health Care for Medi-Cal eligible residents of this state through contracts with mental health plans. The Department and County of Yolo agrees to operate the Mental Health Plan (MHP) for Yolo County. No provision of this contract is intended to obviate or waive any requirements of applicable law or regulation, in particular, the provisions noted above. In the event a provision of this contract is open to varying interpretations, the contract provision shall be interpreted in a manner that is consistent with applicable law and regulation.

**6. Electronic and IT Accessibility Requirements Under the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990**

The Contractor agrees to ensure that deliverables developed and produced, pursuant to this Agreement shall comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794 (d)), and regulations implementing that Act as set forth in Part 1194 of Title 36 of the Code of Federal Regulations (C.F.R.), and the portions of the Americans with Disabilities Act of 1990 related to electronic and IT accessibility requirements and implementing regulations. In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code section 11135 codifies section 508 of the Act requiring accessibility of electronic and information technology.

**7. Services to be Performed**

See Exhibit A, Attachments 1 through 15 for a detailed description of the services to be performed.

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**Exhibit A – Attachment 1**
**ORGANIZATION AND ADMINISTRATION**

## 1. Implementation Plan

The Contractor shall comply with the provisions of the Contractor's Implementation Plan as approved by the Department, including the administration of beneficiary problem resolution processes. (California Code of Regulations (Cal. Code Regs.) Title (tit.) 9, §§ 1810.310, 1850.205-1850.208.) The Contractor shall obtain written approval by the Department prior to making any changes to the Implementation Plan as approved by the Department. The Contractor may implement the changes if the Department does not respond in writing within thirty calendar (30) days. (Cal. Code Regs. tit. 9, § 1810.310(c)(5).)

## 2. Prohibited Affiliations

A. The Contractor shall not knowingly have any prohibited type of relationship with the following:

1) An individual or entity that is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549. (42 C.F.R. § 438.610(a)(1).)

2) An individual or entity who is an affiliate, as defined in the Federal Acquisition Regulation at 48 C.F.R. 2.101, of a person described in this section. (42 C.F.R. § 438.610(a)(2).)

B. The Contractor shall not have a prohibited type of relationship by employing or contracting with providers or other individuals and entities excluded from participation in federal health care programs (as defined in section 1128B(f) of the Social Security Act) under either Section 1128 (42 U.S.C. 1320a-7), 1128A (42 U.S.C. 1320a-7a), 1156 (42 U.S.C. 1320c-5), or 1842(j)(2) (42 U.S.C. § 1395u(j)(2)) of the Social Security Act. (42 C.F.R. §§ 438.214(d)(1), 438.610(b).)

C. The Contractor shall not have types of relationships prohibited by this section with an excluded, debarred, or suspended individual, provider, or entity as follows:

1) A director, officer, agent, managing employee, or partner of the Contractor. (42 U.S.C. § 1320a-7(b)(8)(A)(ii); 42 C.F.R. § 438.610(c)(1).)

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**Exhibit A – Attachment 1**
**ORGANIZATION AND ADMINISTRATION**

2) A subcontractor of the Contractor, as governed by 42 C.F.R. § 438.230. (42 C.F.R. § 438.610(c)(2).)

3) A person with beneficial ownership of 5 percent or more of the Contractor's equity. (42 C.F.R. § 438.610(c)(3).)

4) An individual convicted of crimes described in section 1128(b)(8)(B) of the Act. (42 C.F.R. § 438.808(b)(2).)

5) A network provider or person with an employment, consulting, or other arrangement with the Contractor for the provision of items and services that are significant and material to the Contractor's obligations under this Contract. (42 C.F.R. § 438.610(c)(4).)

6) The Contractor shall not employ or contract with, directly or indirectly, such individuals or entities for the furnishing of health care, utilization review, medical social work, administrative services, management, or provision of medical services (or the establishment of policies or provision of operational support for such services). (42 C.F.R. § 438.808(b)(3).)

D. The Contractor shall provide to the Department written disclosure of any prohibited affiliation identified by the Contractor or its subcontractors. (42 C.F.R. §438.608(c)(1).)

## 3. Delegation

Unless specifically prohibited by this contract or by federal or state law, the Contractor may delegate duties and obligations of Contractor under this contract to subcontracting entities if the Contractor determines that the subcontracting entities selected are able to perform the delegated duties in an adequate manner in compliance with the requirements of this contract. The Contractor shall maintain ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its contract with the Department, notwithstanding any relationship(s) that the Mental Health Plan may have with any subcontractor. (42 C.F.R. § 438.230(b)(1).)

## 4. Subcontracts

A. This provision is a supplement to provision number five (Subcontract Requirements) in Exhibit D(F) which is attached hereto as part of this contract. As allowed by provision five in Exhibit D(F), the Department

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**Exhibit A – Attachment 1**
**ORGANIZATION AND ADMINISTRATION**

hereby, and until further notice, waives its right to prior approval of subcontracts and approval of existing subcontracts.

B. No subcontract terminates the legal responsibility of the Contractor to the Department to assure that all activities under this contract are carried out. (42 C.F.R. § 438.230(b).)

C. All subcontracts shall be in writing.

D. All subcontracts for inpatient and residential services shall require that subcontractors maintain necessary licensing and certification or mental health program approval.

E. Each subcontract shall contain:

1) The delegated activities and obligations, including services provided, and related reporting responsibilities. (42 C.F.R. § 438.230(c)(1)(i).)

2) The subcontractor's agreement to perform the delegated activities and reporting responsibilities in compliance with the Contractor's obligations in this Contract. (42 C.F.R. § 438.230(c)(1)(ii).)

3) Subcontractor's agreement to submit reports as required by the Contractor and/or the Department.

4) The method and amount of compensation or other consideration to be received by the subcontractor from the Contractor.

5) Requirement that the subcontract be governed by, and construed in accordance with, all laws and regulations, and all contractual obligations of the Contractor under this contract.

6) Requirement that the subcontractor comply with all applicable Medicaid laws, regulations, including applicable sub-regulatory guidance and contract provisions. (42 C.F.R. § 438.230(c)(2).)

7) Terms of the subcontract including the beginning and ending dates, as well as methods for amendment and, if applicable, extension of the subcontract.

8) Provisions for full and partial revocation of the subcontract, delegated activities or obligations, or application of other remedies

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**Exhibit A – Attachment 1**
**ORGANIZATION AND ADMINISTRATION**

permitted by state or federal law when the Department or the Contractor determine that the subcontractor has not performed satisfactorily. (42 C.F.R. § 438.230(c)(1)(iii).)

9) The nondiscrimination and compliance provisions of this contract.

10) A requirement that the subcontractor make all of its premises, physical facilities, equipment, books, records, documents, contracts, computers, or other electronic systems pertaining to Medi-Cal enrollees, Medi-Cal-related activities, services and activities furnished under the terms of the subcontract, or determinations of amounts payable, available at any time for inspection, examination or copying by the Department, CMS, HHS Inspector General, the United States Comptroller General, their designees, and other authorized federal and state agencies. (42 C.F.R. §438.230(c)(3)(i)-(ii).) This audit right will exist for 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later. (42 C.F.R. § 438.230(c)(3)(iii).) The Department, CMS, or the HHS Inspector General may inspect, evaluate, and audit the subcontractor at any time if there is a reasonable possibility of fraud or similar risk. The Department's inspection shall occur at the subcontractor's place of business, premises or physical facilities. (42 C.F.R. § 438.230(c)(3)(iv).)

11) Subcontractor shall maintain books and recordsof its work pursuant to its subcontract, in accordance with the general standards applicable to such book or record keeping, for a term of at least ten years from the close of the state fiscal year in which the subcontract was in effect. Subcontractor's agreement that assignment or delegation of the subcontract shall be void unless prior written approval is obtained from the Contractor.

12) A requirement that the Contractor monitor the subcontractor's compliance with the provisions of the subcontract and this contract and a requirement that the subcontractor provide a corrective action plan if deficiencies are identified.

13) Subcontractor's agreement to hold harmless both the State and beneficiaries in the event the Contractor cannot or does not pay for

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**Exhibit A – Attachment 1**
**ORGANIZATION AND ADMINISTRATION**

services performed by the subcontractor pursuant to the subcontract.

14) Subcontractor's agreement to comply with the Contractor's policies and procedures on advance directives and the Contractor's obligations for Physician Incentive Plans, if applicable based on the services provided under the subcontract.

## 5. Accreditation Status

A. The Contractor shall inform the Department whether it has been accredited by a private independent accrediting entity. (42 C.F.R. 438.332(a).)

B. If the Contractor has received accreditation by a private independent accrediting entity, the Contractor shall authorize the private independent accrediting entity to provide the Department a copy of its most recent accreditation review, including:

1) Its accreditation status, survey type, and level (as applicable);

2) Accreditation results, including recommended actions or improvements, corrective action plans, and summaries of findings; and

3) The expiration date of the accreditation. (42 C.F.R. § 438.332(b).)

## 6. Conflict of Interest

A. The Contractor shall comply with the conflict of interest safeguards described in 42 Code of Federal Regulations part 438.58 and the prohibitions described in section 1902(a)(4)(C) of the Social Security Act. (42 C.F.R. § 438.3(f)(2).)

B. The Contractor’s officers and employees shall not have a financial interest in this Contract or a subcontract of this Contract made by them in their official capacity, or by any body or board of which they are members unless the interest is remote. (Gov. Code §§ 1090, 1091; 42 C.F.R. § 438.3(f)(2).)

C. No public officials at any level of local government shall make, participate in making, or attempt to use their official positions to influence a decision made within the scope of this Contract in which they know or have reason

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**Exhibit A – Attachment 1**
**ORGANIZATION AND ADMINISTRATION**

to know that they have a financial interest. (Gov. Code §§ 87100, 87103; Cal. Code Regs., tit. 2, § 18704; 42 C.F.R. §§ 438.3(f)(2).)

1) If a public official determines not to act on a matter due to a conflict of interest within the scope of this Contract, the Contractor shall notify the Department by oral or written disclosure. (Cal. Code Regs., tit. 2, § 18707; 42 C.F.R. § 438.3(f)(2).)

2) Public officials, as defined in Government Code section 87200, shall follow the applicable requirements for disclosure of a conflict of interest or potential conflict of interest, once it is identified, and recuse themselves from discussing or otherwise acting upon the matter. (Gov. Code § 87105, Cal. Code Regs., tit. 2, § 18707(a); 42 C.F.R. § 438.3(f)(2).)

D. The Contractor shall not utilize in the performance of this Contract any State officer or employee in the State civil service or other appointed State official unless the employment, activity, or enterprise is required as a condition of the officer's or employee's regular State employment. (Pub. Con. Code § 10410; 42 C.F.R. § 438.3(f)(2).)

1) The Contractor shall submit documentation to the Department of employees (current and former State employees) who may present a conflict of interest.

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**Exhibit A – Attachment 2**
**SCOPE OF SERVICES**

## 1. Criteria for Beneficiaries to Access Specialty Mental Health Services

Effective January 1, 2022, the Contractor shall implement the criteria for access to SMHS (except for psychiatric inpatient hospital and psychiatric health facility services) established below, update the Contractor's policies and procedures as needed to ensure compliance with this policy effective January 1, 2022, and communicate these updates to providers as necessary.

In addition, the Contractor shall update beneficiary handbooks, manuals, and related materials to ensure the criteria for SMHS for individuals under 21 years of age and for adults is accurately reflected in all materials, including materials reflecting the responsibility of Medi-Cal managed care plans and the Fee for Service delivery system for covering non-specialty mental health services.(BHIN 21-073).

A. Pursuant to Welf. & Inst. Code section 14184.402(a) the following definitions of "medical necessity" or "medically necessary" apply:

1) For individuals 21 years of age or older, a service is "medically necessary" or a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain as set forth in Welfare and Institutions Code section 14059.5

2) For individuals under 21 years of age, a service is "medically necessary" or a "medical necessity" if the service meets the standards set forth in Section 1396d(r)(5) of Title 42 of the United States Code. This section requires provision of all Medicaid-coverable services needed to correct and ameliorate mental illness and conditions. Federal guidance from the Centers for Medicare & Medicaid Services makes it clear that services need not be curative or restorative to ameliorate a mental health condition. All mental health services that are not covered under Medi-Cal Fee For Service (FFS) or by Managed Care Plans as non-specialty mental health services as established in W&I Code section 14184.402(b) that sustain, support, improve, or make more tolerable a mental health condition are considered to ameliorate the mental health condition are thus medically necessary and covered as EPSDT services and the Contractor shall cover them for beneficiaries who meet the criteria for access to the specialty mental health delivery system.

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**Exhibit A – Attachment 2**
**SCOPE OF SERVICES**

Services provided to a beneficiary must be medically necessary and clinically appropriate to address the beneficiary's presenting condition.

B. Criteria for Adult Beneficiaries to Access the Specialty Mental Health Services Delivery System

For beneficiaries 21 years of age or older, the Contractor shall provide covered specialty mental health services for beneficiaries who meet both of the following criteria, (1) and (2) below:

1. The beneficiary has one or both of the following:
    a. Significant impairment, where impairment is defined as distress, disability, or dysfunction in social, occupational, or other important activities
    b. A reasonable probability of significant deterioration in an important area of life functioning

AND

2. The beneficiary's condition as described in paragraph (1) is due to either of the following:
    a. A diagnosed mental health disorder, according to the criteria of the current editions of the Diagnostic and Statistical Manual of Mental Disorders and the International Statistical Classification of Diseases and Related Health Problems
    b. A suspected mental disorder that has not yet been diagnosed

C. Criteria for Beneficiaries under Age 21 to Access the Specialty Mental Health Services Delivery System

For enrolled beneficiaries under 21 years of age, Contractor shall provide all medically necessary specialty mental health services required pursuant to Section 1396d(r) of Title 42 of the United States Code. Covered specialty mental health services shall be provided to enrolled beneficiaries who meet either of the following criteria:

1) The beneficiary has a condition placing them at high risk for a mental health disorder due to experience of trauma evidenced by any of the following: scoring in the high-risk range under a trauma screening tool

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**Exhibit A – Attachment 2**
**SCOPE OF SERVICES**

approved by the department, involvement in the child welfare system, juvenile justice involvement, or experiencing homelessness.

OR

2) The beneficiary meets both of the following requirements in a and b below:
   a. The beneficiary has at least one of the following:
      i. A significant impairment
      ii. A reasonable probability of significant deterioration in an important area of life functioning
      iii. A reasonable probability of not progressing developmentally as appropriate
      iv. A need for specialty mental health services, regardless of presence of impairment, that are not included within the mental health benefits that a Medi-Cal managed care plan is required to provide

AND

   b. The beneficiary's condition as described in subparagraph (A) is due to one of the following:
      i. A diagnosed mental health disorder, according to the criteria of the current editions of the Diagnostic and Statistical Manual of Mental Disorders and the International Statistical Classification of Diseases and Related Health Problems
      ii. A suspected mental health disorder that has not yet been diagnosed
      iii. Significant trauma placing the beneficiary at risk of a future mental health condition, based on the assessment of a licensed mental health professional

## 2. Provision of Services

A. The Contractor shall provide or arrange, and pay for, the following medically necessary covered specialty mental health services to beneficiaries who meet access criteria for receiving specialty mental health services. See Exhibit E, Attachment 2, Service Definitions, for detailed descriptions of the specialty mental health services listed below:

1) Mental health Services;

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**Exhibit A – Attachment 2**
**SCOPE OF SERVICES**

2) Medication Support Services;

3) Day Treatment Intensive;

4) Day Rehabilitation;

5) Crisis Intervention;

6) Crisis Stabilization;

7) Adult Residential Treatment Services;

8) Crisis Residential Treatment Services;

9) Psychiatric Health Facility Services;

10) Intensive Care Coordination (for beneficiaries under the age of 21);

11) Intensive Home Based Services (for beneficiaries under the age of 21);

12) Therapeutic Behavioral Services (for beneficiaries under the age of 21);

13) Therapeutic Foster Care (for beneficiaries under the age of 21);

14) Psychiatric Inpatient Hospital Services;

15) Targeted Case Management;

16) Peer Support Services (If the Contractor has opted to provide Peer Support Services and has been approved by DHCS, the Contractor shall comply with the peer support services provisions in Attachment 15); and

17) For beneficiaries under the age of 21, the Contractor shall provide all medically necessary specialty mental health services required pursuant to Section 1396d(r) of Title 42 of the United States Code (Welf. & Inst. Code 14184.402 (d)).

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**Exhibit A – Attachment 2**
**SCOPE OF SERVICES**

B. Medi-Cal Managed Care Plan beneficiaries receive mental health disorder benefits in every classification - inpatient, outpatient, prescription drug and emergency - that the beneficiaries receive medical/surgical benefits, in compliance with 42 C.F.R. 438.910(b)(2). The Contractor is only required to provide inpatient and outpatient specialty mental health services, as provided for in this Contract and as required pursuant to section 1396d(r) of Title 42 of the United States Code, as prescription drug and emergency benefits are provided through other delivery systems.

C. Services shall be provided, in accordance with the State Plan, to beneficiaries, who meet criteria to access SMHS, documented in accordance with state and federal requirements.

D. The Contractor shall provide or arrange and pay for all medically necessary covered specialty mental health services in a sufficient amount, duration, and scope to reasonably achieve the purpose for which the services are furnished. The Contractor shall not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary covered specialty mental health service solely because of diagnosis, type of illness, or condition of the beneficiary. The Contractor may deny services based on Welfare and Institutions Code sections 14184.402, subdivisions (a), (c), and (d), 14059.5; and departmental guidance and regulation. (42 C.F.R. § 438.210(a)(2) and (3).)

E. The Contractor shall make all medically necessary covered specialty mental health services available in accordance with Cal. Code-Regs., tit. 9, sections1810.345, 1810.350 and 1810.405, and 42 Code of Federal Regulations part 438.210.

F. The Contractor shall provide second opinions from a network provider, or arrange for the beneficiary to obtain a second opinion outside the network, at no cost to the beneficiary. (42 C.F.R § 438.206(b).) At the request of a beneficiary when the Contractor or its network provider has determined that the beneficiary is not entitled to specialty mental health services due to not meeting the criteria for access to SMHS, the contractor shall provide for a second opinion by a licensed mental health professional (other than a psychiatric technician or a licensed vocational nurse). (Cal. Code Regs., tit. 9, § 1810.405(e).)

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**Exhibit A – Attachment 2**
**SCOPE OF SERVICES**

G. The Contractor shall provide a beneficiary's choice of the person providing services to the extent feasible in accordance with Cal. Code Regs., tit. 9, section 1830.225 and 42 Code of Federal Regulations part 438.3(l).

**3. Requirements for Day Treatment Intensive and Day Rehabilitation**

A. The Contractor shall require providers to request prior authorization for day treatment intensive and day rehabilitation services, in accordance with Information Notice 22-016 and any subsequent departmental notices.

B. The Contractor shall require that providers of day treatment intensive and day rehabilitation meet the requirements of Cal. Code Regs., tit. 9, §§ 1840.318, 1840.328, 1840.330, 1840.350 and 1840.352.

C. The Contractor shall require that providers include, at a minimum, the following day treatment intensive and day rehabilitation service components:

1) Therapeutic milieu. This component must include process groups and skill-building groups. Specific activities shall be performed by identified staff and take place during the scheduled hours of operation of the program. The goal of the therapeutic milieu is to teach, model, and reinforce constructive interactions by involving beneficiaries in the overall program. For example, beneficiaries are provided with opportunities to lead community meetings and to provide feedback to peers. The program includes behavior management interventions that focus on teaching self-management skills that children and adults and older adults may use to control their own lives, to deal effectively with present and future problems, and to function well with minimal or no additional therapeutic intervention. Activities include, but are not limited to, staff feedback to beneficiaries on strategies for symptom reduction, increasing adaptive behaviors, and reducing subjective distress.

2) Process groups. These groups, facilitated by staff, shall assist each beneficiary to develop necessary skills to deal with their problems and issues. The group process shall utilize peer interaction and feedback in developing problem-solving strategies to resolve behavioral and emotional problems. Day rehabilitation

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**SCOPE OF SERVICES**

may include psychotherapy instead of process groups, or in addition to process groups.

3) Skill-building groups. In these groups, staff shall help beneficiaries identify barriers related to their psychiatric and psychological experiences. Through the course of group interaction, beneficiaries identify skills that address symptoms and increase adaptive behaviors.

4) Adjunctive therapies. These are therapies in which both staff and beneficiaries participate. These therapies may utilize self-expression, such as art, recreation, dance, or music as the therapeutic intervention. Participants do not need to have any level of skill in the area of self-expression, but rather be able utilize the modality to develop or enhance skills directed toward achieving beneficiary plan goals. Adjunctive therapies assist the beneficiary in attaining or restoring skills which enhance community functioning including problem solving, organization of thoughts and materials, and verbalization of ideas and feelings. Adjunctive therapies provided as a component of day rehabilitation or day treatment intensive are used in conjunction with other mental health services in order to improve the outcome of those services consistent with the beneficiary's needs.

D. Day treatment intensive shall additionally include:

1) Psychotherapy. Psychotherapy means the use of psychological methods within a professional relationship to assist the beneficiary or beneficiaries to achieve a better psychosocial adaptation, to acquire a greater human realization of psychosocial potential and adaptation, to modify internal and external conditions that affect individual, groups, or communities in respect to behavior, emotions and thinking, in respect to their intrapersonal and interpersonal processes. Psychotherapy shall be provided by licensed, registered, or waivered staff practicing within their scope of practice. Psychotherapy does not include physiological interventions, including medication intervention.

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2) Mental Health Crisis Protocol. The Contractor shall ensure that there is an established protocol for responding to beneficiaries experiencing a mental health crisis. The protocol shall assure the availability of appropriately trained and qualified staff and include agreed upon procedures for addressing crisis situations. The protocol may include referrals for crisis intervention, crisis stabilization, or other specialty mental health services necessary to address the beneficiary's urgent or emergency psychiatric condition (crisis services). If the protocol includes referrals, the day treatment intensive or day rehabilitation program staff shall have the capacity to handle the crisis until the beneficiary is linked to an outside crisis service.

3) Written Weekly Schedule. The Contractor shall ensure that a weekly detailed schedule is available to beneficiaries and as appropriate to their families, caregivers or significant support persons and identifies when and where the service components of the program will be provided and by whom. The written weekly schedule will specify the program staff, their qualifications, and the scope of their services.

E. Staffing Requirements. Staffing ratios shall be consistent with the requirements in Cal. Code Regs., tit. 9, section 1840.350, for day treatment intensive, and Cal. Code Regs., tit. 9 section 1840.352 for day rehabilitation. For day treatment intensive, staff shall include at least one staff person whose scope of practice includes psychotherapy.

a. Program staff may be required to spend time on day treatment intensive and day rehabilitation activities outside the hours of operation and therapeutic program (e.g., time for travel, documentation, and caregiver contacts).

b. The Contractor shall require that at least one staff person be present and available to the group in the therapeutic milieu for all scheduled hours of operation.

c. The Contractor shall require day treatment intensive and day rehabilitation programs to maintain documentation that enables the Contractor and the Department to audit the program if it uses day treatment intensive or day

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rehabilitation staff who are also staff with other responsibilities (e.g., as staff of a group home, a school, or another mental health treatment program). The Contractor shall require that there is documentation of the scope of responsibilities for these staff and the specific times in which day treatment intensive or day rehabilitation activities are being performed exclusive of other activities.

F. The Contractor shall ensure that the provider receives Medi-Cal reimbursement only if the beneficiary is present for at least 50 percent of scheduled hours of operation for that day. In cases where absences are frequent, it is the responsibility of the Contractor to ensure that the provider re-evaluates the beneficiary's need for the day rehabilitation or day treatment intensive program and takes appropriate action.

G. Documentation Standards. The Contractor shall ensure day treatment intensive and day rehabilitation documentation meets the documentation requirements in BHIN 22-019.

H. The Contractor shall ensure that day treatment intensive and day rehabilitation have at least one contact per month with a family member, caregiver or other significant support person identified by an adult beneficiary, or one contact per month with the legally responsible adult for a beneficiary who is a minor. This contact may be face-to-face, or by an alternative method (e.g., e-mail, telephone, etc.). Adult beneficiaries may decline this service component. The contacts should focus on the role of the support person in supporting the beneficiary's community reintegration. The Contractor shall ensure that this contact occurs outside hours of operation and outside the therapeutic program for day treatment intensive and day rehabilitation.

I. Written Program Description. The Contractor shall ensure there is a written program description for day treatment intensive and day rehabilitation. The written program description must describe the specific activities of each service and reflects each of the required components of the services as described in this section. The Contractor shall review the written program description for compliance with this section with prior to the date the provider begins delivering day treatment intensive or day rehabilitation.

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**Exhibit A – Attachment 2**
**SCOPE OF SERVICES**

J. Continuous Hours of Operation. The Contractor shall ensure that the provider applies the following when claiming for day treatment intensive and day rehabilitation services:

a. A half day shall be billed for each day in which the beneficiary receives face-to-face services in a program with services available four hours or less per day. Services must be available a minimum of three hours each day the program is open.

b. A full-day shall be billed for each day in which the beneficiary receives face-to-face services in a program with services available more than four hours per day.

c. Although the beneficiary must receive face to face services on any full-day or half-day claimed, all service activities during that day are not required to be face-to-face with the beneficiary.

d. The requirement for continuous hours of operation does not preclude short breaks (for example, a school recess period) between activities. A lunch or dinner may also be appropriate depending on the program's schedule. The Contractor shall not conduct these breaks toward the total hours of operation of the day program for purposes of determining minimum hours of service.

**4. Therapeutic Behavioral Services**

Therapeutic Behavioral Services (TBS) are specialty mental health services covered as Early and Periodic Screening, Diagnostic and Treatment (EPSDT). (Cal. Code Regs., tit. 9, § 1810.215.) TBS are intensive, one-to-one services designed to help beneficiaries and their parents/caregivers manage specific behaviors using short-term measurable goals based on the beneficiary's needs. TBS is described in the Department of Mental Health Information Notice 08-38.

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**Exhibit A – Attachment 3**
**FINANCIAL REQUIREMENTS**

## 1. Provider Compensation

The Department shall ensure that no payment is made to a network provider other than by the Contractor for services covered under this agreement, except when these payments are specifically required to be made by the Department in Title XIX of the Act, in 42 CFR chapter IV. (42 C.F.R. § 438.60.)

## 2. Payments for Indian Health Care Providers

A. The Contractor shall make payment to all Indian Health Care Providers (IHCPs) (42 CFR 438.14(a)) in its network in a timely manner as required for payments to practitioners in individual or group practices under 42 §§ C.F.R. 447.45 and 447.46 including paying 90% of all clean claims from practitioners within 30 days of the date of receipt and paying 99 percent of all clean claims from practitioners within 90 days of the date of receipt. (42 C.F.R. 438.14(b)(2).)

B. The Contractor shall pay an IHCP that is not enrolled as a FQHC, regardless of whether it is a network provider of the Contractor, its applicable encounter rate published annually in the Federal Register by the Indian Health Service or in the absence of a published encounter rate, the amount the IHPC would receive if the services were provided under the State plan's fee-for-service methodology. (42 C.F.R. § 438.14 (c)(2).)

C. The Contractor shall comply with guidance issued by DHCS regarding Payments for Indian Health Care Providers.

## 3. Prohibited Payments

A. Federal Financial Participation is not available for any amount furnished to an excluded individual or entity, or at the direction of a physician during the period of exclusion when the person providing the service knew or had reason to know of the exclusion, or to an individual or entity when the Department failed to suspend payments during an investigation of a credible allegation of fraud. (42 U.S.C. section 1396b(i)(2).)

B. In accordance with Section 1903(i) of the Social Security Act, the Contractor is prohibited from paying for an item or service:

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**Exhibit A – Attachment 3**
**FINANCIAL REQUIREMENTS**

1) Furnished under this Contract by any individual or entity during any period when the individual or entity is excluded from participation under title V, XVIII, or XX or under this title pursuant to sections 1128, 1128A, 1156, or 1842(j)(2) of the Social Security Act.
2) Furnished at the medical direction or on the prescription of a physician, during the period when such physician is excluded from participation under title V, XVIII, or XX or under this title pursuant to sections 1128, 1128A, 1156, or 1842(j)(2) of the Social Security Act and when the person furnishing such item or service knew, or had reason to know, of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).
3) Furnished by an individual or entity to whom the state has failed to suspend payments during any period when there is a pending investigation of a credible allegation of fraud against the individual or entity, unless the state determines there is good cause not to suspend such payments.
4) With respect to any amount expended for which funds may not be used under the Assisted Suicide Funding Restriction Act (ASFRA) of 1997.

## 4. Emergency Admission for Psychiatric Inpatient Hospital Services

The Contractor shall comply with Cal.Code Regs. Tit. 9 § 1820.225 regarding emergency admission for psychiatric inpatient hospital services regarding authorization and payment for both contract and non-contract hospitals.

## 5. Audit Requirements

The Contractor shall submit audited financial reports specific to this Contract on an annual basis. The audit shall be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards. (42 C.F.R. § 438.3(m).)

## 6. Cost Reporting

A. The Contractor shall submit a fiscal year-end cost report no later than December 31 following the close of each fiscal year, in accordance with the Welf. & Inst. Code § 14705(c), unless that date is extended by the Department, and/or guidelines established by the Department. Data submitted shall be full and complete and the cost report shall be certified by the Contractor's Mental Health Director and one of the following: (1) the

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**Exhibit A – Attachment 3**
**FINANCIAL REQUIREMENTS**

Contractor's chief financial officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to, the Contractor's chief financial officer, or (3) the Contractor's auditor-controller, or equivalent. The cost report shall include both the Contractor's costs and the cost of its subcontractors, if any. The cost report shall be completed in accordance with instructions contained in the Department's Cost and Financial Reporting System Instruction Manual which can be accessed through the Department's Information Technology Web Services (ITWS) for the applicable year, as well as any instructions that are incorporated by reference thereto; however, to the extent that the Contractor disagrees with such instructions, it may raise that disagreement in writing with the Department at the time the cost report is filed, and shall have the right to appeal such disagreement pursuant to procedures developed under the Welf. & Inst. Code § 14171.

B. In accordance with Welf. & Inst. Code § 5655, the Department shall provide technical assistance and consultation to the Contractor regarding the preparation and submission of timely cost reports. If the Contractor does not submit the cost report by the reporting deadline, including any extension period granted by the Department, the Department, in accordance with Welf.& Inst. Code § 14197.7(o)(1), may withhold payments of additional funds until the cost report that is due has been submitted.

C. Upon receipt of an amended cost report, which includes reconciled units of service, and a certification statement that has been signed by the Contractor's Mental Health Director and one of the following: 1) the Contractor's Chief Financial Officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to the Contractor's Chief Financial Officer, or (3) the county's auditor controller, or equivalent, the Department shall preliminarily settle the cost report. After completing its preliminary settlement, the Department shall so notify the Contractor if additional FFP is due to the Contractor. The Department shall submit a claim to the federal government for the related FFP within 30 days contingent upon sufficient budget authority. If funds are due to the State, the Department shall invoice the Contractor and the Contractor shall return the overpayment to the Department.

**7. Recovery of Overpayments**

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**Exhibit A – Attachment 3**
**FINANCIAL REQUIREMENTS**

A. The Contractor, and any subcontractor or any network provider of the Contractor, shall report to the Department within 60 calendar days when it has identified payments in excess of amounts specified for reimbursement of Medicaid services. (42 C.F.R. § 438.608(c)(3).)

B. The Contractor, or subcontractor, to the extent that the subcontractor is delegated responsibility for coverage of services and payment of claims under this Contract, shall implement and maintain arrangements or procedures that include provision for the suspension of payments to a network provider for which the State, or the Contractor, determines there is a credible allegation of fraud. (42 C.F.R. §§ 438.608(a)(8) and 455.23.)

C. The Contractor shall specify the retention policies for the treatment of recoveries of all overpayments from the Contractor to a provider, including specifically the retention policies for the treatment of recoveries of overpayments due to fraud, waste, or abuse. The policy shall specify the process, timeframes, and documentation required for reporting the recovery of all overpayments. The Contractor shall require its network providers to return any overpayment to the Contractor within 60 calendar days after the date on which the overpayment was identified. The Contractor shall also specify the process, timeframes, and documentation required for payment of recoveries of overpayments to the Department in situations where the Contractor is not permitted to retain some or all of the recoveries of overpayments. Contractor shall comply with the reporting requirements, and other requirements, in BHIN 19-034. (42 C.F.R. § 438.608(d).)

**8. Physician Incentive Plans**

A. The Contractor shall obtain approval from the Department prior to implementing a Physician Incentive Plan between the Contractor and a subcontractor (Cal. Code Regs. tit. 9, § 1810.438(h).).

1) Pursuant to 42 Code of Federal Regulations part 438.3(i), the Contractor shall comply with the requirements set forth in 42 C.F.R. §§ 422.208 and 422.210.

2) Specific payment can be made directly or indirectly under a Physician Incentive Plan to a physician or physician group as an

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**FINANCIAL REQUIREMENTS**

inducement to reduce or limit medically necessary services furnished to a beneficiary. (42 C.F.R. § 422.208(c)(1).)

3) If a physician or physician group is put at substantial financial risk for services not provided by the physician/group, the Contractor shall ensure adequate stop-loss protection to individual physicians and conduct annual beneficiary surveys. (42 C.F.R. §§ 422.208(c)(2).)

4) The Contractor shall provide information on its Physician Incentive Plan to any Medicaid beneficiary upon request (this includes the right to adequate and timely information on a Physician Incentive Plan). Such information shall include: whether the Contractor uses a physician incentive plan that affects the use of referral services, (2) the type of incentive arrangement, and (3) whether stop-loss protection is provided. (42 C.F.R. § 422.210(b).)

**9.** Financial requirements

A. The Contractor shall not impose financial requirements or cumulative financial requirements, as defined in 42 C.F.R. 438.900, for any beneficiary receiving specialty mental health services.

**10. ICD- 10**

A. The Contractor shall use the criteria sets in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), or current edition, as the clinical tool to make diagnostic determinations.

~~B.~~ Once a DSM-5 mental health disorder diagnosis is determined, the Contractor shall determine the corresponding mental health diagnosis, in the International Classification of Diseases and Related Health Problems, Tenth Revision (ICD-10), or current edition. The Contractor shall use the ICD-10 diagnosis code(s) to submit a claim for specialty mental health services to receive reimbursement of Federal Financial Participation (FFP).

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**Exhibit A – Attachment 4**
**MANAGEMENT INFORMATION SYSTEMS**

## 1. Health Information Systems

A. The Contractor shall maintain a health information system that collects, analyzes, integrates, and reports data. (42 C.F.R. § 438.242(a); Cal. Code Regs., tit. 9, § 1810.376.) The system shall provide information on areas including, but not limited to, utilization, claims, grievances, and appeals. (42 C.F.R. § 438.242(a).) The Contractor shall comply with Section 6504(a) of the Affordable Care Act which requires that State claims processing and retrieval systems are able to collect data elements necessary to enable the mechanized claims processing and information retrieval systems in operation by the State to meet the requirements of section 1903(r)(1)(F) of the Social Security Act. (42 C.F.R. § 438.242(b)(1).)

B. The Contractor's health information system shall, at a minimum:

1) Collect data on beneficiary and provider characteristics as specified by the Department, and on services furnished to beneficiaries as specified by the Department; (42 C.F.R. § 438.242(b)(2).)

2) Ensure that data received from providers is accurate and complete by:

a. Verifying the accuracy and timeliness of reported data, including data from network providers compensated on the basis of capitation payments; (42 C.F.R. § 438.242(b)(3)(i).)

b. Screening the data for completeness, logic, and consistency; and (42 C.F.R. § 438.242(b)(3)(ii).)

c. Collecting service information in standardized formats to the extent feasible and appropriate, including secure information exchanges and technologies utilized for quality improvement and care coordination efforts. (42 C.F.R. § 438.242(b)(3)(iii).)

3) Make all collected data available to the Department and, upon request, to CMS. (42 C.F.R. § 438.242(b)(4).)

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**Exhibit A – Attachment 4**
**MANAGEMENT INFORMATION SYSTEMS**

B. The Contractor's health information system is not required to collect and analyze all elements in electronic formats. (Cal. Code Regs., tit. 9, § 1810.376(c).)

**2. Encounter Data**

The Contractor shall submit encounter data to the Department at a frequency and level specified by the Department and CMS. (42 C.F.R. § 438.242(c)(2).) The Contractor shall ensure collection and maintenance of sufficient beneficiary encounter data to identify the provider who delivers service(s) to the beneficiary. (42 C.F.R. § 438.242(c)(1).) The Contractor shall submit all beneficiary encounter data that the Department is required to report to CMS under § 438.818. (42 C.F.R. § 438.242(c)(3).) The Contractor shall submit encounter data to the state in standardized Accredited Standards Committee (ASC) X12N 837 and National Council for Prescription Drug Programs (NCPDP) formats, and the ASC X12N 835 format as appropriate. (42 C.F.R. § 438.242(c)(4).)

**3.** MEDSLITE ACCESS

The Contractor shall perform the following:

A. Establish County Behavioral Health MEDSLITE Coordinators (MEDSLITE Coordinators) to work with DHCS. These MEDSLITE Coordinators are required to sign and submit an Oath of Confidentiality to DHCS. Only these designated MEDSLITE Coordinators may initiate requests to add, delete, or otherwise modify a MEDSLITE user account. These MEDSLITE Coordinators are responsible for maintaining an active list of the Contractor's users with MEDSLITE access and collecting a signed MEDSLITE Oath of Confidentiality from each user. The MEDSLITE Coordinators are responsible for ensuring users are informed they cannot share user accounts, that MEDSLITE is to be used for only authorized purposes, and that all activity is logged. The MEDSLITE Coordinators may be changed by written notice to DHCS. They should be employees at an appropriate level in the organization, with sufficient responsibility to carry out the duties of this position. The MEDSLITE Coordinators will provide, assign, delete, and track user login identification information for authorized staff members. They are responsible for ensuring processes are in place which result in prompt MEDSLITE account deletion requests when the Contractor's users leave employment or no longer require access due to change in job duties.

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**Exhibit A – Attachment 4**
**MANAGEMENT INFORMATION SYSTEMS**

B. Ensure that information furnished or secured via MEDSLITE shall be used solely for the purposes described in this Agreement. The information obtained from MEDSLITE shall be used exclusively to administer the Medi-Cal program. The Contractor further agrees that information obtained under this Agreement will not be reproduced, published, sold, or released in original or any other form for any purpose other than identified in this Agreement.

C. Ensure that any agents, including a subcontractor, (if prior approval is obtained from DHCS) to whom they provide DHCS data, agree in writing to the same requirements for privacy and security safeguards for confidential data that apply to the Contractor with respect to this Agreement. The Contractor shall seek prior written approval from DHCS before providing DHCS data to a subcontractor.

D. Adhere to security and confidential provisions outlined in Exhibit F, the Privacy and Security Provisions for the protection of any information exchanged between Contractor Name and the DHCS.

E. During the term of this Agreement, the Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident involving DHCS data following the process outlined within Section 17 of Exhibit F, the Privacy and Security Provisions of this Agreement.

F. In order to enforce this MEDSLITE ACCESS provision, the Contractor agrees to assist DHCS in performing compliance assessments. These assessments may involve compliance review questionnaires, and/or review of the facilities, systems, books, and records of the Contractor, with reasonable notice from DHCS. Such reviews shall be scheduled at times that take into account operational and staffing demands. The Contractor agrees to promptly remedy all violations of any provision of this Agreement and certify the same to DHCS in writing, or to enter into a written Corrective Action Plan with DHCS containing deadlines for achieving compliance with specific provisions of this Agreement.

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**Exhibit A – Attachment 5**
**QUALITY IMPROVEMENT SYSTEM**

## 1. Quality Assessment and Performance Improvement

A. The Contractor shall implement an ongoing comprehensive Quality Assessment and Performance Improvement (QAPI) Program for the services it furnishes to beneficiaries. (42 C.F.R. § 438.330 (a).)

B. The Contractor's QAPI Program shall improve the Contractor's established outcomes through structural and operational processes and activities that are consistent with current standards of practice.

C. The Contractor shall have a written description of the QAPI Program that clearly defines the QAPI Program's structure and elements, assigns responsibility to appropriate individuals, and adopts or establishes quantitative measures to assess performance and to identify and prioritize area(s) for improvement. The Contractor shall evaluate the impact and effectiveness of its QAPI Program annually and update the Program as necessary per Cal. Code Regs., tit. 9, § 1810.440(a)(6). (42 C.F.R. § 438.330(e)(2).)

D. The QAPI Program shall include collection and submission of performance measurement data required by the Department, which may include performance measures specified by CMS. The Contractor shall measure and annually report to the Department its performance, using the standard measures identified by the Department. (42 C.F.R. § 438.330 (a)(2), (b)(2), (c)(2).)

E. The Contractor shall conduct performance monitoring activities throughout the Contractor's operations. These activities shall include, but not be limited to, beneficiary and system outcomes, utilization management, utilization review, provider appeals, credentialing and monitoring, and resolution of beneficiary grievances.

F. The Contractor shall have mechanisms to detect both underutilization of services and overutilization of services. (42 C.F.R. § 438.330(b)(3).)

G. The Contractor shall implement mechanisms to assess beneficiary/family satisfaction. The Contractor shall assess beneficiary/family satisfaction by:

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**Exhibit A – Attachment 5**
**QUALITY IMPROVEMENT SYSTEM**

1) Surveying beneficiary/family satisfaction with the Contractor's services at least annually;

2) Evaluating beneficiary grievances, appeals and State Hearings at least annually; and

3) Evaluating requests to change persons providing services at least annually.

4) The Contractor shall inform providers of the results of beneficiary/family satisfaction activities.

H. The Contractor shall implement mechanisms to monitor the safety and effectiveness of medication practices. The monitoring mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs. Monitoring shall occur at least annually.

I. The Contractor shall implement mechanisms to address meaningful clinical issues affecting beneficiaries system-wide.

J. The Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually.

K. The Contractor's QAPI Program shall include Performance Improvement Projects as specified in paragraph 5.

**2. Quality Improvement (QI) Work Plan**

G. The Contractor shall have a Quality Improvement (QI) Work Plan covering the current contract cycle with documented annual evaluations and documented revisions as needed. The QI Work Plan shall include:

1) Evidence of the monitoring activities including, but not limited to, review of beneficiary grievances, appeals, expedited appeals, State Hearings, expedited State Hearings, provider appeals, and clinical records review as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5) and 42 C.F.R. § 438.416(a);

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**Exhibit A – Attachment 5**
**QUALITY IMPROVEMENT SYSTEM**

2) Evidence that QI activities, including performance improvement projects, have contributed to meaningful improvement in clinical care and beneficiary service;

3) A description of completed and in-process QI activities, including performance improvement projects. The description shall include:

   a. Monitoring efforts for previously identified issues, including tracking issues over time;

   b. Objectives, scope, and planned QI activities for each year; and,

   c. Targeted areas of improvement or change in service delivery or program design.

4) A description of mechanisms the Contractor has implemented to assess the accessibility of services within its service delivery area. This shall include goals for responsiveness for the Contractor's 24-hour toll-free telephone number, timeliness for scheduling of routine appointments, timeliness of services for urgent conditions, and access to after-hours care; and

5) Evidence of compliance with the requirements for cultural competence and linguistic competence specified in Attachments 7 and 11.

## 3. Quality Improvement (QI) Committee and Program

A. The Contractor's QI program shall monitor the Contractor's service delivery system with the aim of improving the processes of providing care and better meeting the needs of its beneficiaries.

B. The Contractor shall establish a QI Committee to review the quality of specialty mental health services provided to beneficiaries. The QI Committee shall recommend policy decisions; review and evaluate the results of QI activities, including performance improvement projects; institute needed QI actions; ensure follow-up of QI processes; and document QI Committee meeting minutes regarding decisions and actions taken.

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**Exhibit A – Attachment 5**
**QUALITY IMPROVEMENT SYSTEM**

C. The QI Program shall be accountable to the Contractor's Director as described in Cal. Code Regs., tit. 9, § 1810.440(a)(1).

D. Operation of the QI program shall include substantial involvement by a licensed mental health professional. (Cal. Code. Regs., tit. 9, § 1810.440(a)(4).)

E. The QI Program shall include active involvement in the planning, design and execution of the QI Program by the Contractor's practitioners and providers, beneficiaries who have accessed specialty mental health services through the Contractor, family members, legal representatives, or other persons similarly involved with beneficiaries as described in Cal. Code. Regs., tit. 9, § 1810.440(a)(2)(A-C).

F. QI activities shall include:

1) Collecting and analyzing data to measure against the goals, or prioritized areas of improvement that have been identified;

2) Identifying opportunities for improvement and deciding which opportunities to pursue;

3) Identifying relevant committees internal or external to the Contractor to ensure appropriate exchange of information with the QI Committee;

4) Obtaining input from providers, beneficiaries and family members in identifying barriers to delivery of clinical care and administrative services;

5) Designing and implementing interventions for improving performance;

6) Measuring effectiveness of the interventions;

7) Incorporating successful interventions into the Contractor's operations as appropriate; and

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**Exhibit A – Attachment 5**
**QUALITY IMPROVEMENT SYSTEM**

8) Reviewing beneficiary grievances, appeals, expedited appeals, State Hearings, expedited State Hearings, provider appeals, and clinical records review as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5).

## 4. External Quality Review

The Contractor shall undergo annual, external independent reviews of the quality, timeliness, and access to the services covered under this Contract, which are conducted pursuant to Subpart E of Part 438 of the Code of Federal Regulations. (42 C.F.R. §§ 438.350(a) and 438.320)

## 5. Performance Improvement Projects

A. The Contractor shall conduct a minimum of two Performance Improvement Projects (PIPs) per year, including any PIPs required by DHCS or CMS. DHCS may require additional PIPs. One PIP shall focus on a clinical area and one on a non-clinical area. (42 C.F.R. § 438.330(b)(1) and (d)(1).) Each PIP shall:

1) Be designed to achieve significant improvement, sustained over time, in health outcomes and beneficiary satisfaction;

2) Include measurement of performance using objective quality indicators;

3) Include implementation of interventions to achieve improvement in the access to and quality of care;

4) Include an evaluation of the effectiveness of the interventions based on the performance measures collected as part of the PIP; and,

5) Include planning and initiation of activities for increasing or sustaining improvement. (42 C.F.R. § 438.330(d)(2).)

B. The Contractor shall report the status and results of each performance improvement project to the Department as requested, but not less than once per year. (42 C.F.R. § 438.330(d)(3).)

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**Exhibit A – Attachment 5**
**QUALITY IMPROVEMENT SYSTEM**

## 6. Practice Guidelines

A. The Contractor shall adopt practice guidelines. (42 C.F.R. § 438.236(b) and Cal. Code Regs., tit. 9, § 1810.326)

B. Such guidelines shall meet the following requirements:

1) They are based on valid and reliable clinical evidence or a consensus of health care professionals in the applicable field;

2) They consider the needs of the beneficiaries;

3) They are adopted in consultation with network providers; and

4) They are reviewed and updated periodically as appropriate. (42 C.F.R. § 438.236(b).)

C. The Contractor shall disseminate the guidelines to all affected providers and, upon request, to beneficiaries and potential beneficiaries. (42 C.F.R. § 438.236(c).)

D. The Contractor shall take steps to assure that decisions for utilization management, beneficiary education, coverage of services, and any other areas to which the guidelines apply shall be consistent with the guidelines. (42 C.F.R. § 438.236(d)

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**Exhibit A – Attachment 6**
**UTILIZATION MANAGEMENT PROGRAM**

## 1. Utilization Management

A. The Contractor shall operate a Utilization Management Program that is responsible for assuring that beneficiaries have appropriate access to specialty mental health services as required in Cal. Code Regs., tit. 9, section 1810.440(b)(1)-(3).

B. The Utilization Management Program shall evaluate medical necessity, appropriateness and efficiency of services provided to Medi-Cal beneficiaries prospectively or retrospectively.

C. Compensation to individuals or entities that conduct utilization management activities must not be structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any beneficiary. (42 C.F.R. § 438.210(e).)

D. The Contractor may place appropriate limits on a service based on criteria applied under the State Plan, such as criteria for access to SMHS and for the purpose of utilization control, provided that the services furnished are sufficient in amount, duration and scope to reasonably achieve the purpose for which the services are furnished. (42 C.F.R. § 438.210(a)(4)(i), (ii)(A).)

E. The Contractor shall not impose quantitative treatment limitations, aggregate lifetime or annual dollar limits as defined in 42 C.F.R. 438.900, for any beneficiary receiving specialty mental health services.

F. The Contractor shall not impose non-quantitative treatment limitations for specialty mental health services in any benefit classification (i.e., inpatient and outpatient) unless the Contractor's policies and procedures have been determined by the Department to comply with Title 42 of the Code of Federal Regulations, subpart K. (42 C.F.R. § 438.910(d).)

G. The Contractor shall submit to the Department, upon request, any policies and procedures or other documentation necessary for the State to establish and demonstrate compliance with Title 42 of the Code of Federal Regulations, part 438, subpart K, regarding parity in mental health and substance use disorder benefits.

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**Exhibit A – Attachment 6**
**UTILIZATION MANAGEMENT PROGRAM**

## 2. Service Authorization

A. Contractor shall implement mechanisms to assure authorization decision standards are met in accordance with Behavioral Health Information Notices (BHINs) 22-016 and 22-017, or any subsequent Departmental notices issued to address parity in mental health and substance use disorder benefits subsequent to the effective date of this contract, and any applicable state and federal regulations. (42 C.F.R. § 438.910(d).) The Contractor shall:

1) Have in place, and follow, written policies and procedures for processing requests for initial and continuing authorizations of services. (42 C.F.R. § 438.210(b)(1).)

2) Have mechanisms in effect to ensure consistent application of review criteria for authorization decisions, and shall consult with the requesting provider when appropriate. (42 C.F.R. § 438.210(b)(2)(i-ii).)

3) Have any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in addressing the beneficiary's behavioral health needs. (42 C.F.R. § 438.210(b)(3).)

4) Notify the requesting provider and give the beneficiary written notice of any decision by the Contractor to deny a service authorization request, or to authorize a service in an amount, duration, or scope that is less than requested. (42 C.F.R. § 438.210(c)) The beneficiary's notice shall meet the requirements in Attachment 12, Section 10, paragraph A and Section 9, paragraph I and be provided within the timeframes set forth in Attachment 12, Section 10, paragraph B and Section 9, paragraph G.

B. The Contractor shall comply with authorization timeframes in accordance with BHINs 22-016 and 22-017, or any subsequent Departmental notices issued to address parity in mental health and substance use disorder benefits subsequent to the effective date of this contract, as well as any applicable state and federal regulations. (42 C.F.R. § 438.910(d).)

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**Exhibit A – Attachment 6**
**UTILIZATION MANAGEMENT PROGRAM**

C. For cases in which a provider indicates, or the Contractor determines, that following the standard timeframe could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain maximum function, the Contractor shall make an expedited authorization decision and provide notice as expeditiously as the beneficiary's health condition requires and no later than 72 hours after receipt of the request for service. The Contractor may extend the 72-hour time period by up to 14 calendar days if the beneficiary requests an extension, or if the Contractor justifies (to the Department upon request), and documents, a need for additional information and how the extension is in the beneficiary's interest. (42 C.F.R. § 438.210(d)(2))

D. The Contractor shall act on an authorization request for treatment for urgent conditions within one hour of the request. (Cal. Code Regs., tit. 9, §§ 1810.253 1810.405, subd. (c)).

E. The Contractor shall not require prior authorization for an emergency admission for psychiatric inpatient hospital services, whether the admission is voluntary or involuntary. (Cal. Code Regs., tit. 9, §§ 1820.200(d) and 1820.225).

D. The Contractor shall define service authorization request in a manner that at least includes a beneficiary's request for the provision of a service. (42 C.F.R. § 431.201)

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**Exhibit A – Attachment 7**
**ACCESS AND AVAILABILITY OF SERVICES**

## 1. Beneficiary Enrollment

A. Medi-Cal eligible beneficiaries are automatically enrolled in the single MHP in their county. (1915(b) waiver, § A, part I, para. C, p. 31.)

B. The Contractor shall be responsible for providing or arranging and paying for specialty mental health services for Medi-Cal eligible individuals in its county who require an assessment or meet criteria for access to specialty mental health services. (Cal. Code Regs. tit. 9, §1810.228.) The Contractor shall accept these individuals in the order in which they are referred (including self-referral) without restriction (unless authorized by CMS), up to the limits set under this Contract. (42 C.F.R. § 438.3(d)(1).)

C. The Contractor shall not, on the basis of health status or need for health care services, discriminate against Medi-Cal eligible individuals in its county who require an assessment or meet criteria for access to specialty mental health services. (42 C.F.R. § 438.3(d)(3).)

D. The Contractor shall not unlawfully discriminate against Medi-Cal eligible individuals in its county who require an assessment or meet criteria for access to specialty mental health services on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, religion, marital status, ethnic group identification, ancestry, age, medical condition, genetic information, mental disability, or physical disability, and will not use any policy or practice that has the effect of discriminating on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, religion, marital status, ethnic group identification, ancestry, age, medical condition, genetic information, mental disability, or physical disability. (42 U.S.C. § 18116; 42 C.F.R. § 438.3(d)(4); 45 C.F.R. § 92.2; Gov. Code § 11135(a); Welf. & Inst. Code § 14727(a)(3).)

## 2. Cultural Competence

A. The Contractor shall participate in the State's efforts to promote the delivery of services in a culturally competent manner to all beneficiaries, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or gender identity. (42 C.F.R. § 438.206(c)(2).)

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**Exhibit A – Attachment 7**
**ACCESS AND AVAILABILITY OF SERVICES**

B. The Contractor shall comply with the provisions of the Contractor's Cultural Competence Plan submitted and approved by the Department. The Contractor shall update the Cultural Competence Plan and submit these updates to the Department for review and approval annually. (Cal. Code Regs., tit. 9, § 1810.410, subds. (c)-(d).)

**3. Out-of-Network Services**

A. If the Contractor's provider network is unable to provide necessary services, covered under this Contract, to a particular beneficiary, the Contractor shall adequately and timely cover the services out-of-network, for as long as the Contractor's provider network is unable to provide them. (42 C.F.R. § 438.206(b)(4).)

B. The Contractor shall require that out-of-network providers coordinate authorization and payment with the Contractor. The Contractor must ensure that the cost to the beneficiary for services provided out-of-network pursuant to an authorization is no greater than it would be if the services were furnished within the Contractor's network, consistent with Cal. Code Regs., tit. 9, section 1810.365. (42 C.F.R. § 438.206(b)(5).)

C. The Contractor shall comply with the requirements of Cal. Code Regs., tit. 9, section 1830.220 regarding providing beneficiaries access to out-of-network providers when a provider is available in Contractor's network.

D. Pursuant to Department guidance, the Contractor shall submit to the Department for approval policies and procedures regarding authorization of out-of-network services to establish compliance with title 42 of the Code of Federal Regulations, section 438.910(d)(3).

4. Foster Children Placed Out-of-County

A. In accordance with Welf. & Inst. Code 14717.1, the Contractor shall be responsible to authorize, pay, provide or arrange for medically necessary specialty mental health services for foster children residing in the Contractor's county, who are placed outside of their counties of origin, unless a presumptive transfer waiver is in place. The Contractor shall follow the Mental Health and Substance Use Disorder Services Information Notices pertaining to Presumptive Transfer for Foster Children Placed Out of County (Mental Health and Substance Use Disorder

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**Exhibit A – Attachment 7**
**ACCESS AND AVAILABILITY OF SERVICES**

(MHSUDS) IN 17-032, 18-027, BHIN 19-041, and any subsequent Information Notices). These Information Notices include standardized templates that the Contractor may use or adapt to the Contractor's needs.

B. The Contractor shall accept a completed mental health assessment from the foster child's county of origin mental health plan. The Contractor may conduct additional assessments if the foster child's needs change or an updated assessment is needed to determine the child's needs and identify the needed treatment and services to address those needs.

C. When a request for a presumptive transfer waiver has been made for a foster child from the Contractor's county who is being placed outside of the Contractor's county, the Contractor shall continue to provide medically necessary specialty mental health services to that foster child until a presumptive transfer waiver determination has been made.

D. The Contractor shall be responsible to authorize, pay, provide or arrange for medically necessary specialty mental health services for foster children originally from the Contractor's county who are residing outside of the Contractor's county, if a presumptive transfer waiver is in place.

5. Children in Adoption Assistance Program (AAP) and Kinship Guardian Assistance Payment (Kin-GAP)

A. The Contractor shall provide or arrange for the provision of medically necessary specialty mental health services to a child in the Adoption Assistance Program (AAP) residing within their adoptive parents' county of residence in the Contractor's county. These services are to be provided in the same way as the Contractor would provide services to any other child for whom the Contractor's county is listed as the county of responsibility on the Medi-Cal Eligibility Data System (MEDS). When treatment authorization requests are required, the Contractor shall be responsible for submitting treatment authorization requests to the mental health plan in the child's county of origin. (Welf. & Inst. Code § 16125.)

B. The Contractor shall provide or arrange for the provision of medically necessary specialty mental health services to a child in the Kinship-Guardian Assistance Program (Kin-GAP) residing within their legal guardian's county of residence in the Contractor's county. These services are to be provided in the same way that the Contractor would provide services to any other child for whom the Contractor county is listed as the

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**Exhibit A – Attachment 7**
**ACCESS AND AVAILABILITY OF SERVICES**

county of responsibility on the MEDS. When treatment authorization requests are required, the Contractor shall be responsible for submitting treatment authorization requests to the mental health plan in the child's county of origin. (Welf. & Inst. Code § 11376.)

C. When the Contractor is the mental health plan in the county of origin for a child in AAP residing out-of-county with their adoptive parents (Welf. & Inst. Code § 16125) or a child in Kin-GAP residing out-of-county with their legal guardian (Welf. & Inst. Code § 11376) the Contractor shall be responsible for authorization and reauthorization of services for the child utilizing an expedited treatment authorization process that meets the authorization requirements set forth in MHSUDS Information Notice 22-016 and any applicable Departmental notices issued after the effective date of this contract.

D. The Contractor shall comply with timelines specified in Cal. Code Regs., tit. 9, § 1830.220(b)(4)(A)(1-3) and requirements set forth in MHSUDS Information Notice 22-016 and any applicable Departmental notices issued after the effective date of this contract, when processing or submitting authorization requests for children in AAP, or Kin-GAP, living outside their county of origin.

## 6. Indian Beneficiaries

The Contractor shall permit an Indian beneficiary who is eligible to receive services from an Indian health care provider (IHCP) participating as a network provider, to choose that IHCP as their provider, as long as that provider has capacity to provide the services. (42 C.F.R. § 438.14(b)(3).) The Contractor shall demonstrate it has sufficient IHCPs participating in its provider network to ensure timely access to services available under the contract from such providers for Indian beneficiaries who are eligible to receive services. (42 C.F.R. § 438.14(b)(1).) The Contractor shall document good-faith efforts to contract with all IHCPs in the Contractor's county. If the Contractor does not contract with a IHCP in the Contractor's county, the Contractor must submit a written explanation to the Department of why it failed to contract with that IHCP, with supporting documentation as provided for in BHIN 21-023. The Contractor shall permit Indian beneficiaries to obtain covered services from out-of-network IHCPs if the beneficiaries are otherwise eligible to receive such services. (42 C.F.R. § 438.14(b)(4).) The Contractor shall permit an out-of-network IHCP to refer an Indian beneficiary to a network provider. (42 C.F.R. § 438.14(b)(6).)

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**Exhibit A – Attachment 8**
**PROVIDER NETWORK**

## 1. Enrollment and Screening

A. The Contractor shall ensure that all network providers are enrolled with the state as Medi-Cal providers consistent with the provider disclosure, screening, and enrollment requirements of 42 Code of Federal Regulations part 455, subparts B and E. (42 C.F.R. § 438.608(b).)

B. The Contractor may execute network provider agreements, pending the outcome of screening, enrollment, and revalidation, of up to 120 days but must terminate a network provider immediately upon determination that the network provider cannot be enrolled, or the expiration of one 120 day period without enrollment of the provider, and notify affected beneficiaries. (42 C.F.R. § 438.602(b)(2).)

## 2. Assessment of Capacity

A. The Contractor shall implement mechanisms to assess the capacity of service delivery for its beneficiaries. This includes monitoring the number, type, and geographic distribution of mental health services within the Contractor's delivery system.

B. The Contractor shall implement mechanisms to assess the accessibility of services within its service delivery area. This shall include the assessment of responsiveness of the Contractor's 24-hour toll-free telephone number, timeliness of scheduling routine appointments, timeliness of services for urgent conditions, and access to after-hours care.

## 3. Network Adequacy

A. The Contractor shall ensure that all services covered under this Contract are available and accessible to beneficiaries in a timely manner (42 C.F.R. § 438.206(a)).

B. Maintain and monitor a network of appropriate providers that is supported by written agreements for subcontractors and that is sufficient to provide adequate access to all services covered under this contract for all beneficiaries, including those with limited English proficiency or physical or mental disabilities. The Contractor shall ensure that network providers provide physical access, reasonable accommodations, and accessible

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equipment for Medi-Cal beneficiaries with physical or mental disabilities. (42 C.F.R. § 438.206(b)(1) and (c)(3).)

C. The Contractor shall adhere to, in all geographic areas within the county, the time and distance standards for adult and pediatric mental health providers, as specified in BHIN 21-023 and its enclosures, or in subsequent guidance issued by the Department. (42 C.F.R. § 438.68(a), (b)(1)(iii), (3), 438.206(a); Welf. & Inst. Code § 14197.)

D. The Contractor may submit to the Department a request for Alternate Access Standards. The Department will evaluate requests and grant appropriate exceptions to the state developed standards, as specified in BHIN 21-023 and its enclosures, or in subsequent guidance issued by the Department. (42 C.F.R. § 438.68(a), (d), 438.206(a); Welf. & Inst. Code § 14197).

E. The Contractor shall comply with all network adequacy standards developed by the Department to implement 42 C.F.R. §§ 438.68, 438.206, and 438.207, including time and distance standards, timely access, capacity and composition standards, and other network capacity requirements, as specified in BHIN 21-023 and its enclosures, or in subsequent guidance issued by the Department.

## 4. Timely Access

A. Timely Access. In accordance with 42 C.F.R. § 438.206(c)(1), the Contractor shall:

1) Meet and require its providers to meet standards for timely access to care and services, taking into account the urgency of need for services, pursuant to Welf. & Inst. Code section 14197(d), as specified in BHIN 21-023 and its enclosures, or in subsequent, guidance issued by the Department.

2) Comply with the timeliness standards specified in Cal. Code Regs., tit. 9, section 1810.405(c) and Welf. & Inst. Code § 14717.1. Those standards apply to out-of-plan services, as well as in-plan services.

3) Require subcontracted providers to have hours of operation during which services are provided to Medi-Cal beneficiaries that are no less than the hours of operation during which the provider offers

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**Exhibit A – Attachment 8**
**PROVIDER NETWORK**

services to non-Medi-Cal beneficiaries. If the provider only serves Medi-Cal beneficiaries, the Contractor shall require that hours of operation are comparable to the hours the provider makes available for Medi-Cal services that are not covered by the Contractor, or another Mental Health Plan.

4) Make services available to beneficiaries 24 hours a day, 7 days a week, when medically necessary.

5) Establish mechanisms to ensure that network providers comply with the timely access requirements;

6) Monitor network providers regularly to determine compliance with timely access requirements;

7) Take corrective action if there is a failure to comply with timely access requirements by a network provider.

**5. Documentation of Network Adequacy**

A. The Contractor shall give assurances to the Department and provide supporting documentation that demonstrates Contractor has the capacity to serve the expected enrollment in its service area in accordance with BHIN 21-023 and its enclosures, or in subsequent guidance issued by the Department. (42 C.F.R. § 438.207(a); Welf. & Inst. Code section 14197(f).)

B. The Contractor shall submit documentation to the Department, as specified in BHIN 21-023 and its enclosures, or in subsequent guidance issued by the Department to demonstrate that it complies with the following requirements:

1) Offers an appropriate range of specialty services that are adequate for the anticipated number of beneficiaries for the service area.

2) Maintains a network of providers that is sufficient in number, mix, and geographic distribution to meet the needs of the anticipated number of beneficiaries in the service area. (42 C.F.R. § 438.207(b).)

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C. The Contractor shall submit the documentation at the times specified in BHIN 21-023 and its enclosures, or in subsequent guidance issued by the Department, but no less frequently than the following:

1) At the time it enters into this Contract with the Department;

2) On an annual basis; and

3) Within 10 business days of a significant change in the Contractor's operations that would render the Contractor non-compliant with standards for network adequacy and capacity including, but not limited to, the following types of changes:

a) Changes in services;

b) Changes in benefits;

c) Changes in geographic service area;

d) Changes in the composition of or payments to the Contractor's provider network; or

e) Enrollment of a new population in the Contractor's county. (42 C.F.R. § 438.207(c).);

f) The Contractor is required to notify DHCS by email of one of the listed changes at MHSDFinalRule@dhcs.ca.gov.

D. The Contractor shall include details regarding the change and the Contractor's plans to ensure beneficiaries continue to have access to adequate services and providers.

## 6. Choice of Provider

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The Contractor shall provide a beneficiary's choice of the person providing services to the extent possible and appropriate consistent with Cal. Code Regs., tit. 9, §1830.225 and 42 Code of Federal Regulations part 438.3(l).

## 7. Provider Selection

A. The Contractor shall have written policies and procedures for selection and retention of providers. (42 C.F.R. § 438.214(a).)

B. The Contractor's policies and procedures for selection and retention of providers must not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment. (42 C.F.R. §§ 438.12(a)(2), 438.214(c).)

C. In all subcontracts with network providers, the Contractor must follow the Department's uniform credentialing and re-credentialing policy. The Contractor must follow a documented process for credentialing and re-credentialing of network providers. (42 C.F.R. §§ 438.12(a)(2), 438.214(b).)

D. The Contractor shall not employ or subcontract with providers excluded from participation in Federal health care programs under either section 1128 or section 1128A of the Act. (42 C.F.R. § 438.214(d).)

E. The Contractor may not discriminate in the selection, reimbursement, or indemnification of any provider who is acting within the scope of their license or certification under applicable state law, solely on the basis of that license or certification. (42 C.F.R. § 438.12(a)(1).)

F. The Contractor shall give practitioners or groups of practitioners who apply to be MHP contract providers and with whom the MHP decides not to contract written notice of the reason for a decision not to contract. (42 C.F.R. § 438.12(a)(1).)

G. Paragraphs A-F, above, may not be construed to:

1) Require the Contractor to subcontract with providers beyond the number necessary to meet the needs of its beneficiaries;

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2) Preclude the Contractor from using different reimbursement amounts for different specialties or for different practitioners in the same specialty; or

3) Preclude the Contractor from establishing measures that are designed to maintain quality of services and control costs and are consistent with its responsibilities to beneficiaries. (42 C.F.R. § 438.12(b).)

H. Upon request, the Contractor shall demonstrate to the Department that its providers are credentialed as required by paragraph C. (42 C.F.R. § 438.206(b)(6)

I. The Contractor shall establish individual, group and organizational provider selection criteria as provided for in Cal. Code Regs., tit. 9, § 1810.435.

J. The Contractor shall only use licensed, registered, or waivered providers acting within their scope of practice for services that require a license, waiver, or registration. (Cal. Code Regs., tit. 9, § 1840.314(d).)

K. The Contractor is not located outside of the United States. (42 C.F.R. § 602(i).)

**8. Provider Certification**

A. The Contractor shall comply with Cal. Code Regs., tit. 9, section 1810.435, in the selection of providers and shall review its providers for continued compliance with standards at least once every three years.

B. The Contractor shall comply with the provisions of 42 Code of Federal Regulations, sections parts 455.104, 455.105, 1002.203 and 1002.3, which relate to the provision of information about provider business transactions and provider ownership and control, prior to entering into a contract and during certification or re-certification of the provider.

C. “Satellite site” means a site owned, leased or operated by an organizational provider at which specialty mental health services are delivered to beneficiaries fewer than 20 hours per week, or, if located at a multiagency site at which specialty mental health services are delivered by no more than two employees or contractors of the provider.

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D. The Contractor shall certify, or use another mental health plan's certification documents to certify, the organizational providers that subcontract with the Contractor to provide covered services in accordance with Cal. Code Regs., tit. 9, section 1810.435, and the requirements specified prior to the date on which the provider begins to deliver services under the contract, and once every three years after that date. The on-site review required by Cal. Code Regs., tit. 9, section 1810.435(d), as a part of the certification process, shall be made of any site owned, leased, or operated by the provider and used to deliver covered services to beneficiaries, except that on-site review is not required for public school or satellite sites.

E. The Contractor may allow an organizational provider to begin delivering covered services to beneficiaries at a site subject to on-site review prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The earliest date the provider may begin delivering covered services at a site subject to on-site review is the latest of these three (3) dates: 1) the date the provider's request for certification is received by the Department in accordance with the Contractor's certification procedures; 2) the date the site was operational; or 3) the date a required fire clearance was obtained. The Contractor shall complete any required on-site review of a provider's sites within six months of the date the provider begins delivering covered services to beneficiaries at the site.

F. The Contractor may allow an organizational provider to continue delivering covered services to beneficiaries at a site subject to on-site review as part of the recertification process prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The Contractor shall complete any required on-site review of a provider's sites within six months of the date the recertification of the provider is due.

G. The Contractor and/or the Department shall each verify through an on-site review that:

1) The organizational provider possesses the necessary license to operate, if applicable, and any required certification.

2) The space owned, leased or operated by the provider and used for services or staff meets local fire codes.

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3) The physical plant of any site owned, leased, or operated by the provider and used for services or staff is clean, sanitary, and in good repair.

4) The organizational provider establishes and implements maintenance policies for any site owned, leased, or operated by the provider and used for services or staff to ensure the safety and well-being of beneficiaries and staff.

5) The organizational provider has a current administrative manual which includes: personnel policies and procedures, general operating procedures, service delivery policies, any required state or federal notices (DRA), and procedures for reporting unusual occurrences relating to health and safety issues.

6) The organizational provider maintains client records in a manner that meets the requirements of the Contractor, the requirements of Attachment 10; Exhibit 2, Attachment 2, Section 11 and Section 13 Paragraph B; and applicable state and federal standards.

7) The organizational provider has sufficient staff to allow the Contractor to claim federal financial participation (FFP) for the services that the organizational provider delivers to beneficiaries, as described in Cal. Code Regs., tit. 9, sections 1840.344 through 1840.358, as appropriate and applicable.

8) The organizational provider has written procedures for referring individuals to a psychiatrist when necessary, or to a physician, if a psychiatrist is not available.

9) The organizational provider's head or chief of service, as defined Cal. Code Regs., tit. 9, sections 622 through 630, is a licensed mental health professional or other appropriate individual as described in these sections.

10) For organizational providers that provide or store medications, the provider stores and dispenses medications in compliance with all pertinent state and federal standards. In particular:

    a) All drugs obtained by prescription are labeled in compliance with federal and state laws. Prescription labels are altered

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only by persons legally authorized to do so.

b) Drugs intended for external use only and food stuffs are stored separately from drugs intended for internal use.

c) All drugs are stored at proper temperatures: room temperature drugs at 59-86 degrees Fahrenheit and refrigerated drugs at 36-46 degrees Fahrenheit.

d) Drugs are stored in a locked area with access limited to those medical personnel authorized to prescribe, dispense or administer medication.

e) Drugs are not retained after the expiration date. Intramuscular multi-dose vials are dated and initialed when opened.

f) A drug log is maintained to ensure the provider disposes of expired, contaminated, deteriorated and abandoned drugs in a manner consistent with state and federal laws.

g) Policies and procedures are in place for dispensing, administering and storing medications.

H. For organizational providers that provide day treatment intensive or day rehabilitation, the provider has a written description of the day treatment intensive and/or day rehabilitation program that complies with Attachment 2, Section 3 of this exhibit.

I. When an on-site review of an organizational provider would not otherwise be required and the provider offers day treatment intensive and/or day rehabilitation, the Contractor or the Department, as applicable, shall, at a minimum, review the provider's written program description for compliance with the requirements of Attachment 2, Section 3 of this exhibit.

J. On-site review is required for hospital outpatient departments which are operating under the license of the hospital. Services provided by hospital outpatient departments may be provided either on the premises or off-site.

K. On-site review is not required for primary care and psychological clinics, as defined in Health and Safety Code section 1204.1 and licensed under the Health and Safety Code. Services provided by the clinics may be

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provided on the premises in accordance with the conditions of the clinic's license.

L. When on-site review of an organizational provider is required, the Contractor or the Department, as applicable, shall conduct an on-site review at least once every three years. Additional certification reviews of organizational providers may be conducted by the Contractor or Department, as applicable, at its discretion, if:

1) The provider makes major staffing changes.

2) The provider makes organizational and/or corporate structure changes (example: conversion to non-profit status).

3) The provider adds day treatment or medication support services when medications are administered or dispensed from the provider site.

4) There are significant changes in the physical plant of the provider site (some physical plant changes could require a new fire clearance).

5) There is a change of ownership or location.

6) There are complaints regarding the provider.

7) There are unusual events, accidents, or injuries requiring medical treatment for clients, staff or members of the community.

M. The Contractor shall monitor the performance of its subcontractors on an ongoing basis for compliance with the terms of this contract and shall subject the subcontractors' performance to periodic formal review, at a minimum in accordance with the recertification requirements. If the Contractor identifies deficiencies or areas for improvement, the Contractor and the subcontractor shall take corrective action.

N. In addition, Contractor may accept the certification of a provider by another Mental Health Plan, or by the Department, in order to meet the Contractor's obligations under Attachment 8, Sections 7 and 8. However, regardless of any such delegation to a subcontracting entity or acceptance of a certification by another MHP.

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**Exhibit A – Attachment 8**
**PROVIDER NETWORK**

## 9. Provider Beneficiary Communications

A. The Contractor shall not prohibit nor otherwise restrict, a licensed, waivered, or registered professional, as defined in Cal. Code Regs., tit. 9, sections 1810.223 and 1810.254, who is acting within the lawful scope of practice , from advising or advocating on behalf of a beneficiary for whom the provider is providing mental health services for any of the following:

1) The beneficiary's health status, medical care, or treatment options, including any alternative treatment that may be self-administered;

2) Information the beneficiary needs in order to decide among all relevant treatment options;

3) The risks, benefits, and consequences of receiving treatment or not receiving treatment; and

4) The beneficiary's right to participate in decisions regarding their health care, including the right to refuse treatment, and to express preferences about future treatment decisions. (42 C.F.R. § 438.102(a)(1).)

## 10. Provider Notifications

A. The Contractor shall inform providers and subcontractors, at the time they enter into a contract, about:

1) Beneficiary grievance, appeal, and State Hearing procedures and timeframes as specified in 42 C.F.R. 438.400 through 42 C.F.R. 438.424.

2) The beneficiary's right to file grievances and appeals and the requirements and timeframes for filing.

3) The availability of assistance to the beneficiary with filing grievances and appeals.

4) The beneficiary's right to request a State Hearing after the Contractor has made a determination on a beneficiary's appeal, which is adverse to the beneficiary.

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5) The beneficiary's right to request continuation of benefits that the Contractor seeks to reduce or terminate during an appeal or State Hearing filing, if filed within the allowable timeframes, although the beneficiary may be liable for the cost of any continued benefits while the appeal or State Hearing is pending if the final decision is adverse to the beneficiary.

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**Exhibit A – Attachment 9**
**DOCUMENTATION REQUIRMENTS**

1. Documentation Standards

   A. The Contractor shall implement and comply with documentation standards as set forth in guidance issued by the Department in BHIN 22-019.

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**Exhibit A – Attachment 10**
**COORDINATION AND CONTINUITY OF CARE**

1. Coordination of Care

   A. The Contractor shall implement procedures to deliver care to and coordinate services for all of its beneficiaries. (42 C.F.R. § 438.208(b).) These procedures shall meet Department requirements and shall do the following:

      1) Ensure that each beneficiary has an ongoing source of care appropriate to their needs and a person or entity formally designated as primarily responsible for coordinating the services accessed by the beneficiary. The beneficiary shall be provided information on how to contact their designated person or entity. (42 C.F.R. § 438.208(b)(1).)
      2) Coordinate the services the Contractor furnishes to the beneficiary between settings of care, including appropriate discharge planning for short term and long-term hospital and institutional stays. Coordinate the services the Contractor furnishes to the beneficiary with the services the beneficiary receives from any other managed care organization, in FFS Medicaid, from community and social support providers, and other human services agencies used by its beneficiaries. (42 C.F.R. § 438.208(b)(2)(i)-(iv), Cal. Code Regs., tit. 9 § 1810.415.)
      3) The Contractor shall share with the Department or other managed care entities serving the beneficiary the results of any identification and assessment of that beneficiary's needs to prevent duplication of those activities. (42 C.F.R. § 438.208(b)(4).)
      4) Ensure that each provider furnishing services to beneficiaries maintains and shares, as appropriate, a beneficiary health record in accordance with professional standards. (42 C.F.R. § 438.208(b)(5).)
      5) Ensure that, in the course of coordinating care, each beneficiary's privacy is protected in accordance with all federal and state privacy laws, including but not limited to 45 C.F.R. § 160 and § 164, subparts A and E, to the extent that such provisions are applicable. (42 C.F.R. § 438.208(b)(6).)

   B. Consistent with the No Wrong Door policies set forth in W&I Code section 14184.402, the Contractor must cover the assessment and any SMHS provided during the assessment period for any beneficiary seeking care, even prior to the determination of a diagnosis, even prior to the

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**Exhibit A – Attachment 10**
**COORDINATION AND CONTINUITY OF CARE**

determination of whether SMHS access criteria set forth in W&I Code section 14184.402(b)(2) are met, and even if the beneficiary is later determined to need non-specialty mental health services (NSMHS) and/or SUD services and is referred to the Medi-Cal Fee For Service delivery system or a Managed Care Plan for NSMHS or to the County Department responsible for SUD treatment. Contractor must cover SMHS even if the service was not included in the client plan, and even if the beneficiary has a co-occurring mental health condition and SUD.

C. As of the effective date identified by DHCS, the Contractor must use DHCS-approved standardized screening tools set forth in DHCS guidance (including standardized screening tools specific for adults and standardized screening tools specific for children and youth) to ensure beneficiaries seeking mental health services who are not currently receiving covered SMHS or NSMHS are referred to the appropriate delivery system for mental health services, either in the Contractor network or the Managed Care Plan network, in accordance with the No Wrong Door policies set forth in W&I Code section 14184.402(h).

D. If a beneficiary eligible for SMHS is also eligible for NSMHS during the course of receiving covered SMHS, the Contractor shall continue to cover non-duplicative, Medically Necessary SMHS even if the Member is simultaneously receiving NSMHS.

i. The Contractor must enter into a Memorandum of Understanding with any Medi-Cal Managed Care Plan serving the Contractor's beneficiaries to ensure Medically Necessary NSMHS and SMHS provided concurrently are coordinated and non-duplicative.

ii. If a beneficiary is receiving covered SMHS and is determined to meet the criteria for NSMHS covered by Medi-Cal Fee For Service and Managed Care Plans as defined by W&I Code section 14184.402, the Contractor must use DHCS-approved standardized transition tools set forth in DHCS guidance as required when beneficiaries who have established relationships with contracted mental health providers experience a change in condition requiring NSMHS. Likewise, if a beneficiary is receiving NSMHS and is determined to meet the access criteria for SMHS as defined by W&I Code section 14184.402, the Contractor must use DHCS-approved standardized transition tools set forth in DHCS guidance as required when beneficiaries who have established relationships with NSMHS providers experience a change in condition requiring SMHS. The Contractor must continue to cover the provision of medically necessary SMHS provided to a beneficiary

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**Exhibit A – Attachment 10**
**COORDINATION AND CONTINUITY OF CARE**

who meets SMHS access criteria who is concurrently receiving NSMHS when those services are not duplicative and provide coordination of care with the Managed Care Plan.

iii. The Contractor must develop and implement written policies and procedures to ensure that beneficiaries meeting criteria for NSMHS, as indicated by a DHCS-approved standardized transition tool (including standardized transition tools specific for adults and standardized transition tools specific for children and youth), are referred to the Managed Care Plan or a Fee For Service provider offering NSMHS. Likewise, the Contractor must develop and implement written policies and procedures to ensure that beneficiaries meeting access criteria for SMHS and as indicated by a DHCS-approved standardized transition tools (including standardized transition tools specific for adults and standardized transition tools specific for children and youth) are referred by the Managed Care Plan to the Contractor.

E. The Contractor shall enter into a Memorandum of Understanding (MOU) with any Medi-Cal managed care plan serving the Contractor's beneficiaries. The Contractor shall ensure the components of the MOU comply with guidance issued by DHCS regarding MOU requirements. The MOU shall address how to ensure Medically Necessary NSMHS and SMHS provided concurrently are coordinated and non-duplicative. The Contractor shall notify the Department in writing if the Contractor is unable to enter into an MOU or if an MOU is terminated, providing a description of the Contractor's good faith efforts to enter into or maintain the MOU. The MHP shall monitor the effectiveness of its MOU with Medi-Cal managed care plans. Should a conflict arise between the parties to the MOU, the Contractor shall abide by the requirements in BHIN 21-034. (Cal. Code Regs., tit. 9, § 1810.370.)

F. The Contractor shall implement a transition of care policy that is in accordance with applicable state and federal regulations, Mental Health and Substance Use Disorder Services Information Notice 18-059 and any Behavioral Health Information Notices issued by the Department for parity in mental health and substance use disorder benefits subsequent to the effective date of this contract (42 C.F.R. § 438.62(b)(1)-(2).)

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**Exhibit A – Attachment 11**
**INFORMATION REQUIREMENTS**

## 1. Basic Requirements

A. The Contractor shall provide information in a manner and format that is easily understood and readily accessible to beneficiaries. (42 C.F.R. § 438.10(c)(1).) The Contractor shall provide all written materials for beneficiaries in easily understood language, format, and alternative formats that take into consideration the special needs of beneficiaries in compliance with 42 C.F.R. § 438.10(d)(6). The Contractor shall inform beneficiaries that information is available in alternate formats and how to access those formats in compliance with 42 C.F.R. § 438.10.

B. The Contractor shall provide the required information in this section to each beneficiary when first receiving specialty mental health services and upon request. (1915(b) Medi-Cal Specialty Mental Health Services Waiver, § (2), subd. (d), at p. 26., attachments 3, 4; Cal. Code Regs., tit. 9, § 1810.360(e).)

C. The Contractor shall operate a website that provides the content required in this section and complies with the requirements in 42 C.F.R. § 438.10.)

D. For consistency in the information provided to beneficiaries, the Contractor shall use the Department developed definitions for managed care terminology, including: appeal, excluded services, grievance, hospitalization, hospital outpatient care, medically necessary, network, non-participating provider, physician services, plan, preauthorization, participating provider, provider, skilled nursing care, and urgent care. (42 C.F.R. 438.10(c)(4)(i).)

E. The Contractor shall use Department developed model beneficiary handbooks and beneficiary notices that describe the transition of care policies for beneficiaries. (42 C.F.R. §§ 438.10(c)(4)(ii), 438.62(b)(3).)

F. Beneficiary information required in this section may only be provided electronically by the Contractor if all of the following conditions are met:

1) The format is readily accessible;

2) The information is placed in a location on the Contractor's website that is prominent and readily accessible;

3) The information is provided in an electronic form which can be electronically retained and printed;

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**Exhibit A – Attachment 11**
**INFORMATION REQUIREMENTS**

4) The information is consistent with the content and language requirements of this Attachment; and

5) The beneficiary is informed that the information is available in paper form without charge upon request and Contractor provides it upon request within 5 business days. (42 C.F.R. § 438.10(c)(6).)

G. The Contractor shall have in place mechanisms to help beneficiaries and potential beneficiaries understand the requirements and benefits of the plan. (42 C.F.R. § 438.10(c)(7).)

**2. Information Provided to Beneficiaries**

A. The Contractor shall provide information to beneficiaries and potential beneficiaries including, at a minimum, all of the following:

1) The basic features of managed care. (42 C.F.R. § 438.10(e)(2)(ii).)

2) The mandatory enrollment process. (42 C.F.R. § 438.10(e)(2)(iii).)

3) The service area covered by the Contractor. (42 C.F.R. § 438.10(e)(2)(iv).)

4) Covered benefits, including:

a. Which benefits are provided by the Contractor; and,

b. Which, if any, benefits are provided directly by the State.

5) The provider directory. (42 C.F.R. § 438.10(e)(2)(vi).)

6) Any cost-sharing that will be imposed by the Contractor consistent with the State Plan. (42 C.F.R. §§ 438.10(e)(2)(vii); State Plan § 4.18.)

7) The requirements for the Contractor to provide adequate access to covered services, including the network adequacy standards established in 42 Code of Federal Regulations part 438.68. (42 C.F.R. § 438.10(e)(2)(viii).)

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**Exhibit A – Attachment 11**
**INFORMATION REQUIREMENTS**

8) The Contractor's responsibilities for coordination of care. (42 C.F.R. § 438.10(e)(2)(ix).)

9) To the extent available, quality and performance indicators for the Mental Health Plan, including beneficiary satisfaction. (42 C.F.R. § 438.10(e)(2)(x).)

B. The Contractor shall make a good faith effort to give written notice of termination of a contracted provider, to each beneficiary who was seen on a regular basis by the terminated provider. The notice to the beneficiary shall be provided 30 calendar days prior to the effective date of the termination or 15 calendar days after receipt or issuance of the termination notice, whichever is later. (42 C.F.R. § 438.10(f)(1).)

**3. Language and Format**

A. The Contractor shall provide all written materials for potential beneficiaries and beneficiaries in a font size no smaller than 12 point. (42 C.F.R. 438.10(d)(6)(ii).)

B. The Contractor shall ensure its written materials that are critical to obtaining services are available in alternative formats, upon request of the potential beneficiary or beneficiary at no cost. Written material that are critical to obtaining services include, at a minimum, provider directories, beneficiary handbooks, appeal and grievance notices, denial and termination notices, and the Contractor's mental health education materials. (42 C.F.R. § 438.10(d)(3).)

C. The Contractor shall make its written materials that are critical to obtaining services, including, at a minimum, provider directories, beneficiary handbooks, appeal and grievance notices, denial and termination notices, and the Contractor's mental health education materials, available in the prevalent non-English languages in the county. (42 C.F.R. § 438.10(d)(3).)

1) The Contractor shall notify beneficiaries, prospective beneficiaries, and members of the public that written translation is available in prevalent languages free of cost and how to access those materials. (42 C.F.R. § 438.10(d)(5)(i), (iii); Welf. & Inst. Code § 14727(a)(1); Cal. Code Regs. tit. 9 § 1810.410, subd. (e), para. (4).)

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**Exhibit A – Attachment 11**
**INFORMATION REQUIREMENTS**

2) Prevalent non-English language means a language identified as the primary language of 3,000 beneficiaries or five percent of the beneficiary population (whichever is lower) in the Contractor's service area as indicated on MEDs. (42 C.F.R. § 438.10(a), Cal. Code Regs., tit. 9, § 1810.410, subd. (a), para. (3).)

D. The Contractor shall make auxiliary aids and services available upon request and free of charge to each beneficiary. (42 C.F.R. § 438.10(d)(3)-(4).) The Contractor shall also notify beneficiaries, prospective beneficiaries, and members of the public that these services are available free of charge and how to access these services. (42 C.F.R. § 438.10(d)(5)(ii)-(iii); Welf. & Inst. Code § 14727(a)(2).)

E. The Contractor shall make oral interpretation and auxiliary aids, such as Teletypewriter Telephone/Text Telephone (TTY/TDY) and American Sign Language (ASL), available and free of charge for any language. (42 C.F.R. § 438.10(d)(2), (4)-(5).) Contractor shall notify beneficiaries, prospective beneficiaries, and members of the public that these services are available free of charge and how to access these services. (42 C.F.R. § 438.10(d)(5)(i), (iii); Welf. & Inst. Code § 14727(a)(1)-(2).)

F. Nondiscrimination Notice and Taglines

1) The Contractor shall post (1) a Department-approved nondiscrimination notice and (2) language taglines in a conspicuously visible font size in English in the top 15 non-English languages in the State, and any other languages, as determined by the Department, explaining the availability of free language assistance services, including written translation and oral interpretation, and information on how to request auxiliary aids and services, including materials in alternative formats. The nondiscrimination notice and taglines, shall include the toll-free and TTY/TDY telephone number of the Contractor's member/customer service unit for obtaining these services, and shall be posted as follows:

a) In conspicuous physical locations where the Contractor interacts with the public;

b) On the internet website published and maintained by the Contractor, in a manner that allows beneficiaries, prospective beneficiaries, and members of the public to easily locate the information; and

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**Exhibit A – Attachment 11**
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c) In the beneficiary handbook, all materials critical to obtaining services, and informational notices targeted to beneficiaries and members of the public (including notices of action). (42 C.F.R. § 438.10(d)(2)-(3); Welf. & Inst. Code, § 14727(b), (c)(1)-(2).)

2) The Contractor's nondiscrimination notice and language taglines must be in a conspicuously visible font size no smaller than 12 point. (42 C.F.R. § 438.10(d)(3), (d)(6)(ii).)

3) The Contractor shall provide information to all beneficiaries, prospective beneficiaries, and members of the public on how to file a Discrimination Grievance with:

a) The Contractor and the Department if there is a concern of discrimination based on sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation. (Welf. & Inst. Code § 14727(a)(4).)

b) The United States Department of Health and Human Services Office for Civil Rights if there is a concern of discrimination based on race, color, national origin, sex, age, or disability. (Welf. & Inst. Code § 14727(a)(5).)

## 4. Handbook

A. The Contractor shall provide beneficiaries with a copy of the handbook and provider directory when the beneficiary first accesses services and thereafter upon request. (Cal. Code Regs., tit. 9, § 1810.360.)

B. The Contractor shall ensure that the handbook includes the current toll-free telephone number(s) that provides information in threshold languages and is available twenty-four hours a day, seven days a week. (Cal. Code Regs., tit. 9, § 1810.405, subd. (d).)

C. The beneficiary handbook shall include information that enables the beneficiary to understand how to effectively use the managed care program. This information shall include, at a minimum:

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**Exhibit A – Attachment 11**
**INFORMATION REQUIREMENTS**

1) Benefits provided by the Contractor. (42 C.F.R. § 438.10(g)(2)(i).)

2) How and where to access any benefits provided by the Contractor, including any cost sharing, and how transportation is provided. (42 C.F.R. § 438.10(g)(2)(ii).)

   a) The amount, duration, and scope of benefits available under the Contract in sufficient detail to ensure that beneficiaries understand the benefits to which they are entitled. (42 C.F.R. § 438.10(g)(2)(iii).)

   b) Procedures for obtaining benefits, including any requirements for service authorizations and/or referrals for specialty care and for other benefits not furnished by the beneficiary's provider. (42 C.F.R. § 438.10(g)(2)(iv).)

   c) Any restrictions on the beneficiary's freedom of choice among network providers. (42 C.F.R. § 438.10(g)(2)(vi).)

   d) The extent to which, and how, beneficiaries may obtain benefits from out-of-network providers. (42 C.F.R. § 438.10(g)(2)(vii).)

   e) Cost sharing, if any, consistent with the State Plan. (42 C.F.R. § 438.10(g)(2)(viii); State Plan § 4.18.)

   f) Beneficiary rights and responsibilities, including the elements specified in § 438.100 as specified in Section 7 of this Attachment. (42 C.F.R. § 438.10(g)(2)(ix).)

   g) The process of selecting and changing the beneficiary's provider. (42 C.F.R. § 438.10(g)(2)(x).)

   h) Grievance, appeal, and State Hearing procedures and timeframes, consistent with 42 C.F.R. §§ 438.400 through 438.424, in a state-developed or state-approved description. Such information shall include:

      1) The right to file grievances and appeals;

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**Exhibit A – Attachment 11**
**INFORMATION REQUIREMENTS**

i. The Contractor shall include information on filing a Discrimination Grievance with the Contractor, the Department's Office of Civil Rights and the U.S. Health and Human Services Office for Civil Rights, and shall specifically include information stating that the Contractor complies with all state and federal civil rights laws. If a beneficiary believes they have been unlawfully discriminated against, they have the right to file a Discrimination Grievance with the Contractor, the Department's Office of Civil Rights, and the United States Department of Health and Human Services, Office for Civil Rights.

2) The requirements and timeframes for filing a grievance or appeal;

3) The availability of assistance in the filing process;

4) The right to request a State Hearing after the Contractor has made a determination on a beneficiary's appeal which is adverse to the beneficiary;

5) The fact that, when requested by the beneficiary, benefits that the Contractor seeks to reduce or terminate will continue if the beneficiary files an appeal or a request for State Hearing within the timeframes specified for filing, and that the beneficiary may, consistent with state policy, be required to pay the cost of services furnished while the appeal or State Hearing is pending if the final decision is adverse to the beneficiary. (42 C.F.R. § 438.10(g)(2)(xi).)

i) How to exercise an advance directive, as set forth in 42 C.F.R. 438.3(j). (42 C.F.R. § 438.10(g)(2)(xii).)

j) How to access auxiliary aids and services, including additional information in in alternative formats or languages. (42 C.F.R. § 438.10(g)(2)(xiii).)

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k) The Contractor's toll-free telephone number for member services, medical management, and any other unit providing services directly to beneficiaries. (42 C.F.R. § 438.10(g)(2)(xiv).)

l) Information on how to report suspected fraud or abuse. (42 C.F.R. § 438.10(g)(2)(xv).)

m) Additional information that is available upon request, includes the following:

1) Information on the structure and operation of the Contractor.

2) Physician incentive plans as set forth in 42 C.F.R. § 438.3(i). (42 C.F.R. § 438.10(f)(3).)

D. The Contractor shall give each beneficiary notice of any significant change (as defined by the Department) to information in the handbook at least 30 days before the intended effective date of the change. (42 C.F.R. § 438.10(g)(4).)

E. Consistent with 42 Code of Federal Regulations part 438.10(g)(3) and Cal. Code Regs., tit. 9, section 1810.360, subdivision (e), the handbook will be considered provided if the Contractor:

1) Mails a printed copy of the information to the beneficiary's mailing address before the beneficiary first receives a specialty mental health service;

2) Mails a printed copy of the information upon the beneficiary's request to the beneficiary's mailing address;

3) Provides the information by email after obtaining the beneficiary's agreement to receive the information by email;

4) Posts the information on the Contractor's website and advises the beneficiary in paper or electronic form that the information is available on the internet and includes the applicable internet

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addresses, provided that beneficiaries with disabilities who cannot access this information online are provided auxiliary aids and services upon request at no cost; or,

5) Provides the information by any other method that can reasonably be expected to result in the beneficiary receiving that information. If the Contractor provides the handbook in-person when the beneficiary first receives specialty mental health services, the date and method of delivery shall be documented in the beneficiary's file.

## 5. Provider Directory

A. The Contractor must follow the Department's provider directory policy, which the Department implemented via Mental Health and Substance Use Disorder Services Information Notice 18-020, and other applicable Mental Health and Substance Use Disorder Services Information Notices that may be issued subsequent to the effective date of this contract.

B. The Contractor shall make provider directories available in electronic and paper form upon request, and ensure that the provider directories include the following information for all network providers, including each licensed, waivered, or registered mental health provider employed by the Contractor, each provider organization or individual practitioner contracting with the Contractor, and each licensed, waivered, or registered mental health provider employed by a provider organization to deliver Medi-Cal services:

1) Information on the category or categories of services available from each provider. (42 C.F.R. § 438.10(h)(1)(v).)

2) The names, any group affiliations, street addresses, telephone numbers, specialty, and website URLs of current contracted providers by category. (42 C.F.R. § 438.10(h)(1)(i)-(v).)

3) The cultural and linguistic capabilities of network providers, including languages (including ASL) offered by the provider or a skilled medical interpreter at the provider's office. (42 C.F.R. § 438.10(h)(1)(vii).)

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4) Whether network providers' offices/facilities have accommodations for people with physical disabilities, including offices, exam room(s) and equipment. (42 C.F.R. § 438.10(h)(1)(viii).)

5) A means to identify which providers are accepting new beneficiaries. (42 C.F.R. § 438.10(h)(1)(vi).)

6) Type of practitioner as appropriate.

7) National Provider Identifier number.

8) California License number and type of license.

9) Whether the provider has completed cultural competence training.

C. Information included in a paper provider directory shall be updated at least monthly and electronic provider directories shall be updated no later than 30 calendar days after the Contractor receives updated provider information. The Contractor shall ensure processes are in place to allow providers to promptly verify or submit changes to the information required to be in the directory. (42 C.F.R. § 438.10(h)(3).)

D. Provider directories shall be made available on the Contractor's website in a machine readable file and format as specified by the Secretary. (42 C.F.R. § 438.10(h)(4).)

**6. Advance Directives**

A. For purposes of this contract, advance directives means a written instruction, such as a living will or durable power of attorney for health care, recognized under California law, relating to the provision of health care when the individual is incapacitated. (42 C.F.R. § 489.100.)

B. The Contractor shall maintain written policies and procedures on advance directives, which include a description of applicable California law. (42 C.F.R. §§ and 438.3(j)(1)-(3), 422.128). Any written materials prepared by the Contractor for beneficiaries shall be updated to reflect changes in state laws governing advance directives as soon as possible, but no later than 90 days after the effective date of the change. (42 C.F.R. § 438.3(j)(4).)

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C. The Contractor shall provide adult beneficiaries with the written information on advance directives. (42 C.F.R. § 438.3(j)(3).)

D. The Contractor shall not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive. (42 C.F.R. §§ 422.128(b)(1)(ii)(F), 438.3(j).)

E. The Contractor shall educate staff concerning its policies and procedures on advance directives. (42 C.F.R. §§ 422.128(b)(1)(ii)(H), 438.3(j).)

**7. Beneficiary Rights**

A. The parties to this contract shall comply with applicable laws and regulations relating to patients' rights, including but not limited to Wel. & Inst. Code 5325, Cal. Code Regs., tit. 9, sections 862 through 868, and 42 C. F. R. § 438.100. The Contractor shall ensure that its subcontractors comply with all applicable patients' rights laws and regulations.

B. The Contractor shall have written policies regarding the beneficiary rights specified in this section and ensure that its staff, subcontractors, and providers take those rights into account when providing services, including the right to:

1) Receive information in accordance with 42 C.F.R. § 438.10. (42 C.F.R. § 438.100(b)(2)(i).)

2) Be treated with respect and with due consideration for their dignity and privacy. (42 C.F.R. § 438.100(b)(2)(ii).)

3) Receive information on available treatment options and alternatives, presented in a manner appropriate to the beneficiary's condition and ability to understand. (42 C.F.R. § 438.100(b)(2)(iii).)

4) Participate in decisions regarding their health care, including the right to refuse treatment. (42 C.F.R. § 438.100(b)(2)(iv).)

5) Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation. (42 C.F.R. § 438.100(b)(2)(v).)

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6) Request and receive a copy of their medical records, and to request that they be amended or corrected. (42 C.F.R. § 438.100(b)(2)(vi); 45 C.F.R. §§ 164.524,164.526.)

7) Be furnished services in accordance with 42 C.F.R. §§ 438.206 through 438.210. (42 C.F.R. § 438.100(b)(3).)

8) Freely exercise their rights without adversely affecting the way the, Contractor, subcontractor, or provider treats the beneficiary. (42 C.F.R. § 438.100(c).)

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**Exhibit A – Attachment 12**
**BENEFICIARY PROBLEM RESOLUTION**

## 1. General Provisions

A. The Contractor shall have a grievance and appeal system in place for beneficiaries. (42 C.F.R. §§ 438.228(a), 438.402(a); Cal. Code Regs., tit. 9, § 1850.205.) The grievance and appeal system shall be implemented to handle appeals of adverse benefit determinations and grievances, and shall include processes to collect and track information about them. The Contractor's beneficiary problem resolution processes shall include:

1) A grievance process;

2) An appeal process; and,

3) An expedited appeal process. (Cal. Code Regs., tit. 9, § 1850.205(b)(1)-(b)(3).)

B. For the grievance, appeal, and expedited appeal processes, the Contractor shall comply with the following requirements:

1) The Contractor shall ensure that each beneficiary has adequate information about the Contractor's problem resolution processes by taking at least the following actions:

a) Including information describing the grievance, appeal, and expedited appeal processes in the Contractor's beneficiary booklet and providing the beneficiary handbook to beneficiaries as described in Attachment 11 of this contract. (Cal. Code Regs., tit. 9, § 1850.205(c)(1)(A).)

b) Posting notices explaining grievance, appeal, and expedited appeal process procedures in locations at all Contractor provider sites. Notices shall be sufficient to ensure that the information is readily available to both beneficiaries and provider staff. The posted notice shall also explain the availability of State Hearings after the exhaustion of an appeal or expedited appeal process, including information that a State Hearing may be requested whether or not the beneficiary has received a notice of adverse benefit determination. For the purposes of this Section, a Contractor provider site means any office or facility owned or operated

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by the Contractor or a provider contracting with the Contractor at which beneficiaries may obtain specialty mental health services. (Cal. Code Regs., tit. 9, §§ 1850.205(c)(1)(B) and 1850.210.)

c) Make available forms that may be used to file grievances, appeals, and expedited appeals and self-addressed envelopes that beneficiaries can access at all Contractor provider sites without having to make a verbal or written request to anyone. (Cal. Code Regs., tit. 9, § 1850.205(c)(1)(C).)

d) Give beneficiaries any reasonable assistance in completing the forms and other procedural steps related to a grievance or appeal. This includes, but is not limited to, providing interpreter services and toll-free numbers with TTY/TDD and interpreter capability. (42 C.F.R. § 438.406(a); 42 C.F.R. § 438.228(a).)

2) The Contractor shall allow beneficiaries to file grievances and request appeals. (42 C.F.R. § 438.402(c)(1).) The Contractor shall have only one level of appeal for beneficiaries. (42 C.F.R. § 438.402(b); 42 C.F.R. § 438.228(a).)

3) A beneficiary may request a State Hearing after receiving notice under 438.408 that the adverse benefit determination is upheld. (42 C.F.R. § 438.402(c)(1); 42 C.F.R. § 438.408(f).)

4) The Contractor shall adhere to the notice and timing requirements in §438.408. If the Contractor fails to adhere to these notice and timing requirements, the beneficiary is deemed to have exhausted the Contractor's appeals process and may initiate a State Hearing. (42 C.F.R. §§ 438.402(c)(1)(i)(A), 438.408(c)(3).)

5) The Contractor shall acknowledge receipt of each grievance, appeal, and request for expedited appeal of adverse benefit determinations to the beneficiary in writing. (42 C.F.R. § 438.406(b)(1); 42 C.F.R. § 438.228(a); Cal. Code Regs., tit. 9, § 1850.205(d)(4).) Grievances received over the telephone or in-person by the Contractor, or a network provider of the Contractor,

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that are resolved to the beneficiary's satisfaction by the close of the next business day following receipt are exempt from the requirement to send a written acknowledgment.

6) The Contractor shall allow a provider, or authorized representative, acting on behalf of the beneficiary and with the beneficiary's written consent to request an appeal, file a grievance, or request a State Hearing. (42 C.F.R. § 438.402(c)(1)(i)-(ii); Cal. Code Regs., tit. 9, § 1850.205(c)(2).)

7) The Contractor shall allow a beneficiary's authorized representative to use the grievance, appeal, or expedited appeal processes on the beneficiary's behalf. (Cal. Code Regs., tit. 9, § 1850.205(c)(2).)

8) At the beneficiary's request, the Contractor shall identify staff or another individual, such as a legal guardian, to be responsible for assisting a beneficiary with these processes, including providing assistance in writing the grievance, appeal, or expedited appeal. If the individual identified by the Contractor is the person providing specialty mental health services to the beneficiary requesting assistance, the Contractor shall identify another individual to assist that beneficiary. (Cal. Code Regs., tit. 9, § 1850.205(c)(4).) Assistance includes, but is not limited to, auxiliary aids and services upon request, such as providing interpreter services and toll-free numbers with TTY/TDD and interpreter capability. (42 C.F.R. § 438.406(a).)

9) The Contractor shall not subject a beneficiary to discrimination or any other penalty for filing a grievance, appeal, or expedited appeal. (Cal. Code Regs., tit. 9, § 1850.205(c)(5).)

10) The Contractor's procedures for the beneficiary problem resolution processes shall maintain the confidentiality of each beneficiary's information. (Cal. Code Regs., tit. 9, § 1850.205(c)(6).)

11) The Contractor shall include a procedure to transmit issues identified as a result of the grievance, appeal or expedited appeal processes to the Contractor's Quality Improvement Committee, the Contractor's administration or another appropriate body within the Contractor's operations. The Contractor shall consider these issues

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in the Contractor's Quality Improvement Program, as required by Cal. Code Regs., tit. 9, §1810.440(a)(5). (Cal. Code Regs., tit. 9, § 1850.205(c)(7).)

12) The Contractor shall ensure that decision makers on grievances and appeals of adverse benefit determinations were not involved in any previous level of review or decision-making, and were not subordinates of any individual who was involved in a previous level of review or decision-making. (42 C.F.R. § 438.406(b)(2)(i); 42 C.F.R. § 438.228(a).)

13) The Contractor shall ensure that individuals making decisions on the grievances and appeals of adverse benefit determinations, have the appropriate clinical expertise, as determined by the Department , in treating the beneficiary's condition or disease, if the decision involves an appeal based on a denial of medical necessity, a grievance regarding denial of a request for an expedited appeal, or if the grievance or appeal involves clinical issues.(42 C.F.R. § 438.406(b)(2)(ii)(A)-(C); 42 C.F.R. § 438.228(a).)

14) The Contractor shall provide the beneficiary a reasonable opportunity, in person and in writing, to present evidence and testimony and make legal and factual arguments. The Contractor must inform the beneficiary of the limited time available for this sufficiently in advance of the resolution timeframe for appeals specified in §438.408(b) and (c) in the case of expedited resolution. (42 C.F.R. § 438.406(b)(4).)

15) The Contractor shall ensure that decision makers on grievances and appeals of adverse benefit determinations take into account all comments, documents, records, and other information submitted by the beneficiary or beneficiary's representative, without regard to whether such information was submitted or considered in the initial adverse benefit determination. (42 C.F.R. § 438.406(b)(2)(iii); 42 C.F.R. § 438.228(a).)

16) The Contractor shall provide the beneficiary and their representative the beneficiary's case file, including medical records, other documents and records, and any new or additional evidence considered, relied upon, or generated by the Contractor in

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connection with the appeal of the adverse benefit determination. (42 C.F.R. § 438.406(b)(5).)

17) The Contractor shall provide the beneficiary and their representative the beneficiary's case file free of charge and sufficiently in advance of the resolution timeframe for standard and expedited appeal resolutions, (42 C.F.R. § 438.408(b)-(c).) For standard resolution of an appeal and notice to the affected parties, the Contractor must comply with the Department established timeframe of 30 calendar days from the day the Contractor receives the appeal. For expedited resolution of an appeal and notice to affected parties, the Contractor must comply with the Department established timeframe of 72 hours after the Contractor receives the appeal. (42 C.F.R. § 438.406(b)(5).)

18) The Contractor shall treat oral inquiries seeking to appeal an adverse benefit determination as appeals (to establish the earliest possible filing date for the appeal) and must confirm these oral inquiries in writing, unless the beneficiary or the provider requests expedited resolution. (42 C.F.R. § 438.406(b)(3).)

19) The Contractor's beneficiary problem resolution process shall not replace or conflict with the duties of county patient's rights advocates. (Welf. & Inst. Code § 5520.)

## 2. Handling of Grievances and Appeals

The Contractor shall adhere to the following record keeping, monitoring, and review requirements:

A. Maintain a grievance and appeal log and record grievances, appeals, and expedited appeals in the log within one working day of the date of receipt of the grievance, appeal, or expedited appeal. (42 C.F.R. § 438.416(a); Cal. Code Regs., tit. 9, § 1850.205(d)(1).) Each record shall include, but not be limited to: a general description of the reason for the appeal or grievance the date received, the date of each review or review meeting, resolution information for each level of the appeal or grievance, if applicable, and the date of resolution at each level, if applicable, and the name of the covered person whom the appeal or grievance was filed. (42 C.F.R. § 438.416(b)(1)-(6).)

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B. Record in the grievance and appeal log or another central location determined by the Contractor, the final dispositions of grievances, appeals, and expedited appeals, including the date the decision is sent to the beneficiary. If there has not been final disposition of the grievance, appeal, or expedited appeal, the reason(s) shall be included in the log. (Cal. Code Regs., tit. 9, § 1850.205(d)(2).)

C. Provide a staff person or other individual with responsibility to provide information requested by the beneficiary or the beneficiary's representative regarding the status of the beneficiary's grievance, appeal, or expedited appeal. (Cal. Code Regs., tit. 9, § 1850.205(d)(3).)

D. Identify in its grievance, appeal, and expedited appeal documentation, the roles and responsibilities of the Contractor, the provider, and the beneficiary. (Cal. Code Regs., tit. 9, § 1850.205(d)(5).)

E. Provide notice, in writing, to any provider identified by the beneficiary or involved in the grievance, appeal, or expedited appeal of the final disposition of the beneficiary's grievance, appeal, or expedited appeal. (Cal. Code Regs., tit. 9, § 1850.205(d)(6).)

F. Maintain records in the grievance and appeal log accurately and in a manner accessible to the Department and available upon request to CMS. (42 C.F.R. § 438.416(c).)

**3. Grievance Process**

The Contractor's grievance process shall, at a minimum:

A. Allow beneficiaries to file a grievance either orally, or in writing at any time with the Contractor; (42 C.F.R. § 438.402(c)(2)(i) and (c)(3)(i).)

B. The Contractor shall provide to the beneficiary written acknowledgement of receipt of the grievance. The acknowledgment letter shall include the date of receipt, as well as the name, telephone number, and address of the Plan representative who the beneficiary may contact about the grievance. The written acknowledgement to the beneficiary must be postmarked within five calendar days of receipt of the grievance. Grievances received over the telephone or in-person by the Contractor, or

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a network provider of the Contractor, that are resolved to the beneficiary's satisfaction by the close of the next business day following receipt are exempt from the requirement to send a written notification of resolution using the Written Notification of Grievance Resolution form.

C. Resolve each grievance as expeditiously as the beneficiary's health condition requires not to exceed 90 calendar days from the day the Contractor receives the grievance. (42 C.F.R. § 438.408(a)-(b)(1).) The Contractor may extend the timeframe for processing a grievance by up to 14 calendar days if the beneficiary requests an extension, or if the Contractor determines, to the satisfaction of DHCS upon request, that there is a need for additional information and that the delay is in the beneficiary's interest. (42 C.F.R. § 438.408(c)(1)(i)-(ii).) If the Contractor extends the timeframe, the Contractor shall, for any extension not requested by the beneficiary, make reasonable efforts to give the beneficiary prompt oral notice of the delay and give the beneficiary written notice of the extension and the reasons for the extension within 2 calendar days of the decision to extend the timeframe. The Contractor's written notice of extension shall inform the beneficiary of the right to file a grievance if they disagree with the Contractor's decision (42 C.F.R. § 438.408(c)(2)(i)-(ii).) The written notice of the extension is not a Notice of Adverse Benefit Determination. (Cal. Code Regs., tit. 9, § 1810.230.5.)

D. The timeframe for resolving grievances related to disputes of a Contractor's decision to extend the timeframe for making an authorization decision shall not exceed 30 calendar days.

E. Provide written notification to the beneficiary or the appropriate representative of the resolution of a grievance and documentation of the notification or efforts to notify the beneficiary, if they could not be contacted. (Cal. Code Regs.,tit. 9, § 1850.206(c).)

F. Notify the beneficiary of the resolution of a grievance in a format and language that meets applicable notification standards. (42 C.F.R. § 438.408(d)(1); 42 C.F.R. § 438.10.)

**4.** Discrimination Grievances

A. For Discrimination Grievances:

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1) The Contractor shall designate a Discrimination Grievance Coordinator who is responsible for ensuring compliance with federal and state nondiscrimination requirements, and investigating Discrimination Grievances related to any action that would be prohibited by, or out of compliance with, federal or state nondiscrimination law. (Welf. & Inst. Code § 14727(a)(4); 45 C.F.R. § 84.7; 34 C.F.R. § 106.8; 28 C.F.R. § 35.107; see 42 U.S.C. § 18116(a); California's Medicaid State Plan, Section 7, Attachments 7.2-A and 7.2-B.)

2) The Contractor shall adopt procedures to ensure the prompt and equitable resolution of discrimination-related complaints. (Welf. & Inst. Code § 14727(a)(4); 45 C.F.R. § 84.7; 34 C.F.R. § 106.8; 28 C.F.R. § 35.107; see 42 U.S.C. § 18116(a); California's Medicaid State Plan, Section 7, Attachments 7.2-A and 7.2-B.) The Contractor shall not require a beneficiary to file a Discrimination Grievance with the Contractor before filing the complaint directly with the DHCS Office of Civil Rights and the U.S. Health and Human Services Office for Civil Rights.

3) Within ten calendar days of mailing a Discrimination Grievance resolution letter to a beneficiary, the Contractor must submit the following information regarding the complaint to the DHCS Office of Civil Rights (see California Medicaid State Plan, Section 7, Attachments 7.2-A and 7.2-B):

   a) The original complaint.

   b) The provider's or other accused party's response to the complaint.

   c) Contact information for the personnel primarily responsible for investigating and responding to the complaint on behalf of the Contractor.

   d) Contact information for the beneficiary filing the complaint, and for the provider or other accused party that is the subject of the complaint.

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e) All correspondence with the beneficiary regarding the complaint, including, but not limited to, the Discrimination Grievance acknowledgment letter and resolution letter sent to the beneficiary.

f) The results of the Contractor's investigation, copies of any corrective action taken, and any other information that is relevant to the allegation(s) of discrimination.

## 5. Appeals Process

A. The Contractor's appeal process shall, at a minimum:

1) Allow a beneficiary, or a provider or authorized representative acting on the beneficiary's behalf, to file an appeal orally or in writing. (42 C.F.R. § 438.402(c)(3)(ii).) The beneficiary may file an appeal within 60 calendar days from the date on the adverse benefit determination notice (42 C.F.R. § 438.402(c)(2)(ii).);

2) Require a beneficiary who makes an oral appeal that is not an expedited appeal, to subsequently submit a written, signed appeal. (42 C.F.R. § 438.402(c)(3)(ii).) The Contractor shall ensure that oral inquiries seeking to appeal an adverse benefit determination are treated as appeals, and confirmed in writing unless the beneficiary or the provider requests expedited resolution. The date the Contractor receives the oral appeal shall be considered the filing date for the purpose of applying the appeal timeframes (42 C.F.R. § 438.406(b)(3).);

3) Resolve each appeal and provide notice, as expeditiously as the beneficiary's health condition requires, within 30 calendar days from the day the Contractor receives the appeal. (42 C.F.R. § 438.408(a); 42 C.F.R. § 438.408(b)(2).) The Contractor may extend the timeframe for processing an appeal by up to 14 calendar days, if the beneficiary requests an extension or the Contractor demonstrates, to the satisfaction of DHCS upon request, that there is a need for additional information and that the delay is in the beneficiary's interest. (42 C.F.R. 438.408(c)(1); 42 C.F.R. 438.408(b)(2).) If the Contractor extends the timeframes, the Contractor shall, for any extension not requested by the beneficiary,

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make reasonable efforts to give the beneficiary prompt oral notice of the delay and notify the beneficiary of the extension and the reasons for the extension in writing within 2 calendar days of the decision to extend the timeframe. The Contractor's written notice of extension shall inform the beneficiary of the right to file a grievance if they disagree with the Contractor's decision. The Contractor shall resolve the appeal as expeditiously as the beneficiary's health condition requires and no later than the date the extension expires (42 C.F.R. § 438.408(c)(2)(i)-(iii).) The written notice of the extension is not a Notice of Adverse Benefit Determination. (Cal. Code Regs., tit. 9, §1810.230.5.);

4) Allow the beneficiary to have a reasonable opportunity to present evidence and testimony and make arguments of fact or law, in person and in writing (42 C.F.R. § 438.406(b)(4).);

5) Provide the beneficiary and their representative the beneficiary's case file, including medical records, and any other documents and records, and any new or additional evidence considered, relied upon, or generated by the Contractor in connection with the appeal of the adverse benefit determination , provided that there is no disclosure of the protected health information of any individual other than the beneficiary (42 C.F.R. § 438.406(b)(5).); and

6) Provide the beneficiary and their representative the beneficiary's case file free of charge and sufficiently in advance of the resolution timeframe for standard appeal resolutions. For standard resolution of an appeal and notice to the affected parties, the Contractor must comply with the Department established timeframe of 30 calendar days from the day the Contractor receives the appeal. For expedited resolution of an appeal and notice to affected parties, the Contractor must comply with the Department established timeframe of 72 hours after the Contractor receives the appeal. (42 C.F.R. § 438.406(b)(5).)

7) Allow the beneficiary, their representative, or the legal representative of a deceased beneficiary's estate, to be included as parties to the appeal. (42 C.F.R. 438.406(b)(6).)

B. The Contractor shall notify the beneficiary, and/or their representative, of the resolution of the appeal in writing in a format and language that, at a

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minimum, meets applicable notification standards. (42 C.F.R. 438.408(d)(2)(i); 42 C.F.R. § 438.408(e); 42 C.F.R. 438.10.) The notice shall contain the following:

1) The results of the appeal resolution process (42 C.F.R. § 438.408(e)(1).);

2) The date that the appeal decision was made (42 C.F.R. § 438.408(e)(1).);

3) If the appeal is not resolved wholly in favor of the beneficiary, the notice shall also contain:

   a) Information regarding the beneficiary's right to a State Hearing and the procedure for requesting a State Hearing, if the beneficiary has not already requested a State Hearing on the issue involved in the appeal; (42 C.F.R. § 438.408(e)(2)(i).) and

   b) Information on the beneficiary's right to continue to receive benefits while the State Hearing is pending and how to request the continuation of benefits; (42 C.F.R. § 438.408(e)(2)(ii).)

   c) Inform the beneficiary that they may be liable for the cost of any continued benefits if the Contractor's adverse benefit determination is upheld in the hearing. (42 C.F.R. § 438.408(e)(2)(iii).)

## 6. Expedited Appeal Process

A. "Expedited Appeal" is an appeal used when the mental health plan determines (for a request from the beneficiary) or the provider indicates (in making the request on the beneficiary's behalf or supporting the beneficiary's request) that taking the time for a standard resolution could seriously jeopardize the beneficiary's life, physical or mental health, or ability to attain, maintain, or regain maximum function. (42 C.F.R. 438.410.)

B. The Contractor's expedited appeal process shall, at a minimum:

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1) Be used when the Contractor determines or the beneficiary and/or the beneficiary's provider certifies that taking the time for a standard appeal resolution could seriously jeopardize the beneficiary's life, physical or mental health or ability to attain, maintain, or regain maximum function. (42 C.F.R. 438.410(a).)

2) Allow the beneficiary to file the request for an expedited appeal orally without requiring the beneficiary to submit a subsequent written, signed appeal. (42 C.F.R. § 438.402(c)(3)(ii).)

3) Ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a beneficiary's expedited appeal. (42 C.F.R. § 438.410(b).)

4) Inform beneficiaries of the limited time available to present evidence and testimony, in person and in writing, and make legal and factual arguments for an expedited appeal. The Contractor must inform beneficiaries of this sufficiently in advance of the resolution timeframe for the expedited appeal. (42 C.F.R. 438.406(b)(4); 42 C.F.R. 438.408(b)-(c).)

5) Resolve an expedited appeal and notify the affected parties in writing, as expeditiously as the beneficiary's health condition requires and no later than 72 hours after the Contractor receives the appeal. (42 C.F.R. § 438.408(b)(3).) The Contractor may extend this timeframe by up to 14 calendar days if the beneficiary requests an extension, or the Contractor demonstrates, to the satisfaction of DHCS upon request, that there is need for additional information and that the delay is in the beneficiary's interest. (42 C.F.R. § 438.408(c)(1)(i)-(ii).) If the Contractor extends the timeline for processing an expedited appeal not at the request of the beneficiary, the Contractor shall make reasonable efforts to give the beneficiary prompt oral notice of the delay, and notify the beneficiary of the extension and the reasons for the extension, in writing, within 2 calendar days of the determination to extend the timeline. The Contractor shall resolve the appeal as expeditiously as the beneficiary's health condition requires and no later than the date the extension expires. (42 C.F.R. § 438.408(c)(2)(i) - (iii); 42 C.F.R. §438.408(b)(3).) The written notice of the extension is not a

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Notice of Adverse Benefit Determination. (Cal. Code Regs., tit. 9, § 1810.230.5.)

6) Provide a beneficiary with a written notice of the expedited appeal disposition and make reasonable efforts to provide oral notice to the beneficiary and/or their representative. The written notice shall meet the requirements of Section 1850.207(h) of Title 9 of the California Code of Regulations. (42 C.F.R. § 438.408(d)(2); Cal. Code Regs., tit. 9, § 1850.207(h).)

7) If the Contractor denies a request for an expedited appeal resolution, the Contractor shall:

a) Transfer the expedited appeal request to the timeframe for standard resolution of no longer than 30 calendar days from the day the Contractor receives the appeal. (42 C.F.R. § 438.410(c)(1).)

b) Make reasonable efforts to give the beneficiary and their representative prompt oral notice of the denial of the request for an expedited appeal. Provide written notice of the decision and reason for the decision within two calendar days of the date of the denial, and inform the beneficiary of the right to file a grievance if they disagree with the decision. (42 C.F.R. § 438.410(c)(2); 42 C.F.R. § 438.408(c)(2).) The written notice of the denial of the request for an expedited appeal is not a Notice of Adverse Benefit Determination. (Cal. Code Regs., tit. 9, § 1810.230.5.)

## 7. Contractor obligations related to State Hearing

"State Hearing" means the hearing provided by the State to beneficiaries pursuant to sections 50951 and 50953 of Title 22 of the California Code of Regulations and section 1810.216.6 of Title 9 of the California Code of Regulations 1810.216.6:

A. If a beneficiary requests a State Hearing, the Department shall grant the request. (42 C.F.R. § 431.220(a)(5).) The right to a State Hearing, how to obtain a hearing, and representation rules at a hearing must be explained to the beneficiary and provider by the Contractor in its notice of decision or

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Notice of Adverse Benefit Determination. (42 C.F.R. § 431.206(b); 42 C.F.R. § 431.228(b).) Beneficiaries and providers shall also be informed of the following:

1) A beneficiary may request a State Hearing only after receiving notice that the Contractor is upholding the adverse benefit determination. (42 C.F.R. § 438.408(f)(1).)

2) If the Contractor fails to adhere to notice and timing requirements under § 438.408, the beneficiary is deemed to have exhausted the Contractor's appeals process, and the beneficiary may initiate a State Hearing. (42 C.F.R 438.408(f)(1)(i); 42 C.F.R. 438.402(c)(1)(i)(A).)

3) The provider may request a State Hearing only if the Department permits the provider to act as the beneficiary's authorized representative. (42 C.F.R. § 438.402(c)(1)(ii).)

## 8. Expedited Hearing

"Expedited Hearing" means a hearing provided by the State, used when the Contractor determines, or the beneficiary or the beneficiary's provider certifies that following the 90 day timeframe for a State Hearing as established in 42 C.F.R. § 431.244(f)(1) would seriously jeopardize the beneficiary's life, health, or ability to attain, maintain, or regain maximum function. (42 C.F.R. § 431.244(f)(1); 42 C.F.R. § 438.410(a); Cal. Code Regs., tit. 9, § 1810.216.4.)

## 9. Continuation of Services

A. A beneficiary receiving specialty mental health services shall have a right to file for continuation of specialty mental health services pending the outcome of a State Hearing. (Cal. Code Regs., tit. 22., § 51014.2; Cal. Code Regs., tit. 9, § 1850.215.)

B. The Contractor shall continue the beneficiary's benefits while an appeal is in process if all of the following occur:

1) The beneficiary files the request for an appeal within 60 calendar days following the date on the adverse benefit determination notice; (42 C.F.R. § 438.420(b)(1).)

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2) The appeal involves the termination, suspension, or reduction of a previously authorized service; (42 C.F.R. § 438.420(b)(2).)

3) The beneficiary's services were ordered by an authorized provider; (42 C.F.R. § 438.420(b)(3).)

4) The period covered by the original authorization has not expired; and, (42 C.F.R. § 438.420(b)(4).)

5) The request for continuation of benefits is filed on or before the later of the following: (42 C.F.R. § 438.420 (b)(5).)

a. Within 10 calendar days of the Contractor sending the notice of adverse benefit determination; (42 C.F.R. § 438.420(a).) or

b. The intended effective date of the adverse benefit determination. (42 C.F.R. § 438.420(a).)

C. If, at the beneficiary's request, the Contractor continues the beneficiary's benefits while the appeal or State Hearing is pending, the benefits must be continued until the beneficiary withdraws the appeal or request for State Hearing, the beneficiary does not request a State Hearing and continuation of benefits within 10 calendar days from the date the Contractor sends the notice of an adverse appeal resolution, or a State Hearing decision adverse to the beneficiary is issued. (42 C.F.R. § 438.420(c)(1)-(3); 42 C.F.R. § 438.408(d)(2).)

D. The Contractor may recover the cost of continued services furnished to the beneficiary while the appeal or State Hearing was pending if the final resolution of the appeal or State Hearing upholds the Contractor's adverse benefit determination. (42 C.F.R. § 438.420(d); 42 C.F.R. § 431.230(b).)

E. The Contractor shall authorize or provide the disputed services promptly, and as expeditiously as the beneficiary's health condition requires, but no later than 72 hours from the date the Contractor receives notice reversing the determination if the services were not furnished while the appeal was pending and if the Contractor or State Hearing officer reverses a decision to deny, limit, or delay services. (42 C.F.R. § 438.424(a).)

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F. If the decision of an appeal reverses a decision to deny the authorization of services, and the beneficiary received the disputed services while the appeal was pending, the Contractor shall cover the cost of such services. (42 C.F.R. § 438.424(b).)

G. The Contractor shall notify the requesting provider and give the beneficiary written notice of any decision to deny a service authorization request, or to authorize a service in an amount, duration, or scope that is less than requested. (42 C.F.R. § 438.210(c); 42 C.F.R. § 438.404.)

**10. Provision of Notice of Adverse Benefit Determination**

A. The Contractor shall provide a beneficiary with a Notice of Adverse Benefit Determination (NOABD) under the following circumstances:

1) The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit. (42 C.F.R. § 438.400(b)(1).)

2) The reduction, suspension, or termination of a previously authorized service. (42 C.F.R. § 438.400(b)(2).)

3) The denial, in whole or in part, of payment for a service. (42 C.F.R. § 438.400(b)(3).)

4) The failure to provide services in a timely manner, as defined by the Department. (42 C.F.R. § 438.400(b)(4).)

5) The failure of the Contractor to act within the timeframes provided in §438.408(b)(1) and (2) regarding the standard resolution of grievances and appeals. (42 C.F.R. § 438.400(b)(5).)

6) The denial of a beneficiary's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other beneficiary financial liabilities. (42 C.F.R. § 438.400(b)(7).)

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B. The Contractor shall give beneficiaries timely and adequate notice of an adverse benefit determination in writing and shall meet the language and format requirements of 42 Code of Federal Regulations part 438.10. (42 C.F.R. § 438.404(a); 42 C.F.R. § 438.10.) The NOABD shall contain the items specified in 42 Code of Federal Regulations part 438.404 (b) and Cal. Code Regs., tit. 9, section 1850.212.

C. When the denial or modification involves a request from a provider for continued Contractor payment authorization of a specialty mental health service or when the Contractor reduces or terminates a previously approved Contractor payment authorization, notice shall be provided in accordance with Cal. Code Regs., tit. 22, section 51014.1. (Cal. Code Regs., tit. 9, § 1850.210(a)(1).)

D. A NOABD is not required when a denial is a non-binding verbal description to a provider of the specialty mental health services that may be approved by the Contractor. (Cal. Code Regs., tit. 9, § 1850.210(a)(2).)

E. Except as provided in subsection F below, a NOABD is not required when the denial or modification is a denial or modification of a request for the Contractor payment authorization for a specialty mental health service that has already been provided to the beneficiary. (Cal. Code Regs., tit. 9, § 1850.210(a)(4).)

F. A NOABD is required when the Contractor denies or modifies a payment authorization request from a provider for a specialty mental health service that has already been provided to the beneficiary when the denial or modification is a result of post-service, prepayment determination by the Contractor that the service was not medically necessary or otherwise was not a service covered by the Contractor. (Cal. Code Regs., tit. 9, § 1850.210(b).)

G. The Contractor shall deny the Contractor payment authorization request and provide the beneficiary with a NOABD when the Contractor does not have sufficient information to approve or modify, or deny on the merits, a Contractor payment authorization request from a provider within the timeframes required by Cal. Code Regs., tit. 9, §§ 1820.220 or 1830.215. (Cal. Code Regs., tit. 9, § 1850.210(c).)

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H. The Contractor shall provide the beneficiary with a NOABD if the Contractor fails to notify the affected parties of a resolution of a grievance within 90 calendar days, of an appeal decision within 30 days, or of an expedited appeal decision within 72 hours. If the timeframe for a grievance, appeal or expedited appeal decision is extended pursuant to sections 1850.206, 1850.207 or 1850.208 of Title 9 of the California Code of Regulations and the Contractor failed to notify the affected parties of its decision within the extension period, the Contractor shall provide the beneficiary with a NOABD. (42 C.F.R. § 438.408.)

I. The Contractor shall provide a beneficiary with a NOABD when the Contractor or its providers determine that the criteria for access to SMHS in Attachment 2, section 1 have not been met and that the beneficiary is not entitled to any specialty mental health services from the Contractor. The NOABD shall, at the election of the Contractor, be hand-delivered to the beneficiary on the date of the Adverse Benefit Determination or mailed to the beneficiary in accordance with Cal. Code Regs., tit. 9, § 1850.210(f)(1), and shall specify the information contained in Cal. Code Regs., tit. 9, § 1850.212(b). (Cal. Code Regs., tit. 9, § 1850.210(g).)

J. For the purpose of this Attachment, each reference to a Medi-Cal managed care plan in Cal. Code Regs., tit. 22, § 51014.1, shall mean the Contractor. (Cal. Code Regs., tit. 9, § 1850.210(h).)

K. For the purposes of this Attachment, “medical service”, as used in Cal. Code Regs., tit. 22, § 51014.1, shall mean specialty mental health services that are subject to prior authorization by a Contractor pursuant to Cal. Code Regs., tit. 9, §§ 1820.100 and 1830.100. (Cal. Code Regs., tit. 9, § 1850.210(i).)

L. The Contractor shall retain copies of all Notices of Adverse Benefit Determination issued to beneficiaries under this Section in a centralized file accessible to the Department. The Department shall engage in random reviews (Cal. Code Regs., tit. 9, § 1850.210(j).)

M. The Contractor shall allow the State to engage in reviews of the Contractor’s records pertaining to Notices of Adverse Benefit Determination so the Department may ensure that the Contractor is notifying beneficiaries in a timely manner.

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## 11. Contents and Timing of NOABD

A. The Contractor shall include the following information in the NOABD:

1) The adverse benefit determination the Contractor has made or intends to make; (42 C.F.R. § 438.404(b)(1).)

2) The reason for the adverse benefit determination, including the right of the beneficiary to be provided upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the beneficiary's adverse benefit determination. Such information includes criteria to access SMHS, and any processes, strategies, or evidentiary standards used in setting coverage limits; (42 C.F.R. § 438.404(b)(2).)

3) Citations to the regulations or Contractor payment authorization procedures supporting the adverse benefit determination; (Cal. Code Regs., tit. 9, § 1850.212(a)(3).)

4) The beneficiary's right to file, and procedures for exercising, an appeal or expedited appeal with the Contractor, including information about exhausting the Contractor's one level of appeal and the right to request a State Hearing after receiving notice that the adverse benefit determination is upheld; (42 C.F.R. § 438.404(b)(3)-(b)(4).)

5) The circumstances under which an appeal process can be expedited and how to request it; (42 C.F.R. § 438.404(b)(5).)

6) The beneficiary's right to have benefits continue pending resolution of the appeal, how to request that benefits be continued, and the circumstances under which the beneficiary may be required to pay the costs of those services. (42 C.F.R. § 438.404(b)(6).)

7) Information about the beneficiary's right to request a State Hearing or an expedited State Hearing, including:

a) The method by which a hearing may be obtained; (Cal. Code Regs., tit. 9, § 1850.212(a)(5)(A).)

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b) A statement that the beneficiary may be either self-represented, or represented by an authorized third party such as legal counsel, a relative, friend, or any other person; (Cal. Code Regs., tit. 9, § 1850.212(a)(5)(B).)

c) An explanation of the circumstances under which a specialty mental health service will be continued if a State Hearing is requested; (Cal. Code Regs., tit. 9, § 1850.212(a)(5)(C).) and

d) The time limits for requesting a State Hearing or an expedited State Hearing. (Cal. Code Regs., tit. 9, § 1850.212(a)(5)(D).)

B. The Contractor shall mail the NOABD within the following timeframes:

1) For termination, suspension, or reduction of previously authorized Medi-Cal covered services, at least 10 days before the date of action. (42 C.F.R. § 438.404(c)(1); 42 C.F.R. § 431.211.) The Contractor shall mail the NOABD in as few as 5 days prior to the date of action if the Contractor has facts indicating that action should be taken because of probable fraud by the beneficiary, and the facts have been verified, if possible, through secondary sources. (42 C.F.R. § 438.404(c)(1); 42 C.F.R. §.431.214.)

2) For denial of payment, at the time of any action affecting the claim. (42 C.F.R. § 438.404(c)(2).)

3) For standard service authorizations that deny or limit services, as expeditiously as the beneficiary's condition requires not to exceed 14 calendar days following the receipt for request for services. (42 C.F.R. § 438.404(c)(3); 42 C.F.R. 438.210(d)(1).)

4) The Contractor may extend the 14 calendar day NOABD determination timeframe for standard service authorization decisions that deny or limit services up to 14 additional calendar days if the beneficiary or the provider requests the extension. (42 C.F.R. § 438.404(c)(4); 42 C.F.R. 438.210(d)(1)(i).)

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5) The Contractor may extend the 14 calendar day notice of adverse benefit determination timeframe for standard service authorization decisions that deny or limit services up to 14 additional calendar days if the Contractor justifies a need to the Department, upon request, for additional information and shows how the extension is in the beneficiary's best interest. (42 C.F.R. § 438.404(c)(4); 42 C.F.R. 438.210(d)(1)(ii).)

6) If the Contractor extends the 14 calendar day notice of adverse benefit determination timeframe for standard service authorization decisions that deny or limit services, the Contractor shall do the following:

   a) Give the beneficiary written notice of the reason for the extension and inform the beneficiary of the right to file a grievance if he/she disagrees with the decision ; (42 C.F.R. § 438.404(c)(4)(i); 42 C.F.R. 438.210(d)(1)(ii).) and,

   b) Issue and carry out its determination as expeditiously as the beneficiary's health condition requires and no later than the date of the extension. (42 C.F.R. § 438.404(c)(4)(ii); 42 C.F.R. 438.210(d)(1)(ii).)

7) The Contractor shall give notice on the date that the timeframes expire, when service authorization decisions are not reached within the applicable timeframes for either standard or expedited service authorizations. (42 C.F.R. § 438.404(c)(5).)

8) If a provider indicates, or the Contractor determines, that following the standard service authorization timeframe could seriously jeopardize the beneficiary's life or health or their ability to attain, maintain, or regain maximum function, the Contractor must make an expedited service authorization decision and provide notice as expeditiously as the beneficiary's health condition requires and no later than 72 hours after receipt of the request for service. (42 C.F.R. § 438.404(c)(6); 42 C.F.R. 438.210(d)(2)(i).)

9) The Contractor may extend the 72 hour expedited service authorization decision time period by up to 14 calendar days if the beneficiary requests an extension, or if the Contractor justifies to

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the Department, upon request, a need for additional information and how the extension is in the beneficiary's interest. (42 C.F.R. § 438.404(c)(6); 42 C.F.R. § 210(d)(2)(ii).)

10) The Contractor shall deposit the NOABD with the United States Postal Service in time for pick-up on the date that the applicable timeframe expires. (Cal. Code Regs., tit. 9, § 1850.210(f).)

C. The Adverse Benefit Determination shall be effective on the date of the NOABD and the Contractor shall mail the NOABD by the date of adverse benefit determination when any of the following occur:

1) The death of a beneficiary; (42 C.F.R. § 431.213(a).)

2) Receipt of a signed written beneficiary statement requesting service termination or giving information requiring termination or reduction of services, provided the beneficiary understands that this will be the result of supplying that information; (42 C.F.R. § 431.213(b)(1)-(b)(2).)

3) The beneficiary's admission to an institution where they are ineligible for further services; (42 C.F.R. § 431.213(c).)

4) The beneficiary's whereabouts are unknown and mail directed to them has no forwarding address; (42 C.F.R. § 431.213(d).)

5) Notice that the beneficiary has been accepted for Medicaid services by another local jurisdiction; (42 C.F.R. § 431.213(e).)

6) A change in the beneficiary's physician's prescription for the level of medical care; (42 C.F.R. § 431.213(f).) or

7) The notice involves an adverse determination with regard to preadmission screening requirements of section 1919(e)(7) of the Act. (42 C.F.R. § 431.213(g).)

8) The transfer or discharge from a facility will occur in an expedited fashion. (42 C.F.R. § 431.213(h).)

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9) Endangerment of the safety or health of individuals in the facility; improvement in the resident's health sufficient to allow a more immediate transfer or discharge; urgent medical needs that require a resident's immediate transfer or discharge; or notice that a resident has not resided in the nursing facility for 30 days (but only in Adverse Benefit Determinations based on nursing facility transfers).

## 12. Annual Grievance and Appeal Report

The Contractor is required to submit to the Department a report that summarizes beneficiary grievances, appeals and expedited appeals filed from July 1 of the previous year through June 30 of that year by October 1 of each year. The report shall include the total number of grievances, appeals and expedited appeals by type, by subject areas established by the Department, and by disposition. (Cal. Code Regs., tit. 9, § 1810.375(a).)

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**Exhibit A – Attachment 13**
**PROGRAM INTEGRITY**

## 1. General Requirements

As a condition for receiving payment under a Medi-Cal managed care program, the Contractor shall comply with the provisions of 42 C.F.R. §§ 438.604, 438.606 and 438.608, and 438.610. (42 C.F.R. § 438.600(b).)

## 2. Excluded Providers

A. The Contractor shall screen and periodically revalidate all network providers in accordance with the requirements of 42 Code of Federal Regulations, part 455, subparts B and E. (42 C.F.R. §438.602(b).)

B. Consistent with the requirements of 42 Code of Federal Regulations, part 455.436, the Contractor must confirm the identity and determine the exclusion status of all providers (employees and network providers) and any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of the of the Mental Health Plan through routine checks of Federal and State databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the Office of Inspector General's List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), as well as the Department's Medi Cal Suspended and Ineligible Provider List (S & I List). (42 C.F.R. §438.602(d).)

C. If the Contractor find a party that is excluded, it must promptly notify the Department (42 C.F.R. §438.608(a)(2),(4)) and the Department will take action consistent with 42 C.F.R. §438.610((d). The Contractor shall not certify or pay any excluded provider with Medi-Cal funds, and any such inappropriate payments or overpayments may be subject to recovery and/or be the basis for other sanctions by the appropriate authority.

## 3. Compliance Program

A. Pursuant to 42 C.F.R. § 455.1(a)(1), the Contractor must report fraud and abuse information to the Department.

B. The Contractor, or any subcontractor, to the extent that the subcontractor is delegated responsibility by the Contractor for coverage of services and payment of claims under this Contract, shall implement and maintain a

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**Exhibit A – Attachment 13**
**PROGRAM INTEGRITY**

compliance program designed to detect and prevent fraud, waste and abuse that must include:

1) Written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable requirements and standards under the contract, and all applicable Federal and state requirements.

2) A Compliance Officer (CO) who is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of the contract and who reports directly to the CEO and the Board of Directors (BoD).

3) A Regulatory Compliance Committee (RCC) on the BoD and at the senior management level charged with overseeing the organization's compliance program and its compliance with the requirements under the contract.

4) A system for training and education for the CO, the organization's senior management, and the organization's employees for the federal and state standards and requirements under the contract.

5) Effective lines of communication between the CO and the organization's employees.

6) Enforcement of standards through well-publicized disciplinary guidelines.

7) The establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under the contract. (42 C.F.R. §438.608(a), (a)(1).)

## 4. Fraud Reporting Requirements

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**Exhibit A – Attachment 13**
**PROGRAM INTEGRITY**

A. The Contractor, or any subcontractor, to the extent that the subcontractor is delegated responsibility by the Contractor for coverage of services and payment of claims under this Contract, shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste and abuse that include prompt reporting to the Department about the following:

1) Any potential fraud, waste, or abuse. (42 C.F.R. §438.608(a), (a)(7).)

2) All overpayments identified or recovered, specifying the overpayments due to potential fraud. (42 C.F.R. §438.608(a), (a)(2).)

3) Information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including changes in the beneficiary's residence or the death of the beneficiary. (42 C.F.R. §438.608(a), (a)(3).)

4) Information about a change in a network provider's circumstances that may affect the network provider's eligibility to participate in the managed care program, including the termination of the provider agreement with the Contractor. (42 C.F.R. §438.608(a), (a)(4).)

B. If the Contractor identifies an issue or receives notification of a complaint concerning an incident of potential fraud, waste or abuse, in addition to notifying the Department, the Contractor shall conduct an internal investigation to determine the validity of the issue/complaint, and develop and implement corrective action, if needed.

C. The Contractor shall implement and maintain written policies for all employees of the Mental Health Plan, and of any contractor or agent, that provide detailed information about the False Claims Act and other Federal and state laws, including information about rights of employees to be protected as whistleblowers. (42 C.F.R. §438.608(a), (a)(6).)

D. The Contractor shall implement and maintain arrangements or procedures that include provision for the Contractor’s suspension of payments to a network provider for which there is a credible allegation of fraud. (42 C.F.R. §438.608(a), (a)(8).)

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**Exhibit A – Attachment 13**
**PROGRAM INTEGRITY**

## 5. Service Verification

Pursuant to 42 C.F.R. § 438.608(a)(5), the Contractor, and/or any subcontractor, to the extent that the subcontractor is delegated responsibility by the Contractor for coverage of services and payment of claims under this Contract, shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste and abuse that include provisions to verify, by sampling or other methods, whether services that have been represented to have been delivered by network providers were received by beneficiaries and the application of such verification processes on a regular basis. (42 C.F.R. §438.608(a), (a)(5).)

## 6. Disclosures

A. Disclosure of 5% or More Ownership Interest:

1) Pursuant to 42 C.F.R. § 455.104, Medicaid managed care entities must disclose certain information related to persons who have an ownership or control interest in the managed care entity, as defined in 42 C.F.R. § 455.101. The parties hereby acknowledge that because the Contractor is a political subdivision of the State of California, there are no persons who meet such definition and therefore there is no information to disclose.

a) In the event that, in the future, any person obtains an interest of 5% or more of any mortgage, deed of trust, note or other obligation secured by Contractor, and that interest equals at least 5% of Contractor's property or assets, then the Contractor will make the disclosures set forth in i and subsection 2(a).

i. The Contractor will disclose the name, address, date of birth, and Social Security Number of any managing employee, as that term is defined in 42 C.F.R. § 455.101. For purposes of this disclosure, Contractor may use the business address for any member of its Board of Supervisors.

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**PROGRAM INTEGRITY**

ii. The Contractor shall provide any such disclosure upon execution of this contract, upon its extension or renewal, and within 35 days after any change in Contractor ownership or upon request of the Department.

2) The Contractor shall ensure that its subcontractors and network providers submit the disclosures below to the Contractor regarding the network providers' (disclosing entities') ownership and control. The Contractor's network providers must be required to submit updated disclosures to the Contractor upon submitting the provider application, before entering into or renewing the network providers' contracts, within 35 days after any change in the subcontractor/network provider's ownership, annually and upon request during the re-validation of enrollment process under 42 Code of Federal Regulations part 455.104.

a) Disclosures to be Provided:

i. The name and address of any person (individual or corporation) with an ownership or control interest in the network provider. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;

ii. Date of birth and Social Security Number (in the case of an individual);

iii. Other tax identification number (in the case of a corporation with an ownership or control interest in the managed care entity or in any subcontractor in which the managed care entity has a 5 percent or more interest);

iv. Whether the person (individual or corporation) with an ownership or control interest in the Contractor's network provider is related to another person with ownership or control interest in the same or any other network provider of the Contractor as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the

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**Exhibit A – Attachment 13**
**PROGRAM INTEGRITY**

managed care entity has a 5 percent or more interest is related to another person with ownership or control interest in the managed care entity as a spouse, parent, child, or sibling;

v. The name of any other disclosing entity in which the Contractor or subcontracting network provider has an ownership or control interest; and

vi. The name, address, date of birth, and Social Security Number of any managing employee of the managed care entity.

3) For each provider in Contractor's provider network, the Contractor shall provide the Department with all disclosures before entering into a network provider contract with the provider and annually thereafter and upon request from the Department during the re-validation of enrollment process under 42 Code of Federal Regulations part 455.104.

B. Disclosures Related to Business Transactions – the Contractor must submit disclosures and updated disclosures to the Department or HHS including information regarding certain business transactions within 35 days, upon request.

1) The following information must be disclosed:

a) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request; and

b) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the 5-year period ending on the date of the request.

c) The Contractor must obligate Network Providers to submit the same disclosures regarding network providers as noted under subsection 1(a) and (b) within 35 days upon request.

C. Disclosures Related to Persons Convicted of Crimes

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**Exhibit A – Attachment 13**
**PROGRAM INTEGRITY**

1) The Contractor shall submit the following disclosures to the Department regarding the Contractor's management:

   a) The identity of any person who is a managing employee of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).)

   b) The identity of any person who is an agent of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).) For this purpose, the word "agent" has the meaning described in 42 Code of Federal Regulations part 455.101.

2) The Contractor shall supply the disclosures before entering into the contract and at any time upon the Department's request.

3) Network providers should submit the same disclosures to the Contractor regarding the network providers' owners, persons with controlling interest, agents, and managing employees' criminal convictions. Network providers shall supply the disclosures before entering into the contract and at any time upon the Department's request.

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**Exhibit A – Attachment 14**
**REPORTING REQUIREMENTS**

## 1. Data Submission/ Certification Requirements

A. The Contractor shall submit any data, documentation, or information relating to the performance of the entity's obligations as required by the State or the United States Secretary of Health and Human Services. (42 C.F.R. § 438.604(b).) The individual who submits this data to the state shall concurrently provide a certification, which attests, based on best information, knowledge and belief that the data, documentation and information is accurate, complete and truthful. (42 C.F.R. § 438.606(b) and (c).)The data, documentation, or information submitted to the state by the Contractor shall be certified by one of the following:

1) The Contractor's Chief Executive Officer (CEO).

2) The Contractor's Chief Financial Officer (CFO).

3) An individual who reports directly to the CEO or CFO with delegated authority to sign for the CEO or CFO so that the CEO or CFO is ultimately responsible for the certification. (42 C.F. R. § 438.606(a).)

## 2. Encounter Data

The Contractor shall submit encounter data to the Department at a frequency and level specified by the Department and CMS. (42 C.F.R. § 438.242(c)(2).) The Contractor shall ensure collection and maintenance of sufficient beneficiary encounter data to identify the provider who delivers service(s) to the beneficiary. (42 C.F.R. § 438.242(c)(1).) The Contractor shall submit all beneficiary encounter data that the Department is required to report to CMS under § 438.818. (42 C.F.R. § 438.242(c)(3).) The Contractor shall submit encounter data to the state in standardized Accredited Standards Committee (ASC) X12N 837 and National Council for Prescription Drug Programs (NCPDP) formats, and the ASC X12N 835 format as appropriate. (42 C.F.R. § 438.242(c)(4).)

## 3. Insolvency

A. The Contractor shall submit data to demonstrate it has made adequate provision against the risk of insolvency to ensure that beneficiaries will not be liable for the Contractor's debt if the Contractor becomes insolvent. (42 C.F.R. § 438.604(a)(4); 42 C.F.R. § 438.116.)

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**Exhibit A – Attachment 14**
**REPORTING REQUIREMENTS**

B. The Contractor shall meet the State's solvency standards for private health maintenance organizations or be licensed by the State as a risk-bearing entity, unless one of the following exceptions apply (42 C.F.R. § 438.116 (b).):

1) The Contractor does not provide both inpatient hospital services and physician services.
2) The Contractor is a public entity.
3) The Contractor is (or is controlled by) one of more federally qualified health centers and meets the solvency standards established by the State for those centers.
4) The Contractor has its solvency guaranteed by the State.

**4. Network Adequacy**

The Contractor shall submit, in a manner and format determined by the Department, documentation to demonstrate compliance with the Department's requirements for availability and accessibility of services, including the adequacy of the provider network. (42 C.F.R. § 438.604(a)(5).)

**5. Information on Ownership and Control**

The Contractor shall submit for state review information on its and its subcontractors' ownership and control described in 42 C.F.R. §455.104 and Attachment 13 of this Contract. (42 C.F.R § 438.604(a)(6).)

**6. Annual Report of Overpayment Recoveries**

The Contractor shall submit an annual report of overpayment recoveries in a manner and format determined by the Department. (42 C.F.R § 438.604(a)(7).)

**7. Performance Data**

A. In an effort to improve the performance of the State's managed care program, in accordance with 42 Code of Federal Regulations part 438.66(c), the Contractor will submit the following to the Department (42 C.F.R. §438.604(b).):

1) Enrollment and disenrollment data;

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**Exhibit A – Attachment 14**
**REPORTING REQUIREMENTS**

2) Member grievance and appeal logs;

3) Provider complaint and appeal logs;

4) The results of any beneficiary satisfaction survey;

5) The results of any provider satisfaction survey;

6) Performance on required quality measures;

7) Medical management committee reports and minutes;

8) The Contractor's annual quality improvement plan;

9) Audited financial and encounter data; and

10) Customer service performance data.

B. The Contractor shall cooperate with DHCS to provide and report quality measures per the 1915(b) Special Terms and Conditions and the Comprehensive Quality Strategy.

**8.** Parity in Mental Health and Substance Use Disorder Services

The Contractor shall submit to the Department, upon request, any policies and procedures or other documentation necessary for the State to establish and demonstrate compliance with Title 42 of the Code of Federal Regulations, part 438, subpart K, regarding parity in mental health and substance use disorder benefits.

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**Exhibit A – Attachment 15**
**PEER SUPPORT SERVICES**

## MEDI-CAL PEER SUPPORT SERVICES

1. The Contractor has taken the option to implement Medi-Cal Peer Support Services.

2. The Contractor shall provide, or arrange, and pay for Peer Support Services to Medi-Cal beneficiaries. Contractor's provision of Peer Support Services shall conform to the requirements of Supplement 3 to Attachment 3.1-A and Supplement 3 to Attachment 3.1-B of the California State Plan. Contractor's provision of Peer Support Services and implementation of a Medi-Cal Peer Support Specialist Certification Program shall further conform to the applicable requirements of Behavioral Health Information Notice (BHIN) 21-041 and to the requirements in any subsequent BHINs issued by the Department pursuant to Welfare & Institutions Code section § 14045.21.

3. Voluntary Participation and Funding

   The Contractor shall fund the nonfederal share of any applicable expenditures, since the Contractor has opted to implement Peer Support Services and participate in the Peer Support Specialist Certification Program set forth in Article 1.4 of Chapter 7, Part 3, of Division 9 of the Welfare and Institutions Code. The Contractor's local share utilized to fund Peer Support Services and the Contractor's participation in the Peer Support Specialist Certification Program shall not be considered an increase in costs mandated by the 2011 realignment legislation.

4. Provision of Peer Support Services

   Peer Support Services may be provided face-to-face, by telephone or by telehealth with the beneficiary or significant support person(s) and may be provided anywhere in the community.

5. Peer Support Specialists
   Contractor shall ensure that Peer Support Services are provided by certified Peer Support Specialists as established in BHIN 21-041.

6. Behavioral Health Professional and Peer Support Specialist Supervisors
   The Contractor shall ensure that Peer Support Specialists provide services under the direction of a Behavioral Health Professional.

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**Exhibit A – Attachment 15**
**PEER SUPPORT SERVICES**

A Behavioral Health Professional must be licensed, waivered, or registered in accordance with applicable State of California licensure requirements and listed in the California Medicaid State Plan as a qualified provider of SMHS, DMC-ODS, or DMC.

Peer Support Specialists may also be supervised by Peer Support Specialist Supervisors, as established in BHIN 21-041.

7. Practice Guidelines
   Counties shall require Peer Support Specialists to adhere to the practice guidelines developed by the Substance Abuse and Mental Health Services Administration, *What are Peer Recovery Support Services* (Center for Substance Abuse Treatment, What are Peer Recovery Support Services? HHS Publication No.(SMA) 09-4454. Rockville, MD: Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services), which may be accessed electronically through the following Internet World Wide Web connection: www.samhsa.gov/resource/ebp/what-are-peer-recovery-support-services.

8. Contractor shall oversee and enforce the certification standards and requirements set forth in Article 1.4 of Chapter 7, Part 3, of Division 9 of the Welfare and Institutions Code and departmental guidance, including BHIN 21-041. Contractor shall ensure that the Medi-Cal Peer Support Specialist Certification Program:
   a. Submits to the department a peer support specialist program plan in accordance with Enclosure 2 of BHIN 21-041 describing how the peer support specialist program will meet all of the federal and state requirements for the certification and oversight of peer support specialists.
   b. Participates in periodic reviews conducted by the department to ensure adherence to all federal and state requirements.
   c. Submits annual peer support specialist program reports to the department in accordance with Enclosure 5 of BHIN 21-041. Reports shall cover the fiscal year and shall be submitted by the following December 31st.

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# Exhibit B
# BUDGET DETAIL AND PAYMENT PROVISIONS

## 1. Payment Provisions

This program may be funded using one or more of the following funding sources: funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, funds from the Mental Health Services Fund, and any other funds from which the Controller makes distributions to the counties in compliance with applicable statute and regulations including Welf. & Inst. Code §§ 5891, 5892 and 14705(a)(2). These funding sources may be used by the Contractor to pay for services and then certify as public expenditures in order to be reimbursed federal funds.

## 2. Budget Contingency Clause

This provision is a supplement to provision number nine (Federal Contract Funds) in Exhibit D(F) which is attached hereto as part of this Contract.

A. Federal Budget
If federal funding for FFP reimbursement in relation to this contract is eliminated or substantially reduced by Congress, the Department and the Contractor each shall have the option either to cancel this contract or to propose a contract amendment to address changes to the program required as a result of the elimination or reduction of federal funding.

B. Delayed Federal Funding

The Contractor and the Department agree to consult with each other on interim measures for program operation that may be required to maintain adequate services to beneficiaries in the event that there is likely to be a delay in the availability of federal funding.

## 3. Federal Financial Participation

Nothing in this contract shall limit the Contractor's ability to submit claims for appropriate FFP reimbursement based on actual, total fund expenditures for any covered services or quality assurance, utilization review, Medi-Cal Administrative Activities and/or administrative costs. In accordance the Welf. & Inst. Code § 14705(c), the Contractor shall ensure compliance with all requirements necessary for Medi-Cal reimbursement for these services and activities. Claims

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**Exhibit B**
**BUDGET DETAIL AND PAYMENT PROVISIONS**

for FFP reimbursement shall be submitted by the Contractor to the Department for adjudication throughout the fiscal year. Pursuant to the Welf. & Inst. Code § 14705(d), the Contractor shall certify to the state that it has incurred public expenditures prior to requesting the reimbursement of federal funds.

**4. Audits and Recovery of Overpayments**

A. Pursuant to Welf. & Inst. Code § 14707, in the case of federal audit exceptions, the Department will follow federal audit appeal processes unless the Department, in consultation with the County Behavioral Health Director's Association of California, determines that those appeals are not cost beneficial.

1) Whenever there is a final federal audit exception against the State resulting from a claim for federal funds for an expenditure by individual counties that is not federally allowable, the department may offset federal reimbursement and request the Controller's office to offset the distribution of funds to the Contractor from the Mental Health Subaccount, the Mental Health Equity Subaccount and the Vehicle License Collection Account of the Local Revenue Fund; funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011; and any other mental health realignment funds from which the Controller makes distributions to the counties by the amount of the exception. The Department shall provide evidence to the Controller that the county had been notified of the amount of the audit exception no less than 30 days before the offset is to occur.

2) The Department will involve the Contractor in developing responses to any draft federal audit reports that directly impact the county.

B. Pursuant to Welf. & Inst. Code § 14718(b)(2), the Department may offset the amount of any federal disallowance, audit exception, or overpayment against subsequent claims from the Contractor.

1) The Department may offset the amount of any state disallowance, audit exception, or overpayment for fiscal years through and including 2010-11 against subsequent claims from the Contractor.

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**Exhibit B**
**BUDGET DETAIL AND PAYMENT PROVISIONS**

2) Offsets may be done at any time, after the department has invoiced or otherwise notified the Contractor about the audit exception, disallowance, or overpayment. The Department shall determine the amount that may be withheld from each payment to the mental health plan.

3) The maximum withheld amount shall be 25 percent of each payment as long as the Department is able to comply with the federal requirements for repayment of FFP pursuant 42 United States Code (U.S.C.) §1396b(d)(2)). The Department may increase the maximum amount when necessary for compliance with federal laws and regulations.

C. Pursuant to the Welf. & Inst. Code § 14170, cost reports submitted to the Department are subject to audit in the manner and form prescribed by the Department. The year-end cost report shall include both Contractor's costs and the costs of its subcontractors, if any. Contractor and its subcontractors shall be subject to audits and/or reviews, including client record reviews, by the Department. In accordance with the Welf. & Inst. Code § 14170, any audit of Contractor's cost report shall occur within three years of the date of receipt by the Department of the final cost report with signed certification by the Contractor's Mental Health Director and one of the following: (1) the Contractor's Chief Financial Officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to the Contractor's Chief Financial Officer, or (3) the county auditor controller, or equivalent. Both signatures are required before the cost report shall be considered final. For purposes of this section, the cost report shall be considered audited once the Department has informed the Contractor of its intent to disallow costs on the cost report, or once the Department has informed the Contractor of its intent to close the audit without disallowances.

D. If the adjustments result in the Department owing FFP to the Contractor, the Department shall submit a claim to the federal government for the related FFP within 30 days contingent upon sufficient budget authority.

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**Exhibit B**
**BUDGET DETAIL AND PAYMENT PROVISIONS**

## 5. Claims Adjudication Process

A. In accordance with the Welf. & Inst. Code §14705(c), claims for federal funds in reimbursement for services shall comply with eligibility and service requirements under applicable federal and state law.

B. The Contractor shall certify each claim submitted to the Department in accordance with Cal. Code Regs., tit. 9, § 1840.112 and 42 C.F.R. § 433.51, at the time the claims are submitted to the Department. The Contractor's Chief Financial Officer or their equivalent, or an individual with authority delegated by the county auditor-controller, shall sign the certification, declaring, under penalty of perjury, that the Contractor has incurred an expenditure to cover the services included in the claims to satisfy the requirements for FFP. The Contractor's Mental Health Director or an individual with authority delegated by the Mental Health Director shall sign the certification, declaring, under penalty of perjury that, to the best of their knowledge and belief, the claim is in all respects true, correct, and in accordance with the law and meets the requirements of Cal. Code Regs., tit. 9, § 1840.112(b). The Contractor shall have mechanisms that support the Mental Health Director's certification, including the certification that the services for which claims were submitted were actually provided to the beneficiary. If the Department requires additional information from the Contractor that will be used to establish Department payments to the Contractor, the Contractor shall certify that the additional information provided is in accordance with 42 C.F.R. § 438.604.

C. Claims not meeting federal and/or state requirements shall be returned to Contractor as not approved for payment, along with a reason for denial. Claims meeting all Health Insurance Portability and Accountability Act (HIPAA) transaction requirements and any other applicable federal or state privacy laws or regulations and certified by the Contractor in accordance with Cal. Code Regs., tit. 9, §1840.112, shall be processed for adjudication.

D. Good cause justification for late claim submission is governed by applicable federal and state laws and regulations and is subject to approval by the Department.

E. In the event that the Department or the Contractor determines that changes requiring a change in the Contractor’s or Department’s obligation

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**Exhibit B**
**BUDGET DETAIL AND PAYMENT PROVISIONS**

must be made relating to either the Department's or the Contractor's claims submission and adjudication systems due to federal or state law changes or business requirements, both the Department and the Contractor agree to provide notice to the other party as soon as practicable prior to implementation. This notice shall include information and comments regarding the anticipated requirements and impacts of the projected changes. The Department and the Contractor agree to meet and discuss the design, development, and costs of the anticipated changes prior to implementation.

F. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1840.304, when submitting claims for FFP for services billed by individual or group providers. The Contractor shall submit service codes from the Health Care Procedure Coding System (HCPCS) published in the most current Mental Health Medi-Cal billing manual.

**6. Payment Data Certification**

The Contractor shall certify the data it provides to the Department to be used in determining payment of FFP to the Contractor, in accordance with 42 C.F.R. §§ 438.604 and 438.606.

**7. System Changes**

In the event changes in federal or state law or regulations, including court decisions and interpretations, necessitate a change in either the fiscal or program obligations or operations of the Contractor or the Department, or a change in obligation for the cost of providing covered services the Department and the Contractor agree to negotiate, pursuant to the Welf. & Inst. Code § 14714(c) regarding (a) changes required to remain in compliance with the new law or changes in existing obligations, (b) projected programmatic and fiscal impacts, (c) necessary contract amendments. To the extent that contract amendments are necessary, the parties agree to act to ensure appropriate amendments are made to accommodate any changes required by law or regulation.

**8. Administrative Reimbursement**

A. The Contractor may submit claims for reimbursement of Medical Administrative Activities (MAA) pursuant to Welf. & Inst. Code § 14132.47. The Contractor shall not submit claims for MAA unless it has submitted a

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**BUDGET DETAIL AND PAYMENT PROVISIONS**

claiming plan to the Department which was approved by the Department and is effective during the quarter in which the costs being claimed were incurred. In addition, the Contractor shall not submit claims for reimbursements of MAA that are not consistent with the Contractor's approved MAA claiming plan. The Contractor shall not use the relative value methodology to report its MAA costs on the year-end cost report. Rather, the Contractor shall calculate and report MAA units on the cost report by multiplying the amount of time (minutes, hours, etc.) spent on MAA activities by the salary plus benefits of the staff performing the activity and then allocating indirect administrative and other appropriately allocated costs.

B. Pursuant to the Welf. & Inst. Code § 14711(c), administrative costs shall be claimed separately in a manner consistent with federal Medicaid requirements and the approved Medicaid state plans and waivers and shall be limited to 15 percent of the total actual cost of direct client services. The cost of performing quality assurance and utilization review activities shall be reimbursed separately and shall not be included in administrative costs.

**9. Notification of Request for Contract Amendment**

In addition to the provisions in Exhibit E, Additional Provisions, both parties agree to notify the other party whenever an amendment to this contract is to be requested so that informal discussion and consultation can occur prior to a formal amendment process.

## Special Terms and Conditions

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, “agreement”, "grant", “grant agreement”, "Grantee" and "Subgrantee" respectively.

The terms “California Department of Health Care Services”, “California Department of Health Services”, ‘Department of Health Care Services”, “Department of Health Services”, “CDHCS”, “DHCS”, “CDHS”, and “DHS” shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

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**1. Federal Equal Opportunity Requirements**

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.

c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 CFR part 60, “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

**2. Travel and Per Diem Reimbursement**

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect,

as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

**3. Procurement Rules**

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

**a. Equipment/Property definitions**

Wherever the term equipment and/or property is used, the following definitions shall apply:

(1) **Major equipment/property**: A tangible or intangible item having a base unit cost of **$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment/property:** A tangible item having a base unit cost of less than $5,000 with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

**b. Government and public entities (including state colleges/universities and auxiliary organizations),** whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

**c. Nonprofit organizations and commercial businesses,** whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

(1) Equipment/property purchases shall not exceed $50,000 annually.

To secure equipment/property above the annual maximum limit of $50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property

purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

(2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.

(3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:

(a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.

(b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.

(c) Procurements shall be conducted in a manner that provides for all of the following:

[1] Avoid purchasing unnecessary or duplicate items.

[2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.

[3] Take positive steps to utilize small and veteran owned businesses.

d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of $5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.

e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of

dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.

f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.

g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.

h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

**4. Equipment/Property Ownership / Inventory / Disposition**

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

(1) **Reporting of Equipment/Property Receipt**

DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

(2) **Annual Equipment/Property Inventory**

If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

(a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).

(b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.

(c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.

b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.

c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.

d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.

(1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.

e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.

f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as

to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

g. **Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

(1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.

(2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.

(3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.

(4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

**Automobile Liability Insurance**

(a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of $1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.

(b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.

(c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.

(d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

(e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:

[1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).

[2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.

[3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.

(f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.

(g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

**5. Subcontract Requirements**

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing $5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding $5,000, the Contractor shall obtain at least three bids or justify a sole source award.

(1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.

(2) DHCS may identify the information needed to fulfill this requirement.

(3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

(a) A local governmental entity or the federal government,

(b) A State college or State university from any State,

(c) A Joint Powers Authority,

(d) An auxiliary organization of a California State University or a California community college,

(e) A foundation organized to support the Board of Governors of the California Community Colleges,

(f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,

(g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,

(h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2.

b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

(1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.

c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of $5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.

d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.

e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.

f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.

g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.

h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.

j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

**6. Income Restrictions**

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

**7. Audit and Record Retention**

(Applicable to agreements in excess of $10,000.)

a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.

b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.

c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)

d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.

   (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.

   (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

**8. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

**9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.

b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

**10. Termination**

a. **For Cause**

The State may terminate this Agreement, in whole or in part, and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the

State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

b. **For Convenience**

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

**11. Intellectual Property Rights**

a. **Ownership**

(1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

(2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come

into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

(a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

(3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party. If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.

(4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.

(5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

b. **Retained Rights / License Rights**

(1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

(2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. **Copyright**

(1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

(2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other

matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. **Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

e. **Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

f. **Warranties**

(1) Contractor represents and warrants that:

(a) It is free to enter into and fully perform this Agreement.

(b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

(c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

(d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.

(e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.

(f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.

(g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

(h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

(2) DHCS makes no warranty that the intellectual property resulting from this agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

g. **Intellectual Property Indemnity**

(1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based

on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

(2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

(3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. **Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

i. **Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

**12. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of $100,000 must comply with the following provisions unless said agreement is exempt by law.

a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.

b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

**13. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

**14. Confidentiality of Information**

a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.

d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.

e. 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 finger or voice print or a photograph.

f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

**15. Documents, Publications and Written Reports**

(Applicable to agreements over $5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds $5,000.

**16. Dispute Resolution Process**

a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.

(1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

(2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her

designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.

c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.

d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

**17. Financial and Compliance Audit Requirements**

a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.

b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).

c. The Contractor, as indicated below, agrees to obtain one of the following audits:

(1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040)*** and receives **$25,000 or more** from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040)*** and receives **less than $25,000** per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 2 C.F.R. §§ 200.64, 200.70, and 200.90)*** and expends $750,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 C.F.R. 200.501 entitled "Audit Requirements". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

(a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or

(b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.

(4) If the Contractor submits to DHCS a report of an audit other than a 2 C.F.R. 200.501audit, the Contractor must also submit a certification indicating the Contractor has not expended $750,000 or more in federal funds for the year covered by the audit report.

d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.

e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.

f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.

g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.

h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.

i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.

j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.

k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

   The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

**18. Human Subjects Use Requirements**

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

**19. Novation Requirements**

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

**20. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376

b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and

(4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.

(6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.

(7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.

d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.

e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

**21. Smoke-Free Workplace Certification**

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.

c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

**22. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

**23. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or $3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

**24. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

**25. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

**26. Four-Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. “Four Digit Date compliant” Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**27. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**28. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

a. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

b. Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

c. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

d. Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

e. Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

**29. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

**30. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.

b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.

d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

**31. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.

b. As used herein, fringe benefits do not include:

(1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.

(2) Director's and executive committee member's fees.

(3) Incentive awards and/or bonus incentive pay.

(4) Allowances for off-site pay.

(5) Location allowances.

(6) Hardship pay.

(7) Cost-of-living differentials

c. Specific allowable fringe benefits include:

(1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

d. To be an allowable fringe benefit, the cost must meet the following criteria:

(1) Be necessary and reasonable for the performance of the Agreement.

(2) Be determined in accordance with generally accepted accounting principles.

(3) Be consistent with policies that apply uniformly to all activities of the Contractor.

e. Contractor agrees that all fringe benefits shall be at actual cost.

f. Earned/Accrued Compensation

(1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.

(2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.

(3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

**32. Suspension or Stop Work Notification**

a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.

b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.

(1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.

(2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:

(a) Cancel, extend, or modify the suspension or stop work notification; or

(b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.

c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.

d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.

e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.

f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

**33. Public Communications**

"Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

a. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices."

**34. Compliance with Statutes and Regulations**

a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.

b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

**35. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded agreements in excess of $100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

(1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds $100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.

(2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.

(3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

(a) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;

(b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or

(c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.

(4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding $100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.

(5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**Attachment 1**
**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, “Disclosure of Lobbying Activities" in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of $100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

| Name of Contractor | Printed Name of Person Signing for Contractor |
|---|---|
| | |
| Contract / Grant Number | Signature of Person Signing for Contractor |
| | |
| Date | Title |
| | |

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services

DHCS reserves the right to notifiy the contractor in writing of an alternate submission address.

**Attachment 2**
**CERTIFICATION REGARDING LOBBYING**
Approved by OMB (0348-0046)
Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

| 1. Type of Federal Action: | 2. Status of Federal Action: | 3. Report Type: |
|---|---|---|
| _ a. contract<br>b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance | _ a. bid/offer/application<br>b. initial award<br>c. post-award | _ a. initial filing<br>b. material change<br>For Material Change Only:<br>Year _____ quarter _____<br>date of last report _____. |

| 4. Name and Address of Reporting Entity: | 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: |
|---|---|
| O Prime O Subawardee<br>Tier ___, if known:<br><br>Congressional District, If known: | Congressional District, If known: |
| 6. Federal Department/Agency | 7. Federal Program Name/Description: |
| | CDFA Number, if applicable: _____ |
| 8. Federal Action Number, if known: | 9. Award Amount, if known: |
| | |
| 10.a. Name and Address of Lobbying Registrant *(If individual, last name, first name, MI)*: | b. Individuals Performing Services *(including address if different from 10a. (Last name, First name, MI):* |
| | |

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than $100,000 for each such failure.

| | |
|---|---|
| Signature: | |
| Print Name: | |
| Title: | |
| Telephone Number: | |
| Date: | |

| **Federal Use Only** | Authorized for Local Reproduction<br>Standard Form-LLL (Rev. 7-97) |
|---|---|

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriateclassification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if itis, or expects to be,a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizationallevel below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

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# Exhibit E
# ADDITIONAL PROVISIONS

## 1. Amendment Process

Should either party, during the term of this Contract, desire a change or amendment to the terms of this Contract, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by both parties and the Department of General Services (DGS), if DGS approval is required.

## 2. Cancellation/Termination

A. General Provisions

1) As required by, if the Contractor decides not to contract with the Department, does not renew its contract, or is unable to meet the standards set by the Department, the Contractor agrees to inform the Department of this decision in writing. (Welf. & Inst. Code § 14712(c)(1).)

2) If the Contractor is unwilling to contract for the delivery of specialty mental health services or if the Department or Contractor determines that the Contractor is unable to adequately provide specialty mental health services or that the Contractor does not meet the standards the Department deems necessary for a mental health plan, the Department shall ensure that specialty mental health services are provided to Medi-Cal beneficiaries. (Welf. & Inst. Code § 147122(c)(2), (3).)

3) The Department may contract with qualifying individual counties, counties acting jointly, or other qualified entities approved by the Department for the delivery of specialty mental health services in any county that is unable or unwilling to contract with the Department. The Contractor may not subsequently contract to provide specialty mental health services unless the Department elects to contract with the Contractor. (Welf. & Inst. Code § 147122(c)(4).)

4) If the Contractor does not contract with the Department to provide specialty mental health services, the Department will work with the Department of Finance and the Controller to obtain funds from the

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Contractor in accordance with Government (Govt.) Code 30027.10. (Welf. & Inst. Code § 147122(d).)

A. Contract Renewal

1) This contract may be renewed if the Contractor continues to meet the requirements of Chapter 8.9 of Part 3 of Division 9 of the Welf. & Inst. Code and implementing regulatory requirements, as well as the terms and conditions of this contract. Failure to meet these requirements shall be cause for nonrenewal of the contract. (42 C.F.R. § 438.708; Welf. & Inst. Code § 14714(b)(1).) The Department may base the decision to renew on timely completion of a mutually agreed-upon plan of correction of any deficiencies, submissions of required information in a timely manner, and/or other conditions of the contract. (Welf. & Inst. Code § 14714(b)(1).)

2) In the event the contract is not renewed based on the reasons specified in (1), the Department will notify the Department of Finance, the fiscal and policy committees of the Legislature, and the Controller of the amounts to be sequestered from the Mental Health Subaccount, the Mental Health Equity Account, and the Vehicle License Fee Collection Account of the Local Revenue Fund and the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, and the Controller will sequester those funds in the Behavioral Health Subaccount pursuant to Govt. Code § 30027.10. Upon this sequestration, the Department will use the funds in accordance with Govt. Code § 30027.10. (Welf. & Inst. Code § 14714(b)(2).)

B. Contract Amendment Negotiations

Should either party during the life of this contract desire a change in this contract, such change shall be proposed in writing to the other party. The other party shall acknowledge receipt of the proposal in writing within 10 days and shall have 60 days (or such different period as the parties mutually may set) after receipt of such proposal to review and consider the proposal, to consult and negotiate with the proposing party, and to accept or reject the proposal. Acceptance or rejection may be made orally within the 60-day period, and shall be confirmed in writing within five days thereafter. The party proposing any such change shall have the right to withdraw the proposal at any time prior to acceptance or rejection by the other party. Any such proposal shall set forth a detailed explanation of the

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reason and basis for the proposed change, a complete statement of costs and benefits of the proposed change and the text of the desired amendment to this contract that would provide for the change. If the proposal is accepted, this contract shall be amended to provide for the change mutually agreed to by the parties on the condition that the amendment is approved by the Department of General Services, if necessary.

C. Contract Termination

The Contractor may terminate this contract in accordance with, Cal. Code Regs., tit. 9, section 1810.323(a). The Department may terminate this contract in accordance with Welf. & Inst. Code, sections 14197.7, 14714 and Cal. Code Regs., tit. 9, section 1810.323.

1) DHCS shall terminate this contract if the United States Secretary of Health and Human Services has determined the Contractor does not meet the requirements for participation in the Medicaid program contained in Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code. (Welf. & Inst. Code § 14197.7(i))

2) DHCS reserves the right to cancel or terminate this Contract if DHCS finds that Contractor fails to comply with contract requirements, state or federal law or regulations, or the state plan or approved waivers, or for other good cause. (Welf. & Inst. Code § 14197.7(a))

3) Good cause includes, but is not limited to, a finding of deficiency that results in improper denial or delay in the delivery of health care services, potential endangerment to patient care, disruption in the contractor's provider network, failure to approve continuity of care, that claims accrued or to accrue have not or will not be recompensed, or a delay in required contractor report to the department. (Welf. & Inst. Code § 14197.7(a))

4) Contract termination or cancellation shall be effective as of the date indicated in DHCS' notification to the Contractor, unless Contractor appeals the termination, or termination is immediate pursuant to paragraph 8. The notice shall identify any final performance, invoicing or payment requirements.

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5) Contractor may appeal contract termination pursuant to Welf. & Inst. Conde sections 14197.7(I)(2) or section 14714(d).

6) Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel, or if cancelation is not possible reduce, subsequent contract costs.

7) In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Contract and incurred up to the date of termination or cancellation, including authorized non-cancelable obligations, provided such expenses do not exceed the stated maximum amounts payable.

8) The Department will immediately terminate this Contract if the Department finds that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. Termination of the contract for other reasons will be subject to reasonable notice to the Contractor of the Department's intent to terminate, as well as notification to affected beneficiaries. (Welf. & Inst. Code § 14714(d).)

D. Termination of Obligations

1) All obligations to provide covered services under this contract shall automatically terminate on the effective date of any termination of this contract. The Contractor shall be responsible for providing covered services to beneficiaries until the termination or expiration of the contract and shall remain liable for the processing and payment of invoices and statements for covered services provided to beneficiaries prior to such expiration or termination.

2) When the Contractor terminates a subcontract with a provider, the Contractor shall make a good faith effort to provide notice of this termination, within 15 days, to the persons that the Contractor, based on available information, determines have recently been receiving services from that provider.

E. Contract Disputes

Should a dispute arise between the Contractor and the Department relating to performance under this contract, other than disputes governed

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**Exhibit E**
**ADDITIONAL PROVISIONS**

by a dispute resolution process in Chapter 11 of Division 1, California Code of Regulations, title 9, or the processes governing the audit appeals process in Chapter 9 of Division 1, California Code of Regulations, title 9 the Contractor shall follow the Dispute Resolution Process outlined in provision number 15 of Exhibit D(F) which is attached hereto as part of this contract.

## 3. Fulfillment of Obligation

No covenant, condition, duty, obligation, or undertaking continued or made a part of this contract shall be waived except by written agreement of the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever will not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed or discharged by the party to which the same may apply. Until performance or satisfaction of all covenants, conditions, duties, obligations, and undertakings is complete, the other party shall have the right to invoke any remedy available under this contract, or under law, notwithstanding such forbearance or indulgence.

## 4. Additional Provisions

A. Inspection Rights/Record Keeping Requirements

1) Provision number seven (Audit and Record Retention) of Exhibit D(F), which is attached hereto as part of this Contract, supplements the following requirements.

2) The Contractor, and subcontractors, shall allow the Department, CMS, the Office of the Inspector General, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized designees, to evaluate Contractor's, and subcontractors', performance under this contract, including the quality, appropriateness, and timeliness of services provided, and to inspect, evaluate, and audit any and all records, documents, and the premises, equipment and facilities maintained by the Contractor and its subcontractors pertaining to such services at any time. The Contractor shall allow such inspection, evaluation and audit of its records, documents and facilities, and those of its subcontractors, for 10 years from the term end date of this Contract or in the event the Contractor has been notified that an audit or investigation of this Contract has been commenced, until such time as the matter under audit or investigation has been resolved,

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including the exhaustion of all legal remedies, whichever is later. (See 42 C.F.R. §§ 438.3(h), 438.230(c)(3)(i-iii).) Records and documents include, but are not limited to all physical and electronic records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this Contract including working papers, reports, financial records and documents of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries.

3) The Contractor, and subcontractors, shall retain, all records and documents originated or prepared pursuant to the Contractor's or subcontractor's performance under this Contract, including beneficiary grievance and appeal records identified in Attachment 12, Section 2 and the data, information and documentation specified in 42 Code of Federal Regulations parts 438.604, 438.606, 438.608, and 438.610 for a period of no less than 10 years from the term end date of this Contract or in the event the Contractor has been notified that an audit or investigation of this Contract has been commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later. (42 C.F.R. § 438.3(u); See also § 438.3(h).) Records and documents include, but are not limited to all physical and electronic records and documents originated or prepared pursuant to the Contractor's or subcontractor's performance under this Contract including working papers, reports, financial records and documents of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries.

B. Notices

Unless otherwise specified in this contract, all notices to be given under this contract shall be in writing and shall be deemed to have been given when mailed, to the Department or the Contractor at the following addresses, unless the contract explicitly requires notice to another individual or organizational unit:

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| | |
|---|---|
| Department of Health Care Services<br>Medi-Cal Behavioral Health Division<br>1501 Capitol Avenue, MS 2702<br>Sacramento, CA 95814 | County of Yolo<br>137 North Cottonwood Street<br>Woodland, CA 95695 |

C. Nondiscrimination

1) Consistent with the requirements of applicable federal law, such as 42 Code of Federal Regulations, part 438.3(d)(3) and (4), and state law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect any ground protected under federal or state law, including sex, race, color, gender, gender identity, religion, marital status, national origin, ethnic group identification, ancestry, age, sexual orientation, medical condition, genetic information, or mental or physical handicap or disability. (42 U.S.C. § 18116; 42 C.F.R. § 438.3(d)(3-4); 45 C.F.R. § 92.2; Gov. Code § 11135(a); Welf. & Inst. Code § 14727(a)(3).)

2) The Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended (codified at 29 U.S.C. § 794), prohibiting exclusion, denial of benefits, and discrimination against qualified individuals with a disability in any federally assisted programs or activities, and shall comply with the implementing regulations in Parts 84 and 85 of Title 45 of the C.F.R., as applicable.

3) The Contractor shall include the nondiscrimination and compliance provisions of this contract in all subcontracts to perform work under this contract.

D. Relationship of the Parties

The Department and the Contractor are, and shall at all times be deemed to be, independent agencies. Each party to this contract shall be wholly responsible for the manner in which it performs the obligations and services required of it by the terms of this contract. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the parties or any of their agents or employees. Each party assumes exclusively the responsibility

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**Exhibit E**
**ADDITIONAL PROVISIONS**

for the acts of its employees or agents as they relate to the services to be provided during the course and scope of their employment. The Department and its agents and employees shall not be entitled to any rights or privileges of the Contractor's employees and shall not be considered in any manner to be Contractor employees. The Contractor and its agents and employees, shall not be entitled to any rights or privileges of state employees and shall not be considered in any manner to be state employees.

E. Waiver of Default

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this contract shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this contract.

**5. Duties of the State**

In discharging its obligations under this contract, and in addition to the obligations set forth in other parts of this contract, the Department shall perform the following duties:

A. Payment for Services

The Department shall make the appropriate payments set forth in Exhibit B and take all available steps to secure and pay FFP to the Contractor, once the Department receives FFP, for claims submitted by the Contractor. The Department shall notify Contractor and allow Contractor an opportunity to comment to the Department when questions are posed by CMS, or when there is a federal deferral, withholding, or disallowance with respect to claims made by the Contractor.

B. Reviews

The Department shall conduct reviews of access to and quality of care in the Contractor's county at least once every three years and issue reports to the Contractor detailing findings, recommendations, and corrective action, as appropriate, pursuant to Cal. Code Regs., tit. 9, section 1810.380, subdivision (a), and Welf. & Inst. Code § 14197.7. The Department shall also arrange for an annual external quality review of the

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Contractor as required by 42 Code of Federal Regulations, part 438.350 and Cal. Code Regs., tit. 9, section 1810.380(a)(7).

C. Monitoring for Compliance

When monitoring activities identify areas of non-compliance, the Department shall issue reports to the Contractor detailing findings, recommendations, and corrective action. Failure to comply with required corrective action could lead to civil penalties, as appropriate, pursuant to Welf. & Inst. Code § 14197.7.

D. The Contractor shall prepare and submit a report to the Department that provides information for the areas set forth in 42 C.F.R. § 438.66(b) and (c) as outlined in Exhibit A, Attachment 14, Section 7, in the manner specified by the Department.

E. If the Contractor has not previously implemented a Mental Health Plan or Contractor will provide or arrange for the provision of covered benefits to new eligibility groups, then the Contractor shall develop an Implementation Plan (as defined in Cal. Code Regs., tit. 9, § 1810.221) that is consistent with the readiness review requirements set forth in 42 Code of Federal Regulations, part 438.66(d)(4), and the requirements of Cal. Code Regs., tit. 9, § 1810.310 (a). (See 42 C.F.R. § 438.66(d)(1), (4).) The Department shall review and either approve, disapprove, or request additional information for each Implementation Plan. Notices of Approval, Notices of Disapproval and requests for additional information shall be forwarded to the Contractor within 60 days of the receipt of the Implementation Plan. (Cal. Code Regs., tit. 9, § 1810.310(b).) A Contractor shall submit proposed changes to its approved Implementation Plan in writing to the Department for review. A Contractor shall submit proposed changes in the policies, processes or procedures that would modify the Contractor's current Implementation Plan prior to implementing the proposed changes.(See Cal. Code Regs., tit. 9, § 1810.310 (b)-(c)).

F. The Department shall act promptly to review the Contractor's Cultural Competence Plan submitted pursuant to Cal. Code Regs., tit. 9, § 1810.410. The Department shall provide a Notice of Approval or a Notice of Disapproval, including the reasons for the disapproval, to the Contractor within 60 calendar days after receipt of the plan from the Contractor. If the Department fails to provide a Notice of Approval or Disapproval, the Contractor may implement the plan 60 calendar days from its submission to the Department.

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**Exhibit E**
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G. Certification of Organizational Provider Sites Owned or Operated by the Contractor

1) The Department shall certify the organizational provider sites that are owned, leased or operated by the Contractor, in accordance with Cal. Code Regs., tit. 9, section 1810.435, and the requirements specified in Exhibit A, Attachment 3, Section 6 of this contract. This certification shall be performed prior to the date on which the Contractor begins to deliver services under this contract at these sites and once every three years after that date, unless the Department determines an earlier date is necessary. The on-site review required by Cal. Code Regs., tit. 9, § 1810.435(e), shall be conducted of any site owned, leased, or operated by the Contractor and used for to deliver covered services to beneficiaries, except that on-site review is not required for public school or satellite sites.

2) The Department may allow the Contractor to begin delivering covered services to beneficiaries at a site subject to on-site review by the Department prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The earliest date the Contractor may begin delivering covered services at a site subject to on site review by the Department is the date the Contractor requested certification of the site in accordance with procedures established by the Department, the date the site was operational, or the date a required fire clearance was obtained, whichever date is latest.

3) The Department may allow the Contractor to continue delivering covered services to beneficiaries at a site subject to on-site review by the Department as part of the recertification process prior to the date of the on-site review, provided the site is operational and has all required fire clearances.

4) Nothing in this section precludes the Department from establishing procedures for issuance of separate provider identification numbers for each of the organizational provider sites operated by the Contractor to facilitate the claiming of FFP by the Contractor and the Department's tracking of that information.

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**ADDITIONAL PROVISIONS**

H. Excluded Providers

1) If the Department learns that the Contractor has a prohibited affiliation, as described in Attachment 1, Section 2, the Department:

a) Must notify the Secretary of the noncompliance.

b) May continue an existing agreement with the Contractor unless the Secretary directs otherwise.

c) May not renew or otherwise extend the duration of an existing agreement with the Contractor unless the Secretary provides to the State and to Congress a written statement describing compelling reasons that exist for renewing or extending the agreement despite the prohibited affiliations.

d) Nothing in this section must be construed to limit or otherwise affect any remedies available to the U.S. under sections 1128, 1128A or 1128B of the Act. (42 C.F.R. §438.610(d).)

I. Sanctions

The Department shall conduct oversight in accordance with Cal. Code Regs., tit. 9, §§ 1810.380(a) and impose sanctions on the Contractor for violations of the terms of this contract, and applicable federal and state law and regulations, or the state plan or approved waivers, or for other good cause in accordance with Welf. & Inst. Code § 14197.7 and guidance issued by the Department pursuant to subdivision (r) of Welf. & Inst. Code § 14197.7.

J. Notification

The Department shall notify beneficiaries of their Medi-Cal specialty mental health benefits and options available upon termination or expiration of this contract.

K. Performance Measurement

The Department shall measure the Contractor's performance based on Medi-Cal approved claims and other data submitted by the Contractor to the Department using standard measures established by the Department in consultation with stakeholders.

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**ADDITIONAL PROVISIONS**

**6.** State and Federal Law Governing this Contract

A. The Contractor/Subrecipient Designation: the Contractor is considered a contractor subject to 2 C.F.R Part 200 (45 C.F.R. Part 75).

B. The Contractor agrees to comply with all applicable federal and state law, including but not limited to the statutes and regulations incorporated by reference below in Sections D, G, and H, and applicable sections of the state plan and waiver in its provision of services as the Mental Health Plan. The Contractor agrees to comply with any changes to these statutes and regulations that may occur during the contract period and any new applicable statutes or regulations. These obligations shall apply without the need for a Contract amendment(s). To the extent there is a conflict between federal or state law or regulation and a provision in this contract, the Contractor shall comply with the federal or state law or regulation and the conflicting Contract provision shall no longer be in effect.

C. The Contractor agrees to comply with all existing policy letters issued by the Department. All policy letters issued by the Department subsequent to the effective date of this Contract shall provide clarification of the Contractor's obligations pursuant to this Contract, and may include instructions to the Contractor regarding implementation of mandated obligations pursuant to State or federal statutes or regulations, or pursuant to judicial interpretation.

D. Federal law:

1) Title 42 United States Code, to the extent that these requirements are applicable;

2) 42 C.F.R. to the extent that these requirements are applicable;

3) 42 C.F.R. Part 438, Medicaid Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHPs), except for the provisions listed in paragraph D and E, below.

4) 42 C.F.R. § 455 to the extent that these requirements are applicable;

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5) 45 C.F.R. § 92.1 et seq. to the extent these requirements are applicable;

6) Title VI of the Civil Rights Act of 1964;

7) Title IX of the Education Amendments of 1972;

8) Age Discrimination Act of 1975;

9) Rehabilitation Act of 1973;

10) Americans with Disabilities Act;

11) Section 1557 of the Patient Protection and Affordable Care Act;

12) Deficit Reduction Act of 2005;

13) Balanced Budget Act of 1997;

14) The Contractor shall comply with the provisions of the Copeland Anti-Kickback Act, which requires that all contracts and subcontracts in excess of $2000 for construction or repair awarded by the Contractor and its subcontractors shall include a provision for compliance with the Copeland Anti-Kickback Act.

15) The Contractor shall comply with the provisions of the Davis-Bacon Act, as amended, which provides that, when required by Federal Medicaid program legislation, all construction contracts awarded by the Contractor and its subcontractors of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act as supplemented by Department of Labor regulations.

16) The Contractor shall comply with the provisions of the Contract Work Hours and Safety Standards Act, as applicable, which requires that all subcontracts awarded by the Contractor in excess of $2,000 for construction and in excess of $2,500 for other subcontracts that involve the employment of mechanics or laborers shall include a provision for compliance with the Contract Work Hours and Safety Standards Act.

17) Any applicable federal and state laws that pertain to beneficiary rights.

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18) Should any part of the scope of work under this contract relate to a State program receiving Federal Financial Participation (FFP) that is no longer authorized by law (e.g., which has been vacated by a court of law, or for which CMS has withdrawn federal authority, or which is the subject of a legislative repeal), the Contractor must do no work on that part after the effective date of the loss of such program authority. DHCS must adjust payments to remove costs that are specific to any State program or activity receiving FFP that is no longer authorized by law. If the Contractor works on a State program or activity receiving FFP that is no longer authorized by law after the date the legal authority for the work ends, the Contractor will not be paid for that work. If DHCS has paid Contractor in advance to work on a no-longer-authorized State program or activity receiving FFP and under the terms of this contract the work was to be performed after the date the legal authority ended, the payment for that work should be returned to DHCS. However, if the Contractor worked on a State program or activity receiving FFP prior to the date legal authority ended for that State program or activity, and DHCS included the cost of performing that work in its payments to the Contractor, the Contractor may keep the payment for that work even if the payment was made after the date the State program or activity receiving FFP lost legal authority.

DHCS will attempt to provide Contractor with timely notice of the loss of program authority.

E. The following sections of 42 Code of Federal Regulations, part 438 are inapplicable to this Contract:

1) §438.3(b) Standard Contract Provisions – Entities eligible for comprehensive risk contracts

2) §438.3(c) Standard Contract Provisions - Payment

3) §438.3(g) Standard Contract Provisions - Provider preventable conditions

4) §438.3(o) Standard Contract Provisions - LTSS contract requirements

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5) §438.3(p) Standard Contract Provisions – Special rules for HIOs

6) §438.3(s) Standard Contract Provisions – Requirements for MCOs, PIHPs, or PAHPs that provide covered outpatient drugs

7) §438.4 Actuarial Soundness

8) §438.5 Rate Development Standards

9) §438.6 Special Contract Provisions Related to Payment

10) §438.7 Rate Certification Submission

11) §438.8 Medical Loss Ratio Standards

12) §438.9 Provisions that Apply to Non-emergency Medical Transportation

13) §438.50 State Plan Requirements

14) §438.52 Choice of MCOs, PIHPs, PAHPs, PCCMs, and PCCM entities

15) §438.56 Disenrollment: requirements and limitations

16) §438.70 Stakeholder engagement when LTSS is delivered through a managed care program

17) 438.74 State Oversight of the Minimum MLR Requirements

18) §438.104 Marketing

19) §438.106 Liability for Payment

20) §438.108 Cost Sharing

21) §438.110 Member advisory committee

22) §438.114 Emergency and Post-Stabilization

23) §438.362 Exemption from External Quality Review

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**Exhibit E**
**ADDITIONAL PROVISIONS**

24) §438.700-730 Basis for Imposition of Sanctions

25) §438.802 Basic Requirements

26) §438.810 Expenditures for Enrollment Broker Services

27) §438.816 Expenditures for the beneficiary support system for enrollees using LTSS

F. Specific provisions of 42 Code of Federal Regulations, part 438 relating to the following subjects are inapplicable to this Contract:

1) Long Terms Services and Supports

2) Managed Long Terms Services and Supports

3) Actuarially Sound Capitation Rates

4) Medical Loss Ratio

5) Religious or Moral Objections to Delivering Services

6) Family Planning Services

7) Drug Formularies and Covered Outpatient Drugs

G. Pursuant to Welf. & Inst. Code section 14704, a regulation or order concerning Medi-Cal specialty mental health services adopted by the State Department of Mental Health pursuant to Division 5 (commencing with Section 5000), as in effect preceding the effective date of this section, shall remain in effect and shall be fully enforceable, unless and until the readoption, amendment, or repeal of the regulation or order by DHCS, or until it expires by its own terms.

H. State Law:

The Contractor shall comply with all State and federal statutes and regulations, the terms of this Agreement, BHINs, and any other applicable authorities. In the event of a conflict between the terms of this Agreement and a State or federal statute or regulation, or a BHIN, the Contractor shall adhere to the applicable statute, regulation or BHIN.

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## Exhibit E
## ADDITIONAL PROVISIONS

1) Division 5, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract

2) Welf. & Inst. Code §§ 14059.5 and 14184.402

3) Welf. & Inst. Code §§ 14680-14685.1

4) Welf. & Inst. Code §§ 14700-14727

5) Chapter 7, Part 3, Division 9, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract

6) Cal. Code Regs., tit. 9, § 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services, except for those regulations that are superseded by BHINs

7) Cal. Code Regs., tit. 22, §§ 50951 and 50953

8) Cal. Code Regs., tit. 22, §§ 51014.1 and 51014.2

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**Exhibit E – Attachment 1**
**DEFINITIONS**

**1.** The following definitions and the definitions contained in Cal. Code Regs., tit. 9, sections 1810.100-1850.535 shall apply in this contract. If there is a conflict between the following definitions and the definitions in Cal. Code Regs., tit. 9, sections 1810.100-1850.535, the definitions below will apply.

A. "Advance Directives" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State), relating to the provision of the healthcare when the individual is incapacitated.

B. "Abuse" means, as the term described in, provider practices that are inconsistent with sound, fiscal, business, or medical practices, and result in an unnecessary cost to the Medi-Cal program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes beneficiary practices that result in unnecessary cost to the Medi-Cal program. (See 42 C.F.R. §§ 438.2, 455.2)

C. "Appeal" means a review by the Contractor of an adverse benefit determination.

D. "Beneficiary" means a Medi-Cal recipient who is currently receiving services from the Contractor.

E. "Contractor" means «Contractor_Name».

F. "Covered Specialty Mental Health Services" are defined in Exhibit E, Attachment 2.

G. "Department" means the California Department of Health Care Services (DHCS).

H. "Director" means the Director of DHCS.

I. "Discrimination Grievance" means a complaint concerning the unlawful discrimination on the basis of any characteristic protected under federal or state law, including sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.

J. "Emergency" means a condition or situation in which an individual has a need for immediate medical attention, or where the potential for such need

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**DEFINITIONS**

is perceived by emergency medical personnel or a public safety agency (Health & Safety Code § 1797.07).

K. "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to self or some other person. It includes an act that constitutes fraud under applicable State and Federal law. (42 C.F.R. §§ 438.2, 455.2)

L. "Grievance" means an expression of dissatisfaction about any matter other than adverse benefit determination. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the beneficiary's rights regardless of whether remedial action is requested. Grievance includes a beneficiary's right to dispute an extension of time proposed by the Contractor to make an authorization decision. (42 C.F.R. § 438.400)

M. "Habilitative services and devices" help a person keep, learn, or improve skills and functioning for daily living. (45 C.F.R. § 156.115(a)(5)(i))

N. "HHS" means the United States Department of Health and Human Service

O. "Homelessness" means The beneficiary meets the definition established in section 11434a of the federal McKinney-Vento Homeless Assistance Act.15 Specifically, this includes (A) individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1) of the Act); and (B) includes (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals; (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965)

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**DEFINITIONS**

who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

P. Indian Health Care Provider (IHCP) means a health care program operated by the IHS ("IHS facility"), an Indian Tribe, a Tribal Organization, or Urban Indian Organization (otherwise known as an I/T/U) as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. § 1603).

Q. "Involvement in child welfare" means the beneficiary has an open child welfare services case, or the beneficiary is determined by a child welfare services agency to be at imminent risk of entering foster care but able to safely remain in their home or kinship placement with the provision of services under a prevention plan, or the beneficiary is a child whose adoption or guardianship occurred through the child welfare system. A child has an open child welfare services case if: a) the child is in foster care or in out of home care, including both court-ordered and by voluntary agreement; or b) the child has a family maintenance case (pre-placement or post-reunification), including both court-ordered and by voluntary agreement. A child can have involvement in child welfare whether the child remains in the home or is placed out of the home.

R. "Juvenile justice involvement" means the beneficiary (1) has ever been detained or committed to a juvenile justice facility, or (2) is currently under supervision by the juvenile delinquency court and/or a juvenile probation agency. Beneficiaries who have ever been in custody and held involuntarily through operation of law enforcement authorities in a juvenile justice facility, including youth correctional institutions, juvenile detention facilities, juvenile justice centers, and other settings such as boot camps, ranches, and forestry/conservation camps, are included in the "juvenile justice involvement" definition. Beneficiaries on probation, who have been released home or detained/placed in foster care pending or post-adjudication, under probation or court supervision, participating in juvenile drug court or other diversion programs, and who are otherwise under supervision by the juvenile delinquency court and/or a juvenile probation agency also meet the "juvenile justice involvement" criteria.

S. "Managed Care Organization" (MCO) means an entity that has, or is seeking to qualify for, a comprehensive risk contract under 42 C.F.R. Part 438, and is: 1) a Federally qualified HMO that meets the advance

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directives requirements of Subpart I of Part 489 of 42 C.F.R.; or, 2) any public or private entity that meets the advance directive requirements and is determined by the Secretary of Health and Human Services to also meet the following conditions: i) makes the services that it provides to its Medicaid beneficiaries as accessible (in terms of timeliness, amount, duration, and scope) as those services are to other Medicaid beneficiaries within the area served by the entity, ii) meet the solvency standards of 42 C.F.R. 438.116. (42 C.F.R. § 438.2)

T. "Medically necessary" or "medical necessity" has the same meaning as set forth in Welfare and Institutions Code section 14059.5. For individuals 21 years of age or older, a service is "medically necessary" or a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain. For individuals under 21 years of age, a service is "medically necessary" or a "medical necessity" if the service meets the standards set forth in Section 1396d(r)(5) of Title 42 of the United States Code.

U. A "Network Provider" means any provider, group of providers, or entity that has a network provider agreement with a Mental Health Plan, or a subcontractor, and receives Medicaid funding directly or indirectly to order, refer or render covered services as a result of the Department's contract with a Mental Health Plan. A network provider is not a subcontractor by virtue of the network provider agreement. (42 C.F.R. § 438.2)

V. "Out-of-network provider" means a provider or group of providers that does not have a network provider agreement with a Mental Health Plan, or with a subcontractor. (A provider may be "out of network" for one Mental Health Plan, but in the network of another Mental Health Plan.)

W. "Out-of-plan provider" has the same meaning as out-of-network provider.

X. "Overpayment" means any payment made to a network provider by a Mental Health Plan to which the network provider is not entitled under Title XIX of the Act or any payment to a Mental Health Plan by a State to which the Mental Health Plan is not entitled to under Title XIX of the Act. (42 C.F.R. § 438.2)

Y. "Provider" means a person or entity who is licensed, certified, or otherwise recognized or authorized under state law governing the healing arts to provide specialty mental health services and who meets the standards for

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participation in the Medi-Cal program as described in California Code of Regulations, title 9, Division 1, Chapters 10 or 11 and in Division 3, Subdivision 1 of Title 22, beginning with Section 50000. Provider includes but is not limited to licensed mental health professionals, clinics, hospital outpatient departments, certified day treatment facilities, certified residential treatment facilities, skilled nursing facilities, psychiatric health facilities, general acute care hospitals, and acute psychiatric hospitals. The MHP is a provider when direct services are provided to beneficiaries by employees of the Mental Health Plan.

Z. "Physician Incentive Plans" mean any compensation arrangement to pay a physician or physician group that may directly or indirectly have the effect of reducing or limiting the services provided to any plan enrollee.

AA. "PIHP" means Prepaid Inpatient Health Plan. . A Prepaid Inpatient Health Plan is an entity that:

1) Provides medical services to beneficiaries under contract with the Department of Health Care Services, and on the basis of prepaid capitation payments, or other payment arrangement that does not use state plan rates;

2) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its beneficiaries; and

3) Does not have a comprehensive risk contract. (42 C.F.R. § 438.2)

BB. "Rehabilitation" means a recovery or resiliency focused service activity which addresses a mental health need. This service activity provides assistance in restoring, improving, and/or preserving a beneficiary's functional, social, communication, or daily living skills to enhance self-sufficiency or self-regulation in multiple life domains relevant to the developmental age and needs of the beneficiary. Rehabilitation also includes support resources, and/or medication education. Rehabilitation may be provided to a beneficiary or a group of beneficiaries. (California's Medicaid State Plan, State Plan Amendment 10-016, Attachment 3.1-A, Supplement 3, p. 2a.)

CC. "Satellite site" means a site owned, leased or operated by an organizational provider at which specialty mental health services are delivered to beneficiaries fewer than 20 hours per week, or, if located at a

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multiagency site at which specialty mental health services are delivered by no more than two employees or contractors of the provider.

DD. “Specialist” means a psychiatrist who has a license as a physician and surgeon in this state and shows evidence of having completed the required course of graduate psychiatric education as specified by the American Board of Psychiatry and Neurology in a program of training accredited by the Accreditation Council for Graduate Medical Education, the American Medical Association, or the American Osteopathic Association. (Cal. Code Regs., tit. 9 § 623.)

EE. "Subcontract" means an agreement entered into by the Contractor with any of the following:

1) Any other organization or person who agrees to perform any administrative function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the Department under the terms of this contract.

2) “Subcontractor” means an individual or entity that has a contract with an MCO, PIHP, PAHP, or PCCM entity that relates directly or indirectly to the performance of the MCO's, PIHP's, PAHP's, or PCCM entity's obligations under its contract with the State. A network provider is not a subcontractor by virtue of the network provider agreement with the MCO, PIHP, or PAHP. Notwithstanding the foregoing, for purposes of Exhibit D(F) the term “subcontractor” shall include network providers.

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**Exhibit E – Attachment 2**
**SERVICE DEFINITIONS**

1. The Contractor shall provide, or arrange and pay for, the following covered specialty mental health services to beneficiaries of Yolo County. Services shall be provided as medically necessary and approved and authorized according to State of California requirements. Services include:

   A. Mental Health Services Individual or group therapies and interventions are designed to provide a reduction of mental disability and restoration, improvement or maintenance of functioning consistent with the goals of learning, development, independent living, and enhanced self-sufficiency. These services are separate from those provided as components of adult residential services, crisis intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service activities may include, but are not limited to:

      1) Assessment - A service activity designed to evaluate the current status of mental, emotional, or behavioral health.

      2) Therapy - A service activity that is a therapeutic intervention that focuses primarily on symptom reduction as a means to reduce functional impairments. Therapy may be delivered to an individual or group and may include family therapy at which the client is present.

      3) Rehabilitation - A service activity that includes, but is not limited to, assistance, improving, maintaining or restoring functional skills, daily living skills, social and leisure skills, grooming and personal hygiene skills; obtaining support resources; and/or obtaining medication education.

      4) Collateral - A service activity involving a significant support person in the beneficiary's life for the purpose of addressing the mental health needs of the beneficiary. Collateral may include, but is not limited to, consultation and training of the significant support person(s) to assist in better utilization of mental health services by the client, consultation and training of the significant support person(s) to assist in better understanding of mental illness, and family counseling with the significant support person(s). The client may or may not be present for this service activity.

   B. Medication Support Services include prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals that are necessary to alleviate the symptoms of mental illness. Service

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**SERVICE DEFINITIONS**

activities may include but are not limited to: evaluation of the need for medication; evaluation of clinical effectiveness and side effects; obtaining informed consent; instruction in the use, risks and benefits of, and alternatives for, medication; collateral and plan development related to the delivery of service and/or assessment for the client; prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals; and medication education.

C. Day Treatment Intensive are a structured, multi-disciplinary program of therapy that may be used as an alternative to hospitalization, or to avoid placement in a more restrictive setting, or to maintain the client in a community setting and which provides services to a distinct group of beneficiaries who receive services for a minimum of three hours per day (half-day) or more than four hours per day (full-day). Service activities may include, but are not limited to, assessment, plan development, therapy, rehabilitation and collateral. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.

D. Day Rehabilitation services are a structured program of rehabilitation and therapy with services to improve, maintain or restore personal independence and functioning, consistent with requirements for learning and development and which provides services to a distinct group of beneficiaries who receive services for a minimum of three hours per day (half-day) or more than four hours per day (full-day). Service activities may include, but are not limited to assessment, plan development, therapy, rehabilitation and collateral. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.

E. Crisis Intervention services last less than 24 hours and are for, or on behalf of, a beneficiary for a condition that requires more timely response than a regularly scheduled visit. Service activities include, but are not limited to, assessment, collateral and therapy. Crisis Intervention services may either be face-to-face or by telephone with the beneficiary or the beneficiary's significant support person and may be provided anywhere in the community.

F. Crisis Stabilization services last less than 24 hours and are for, or on behalf of, a beneficiary for a condition that requires a more timely response than a regularly scheduled visit. Service activities include but

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are not limited to one or more of the following: assessment, collateral, and therapy. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.

G. Adult Residential Treatment Services are rehabilitative services provided in a non-institutional, residential setting for beneficiaries who would be at risk of hospitalization or other institutional placement if they were not receiving residential treatment services. The services include a wide range of activities and services that support beneficiaries in their effort to restore, maintain, and apply interpersonal and independent living skills and to access community support systems. Service activities may include assessment, plan development, therapy, rehabilitation, and collateral. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.

H. Crisis Residential services provide an alternative to acute psychiatric hospital services for beneficiaries who otherwise would require hospitalization. The CRS programs for adults provide normalized living environments, integrated into residential communities. The services follow a social rehabilitation model that integrates aspects of emergency psychiatric care, psychosocial rehabilitation, milieu therapy, case management and practical social work.

I. Psychiatric Health Facility Services—A Psychiatric Health Facility is a facility licensed under the provisions beginning with Section 77001 of Chapter 9, Division 5, Title 22 of the California Code of Regulations. "Psychiatric Health Facility Services" are therapeutic and/or rehabilitative services provided in a psychiatric health facility on an inpatient basis to beneficiaries who need acute care, which meets the criteria of Section 1820.205 of Chapter 11, Division 1, Title 9 of the California Code of Regulations, and whose physical health needs can be met in an affiliated general acute care hospital or in outpatient settings. These services are separate from those categorized as "Psychiatric Inpatient Hospital".

J. Intensive Care Coordination (ICC) is a targeted case management service that facilitates assessment of, care planning for and coordination of services to beneficiaries under age 21 who are eligible for the full scope of Medi-Cal services and who meet medical criteria to access SMHS. ICC service components include: assessing; service planning and implementation; monitoring and adapting; and transition. ICC services are provided through the principles of the Integrated Core Practice Model

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(ICPM), including the establishment of the Child and Family Team (CFT) to ensure facilitation of a collaborative relationship among a child, their family and involved child-serving systems. The CFT is comprised of – as appropriate, both formal supports, such as the care coordinator, providers, case managers from child-serving agencies, and natural supports, such as family members, neighbors, friends, and clergy and all ancillary individuals who work together to develop and implement the client plan and are responsible for supporting the child and family in attaining their goals. ICC also provides an ICC coordinator who:

1) Ensures that medically necessary services are accessed, coordinated and delivered in a strength-based, individualized, family/child driven and culturally and linguistically competent manner and that services and supports are guided by the needs of the child;

2) Facilitates a collaborative relationship among the child, their family and systems involved in providing services to the child;

3) Supports the parent/caregiver in meeting their child's needs;

4) Helps establish the CFT and provides ongoing support; and

5) Organizes and matches care across providers and child serving systems to allow the child to be served in their community.

K. Intensive Home Based Services (IHBS) are individualized, strength-based interventions designed to ameliorate mental health conditions that interfere with a child's functioning and are aimed at helping the child build skills necessary for successful functioning in the home and community and improving the child's family's ability to help the child successfully function in the home and community. IHBS services are provided in accordance with the Integrated Core Practice Model (ICPM) by the Child and Family Team (CFT) in coordination with the family's overall service plan which may include IHBS. Service activities may include, but are not limited to assessment, treatment plan, therapy, rehabilitation and collateral. IHBS is provided to beneficiaries under 21 who are eligible for the full scope of Medi-Cal services and who meet the access criteria for SMHS.

L. Therapeutic Behavioral Services (TBS) are intensive, individualized, short-term outpatient treatment interventions for beneficiaries up to age 21.

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Individuals receiving these services have serious emotional disturbances (SED), are experiencing a stressful transition or life crisis and need additional short-term, specific support services.

M. Therapeutic Foster Care (TFC) Services model allows for the provision of short-term, intensive, highly coordinated, trauma informed and individualized specialty mental health services activities (plan development, rehabilitation and collateral) to children up to age 21 who have complex emotional and behavioral needs and who are placed with trained, intensely supervised and supported TFC parents. The TFC parent serves as a key participant in the therapeutic treatment process of the child. The TFC parent will provide trauma informed interventions that are medically necessary for the child. TFC is intended for children ~~youth~~ who require intensive and frequent mental health support in a family environment. The TFC service model allows for the provision of certain specialty mental health services activities (plan development, rehabilitation and collateral) available under the EPSDT benefit as a home-based alternative to high level care in institutional settings such as group homes and an alternative to Short Term Residential Therapeutic Programs (STRTPs).

N. Psychiatric Inpatient Hospital Services include both acute psychiatric inpatient hospital services and administrative day services. Acute psychiatric inpatient hospital services are provided to beneficiaries for whom the level of care provided in a hospital is medically necessary to diagnose or treat a covered mental illness. Administrative day services are inpatient hospital services provided to beneficiaries who were admitted to the hospital for an acute psychiatric inpatient hospital service and the beneficiary's stay at the hospital must be continued beyond the beneficiary's need for acute psychiatric inpatient hospital services due to lack of residential placement options at non-acute residential treatment facilities that meet the needs of the beneficiary.

Psychiatric inpatient hospital services are provided by SD/MC hospitals and FFS/MC hospitals. MHPs claim reimbursement for the cost of psychiatric inpatient hospital services provided by SD/MC hospitals through the SD/MC claiming system. FFS/MC hospitals claim reimbursement for the cost of psychiatric inpatient hospital services through the Fiscal Intermediary. MHPs are responsible for authorization of psychiatric inpatient hospital services reimbursed through either billing system. For SD/MC hospitals, the daily rate includes the cost of any needed professional services. The FFS/MC hospital daily rate does not

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include professional services, which are billed separately from the FFS/MC inpatient hospital services via the SD/MC claiming system.

O. Targeted case management is a service that assists a beneficiary in accessing needed medical, educational, social, prevocational, vocational, rehabilitative, or other community services. The service activities may include, but are not limited to, communication, coordination and referral; monitoring service delivery to ensure beneficiary access to services and the service delivery system; monitoring of the beneficiary's progress, placement services, and plan development. TCM services may be face-to-face or by telephone with the client or significant support persons and may be provided anywhere in the community. Additionally, services may be provided by any person determined by the MHP to be qualified to provide the service, consistent with the scope of practice and state law.

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**Exhibit F**
Privacy and Security Provisions

1. This Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act and its implementing privacy and security regulations at 45 Code of Federal Regulations, Parts 160 and 164 (collectively "HIPAA") only to the extent that Contractor performs functions or activities on behalf of the Department pursuant to this Agreement that are described in the definition of "business associate", including, but not limited to, utilization review, quality assurance, or benefit management.

2. The term "Agreement" as used in this document refers to and includes both this Privacy and Security Provisions and the contract to which this Privacy and Security Provisions is attached as an exhibit.

3. For purposes of this Agreement, the term "Business Associate" shall have the same meaning as set forth in 45 CFR section 160.103.

4. The Department of Health Care Services (DHCS) intends that Contractor may create, receive, maintain, transmit or aggregate certain information pursuant to the terms of this Agreement, some of which information may constitute Protected Health Information (PHI) and/or confidential information protected by Federal and/or state laws.

   **4.1** As used in this Agreement and unless otherwise stated, the term "PHI" refers to and includes both "PHI" as defined at 45 CFR section 160.103 and Personal Information (PI) as defined in the Information Practices Act at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic. The term PHI, as used in this exhibit, shall mean PHI accessed by Contractor in a database maintained by DHCS, received by Contractor from the Department, or acquired, or created by Contractor in connection with performing the functions, activities, and services on behalf of DHCS as specified in this Agreement.

   **4.2** As used in this Agreement, the term "confidential information" refers to information not otherwise defined as PHI in Section 4.1 of this Agreement, but to which state and/or federal privacy and/or security protections apply.

5. Contractor, on DHCS's behalf, provides services or arranges, performs or assists in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI (collectively, "use or disclose PHI") in order to fulfill Contractor's obligations under this Agreement. DHCS and Contractor are each a party to this Agreement and are referred to, collectively, as the "parties."

6. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in HIPAA. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

7. **Permitted Uses and Disclosures of PHI by Contractor**. Except as otherwise indicated in this Agreement, Contractor may use or disclose PHI, inclusive of de-identified data derived from such PHI, only to perform functions, activities or services specified in this Agreement on behalf of DHCS, provided that such use or disclosure would not violate HIPAA or other applicable laws if done by DHCS.

   **7.1 Specific Use and Disclosure Provisions**. Except as otherwise indicated in this Agreement, Contractor may use and disclose PHI if necessary for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor. Contractor may disclose PHI for this purpose if the disclosure is required by law, or if the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware that the confidentiality of the information has been breached.

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**Exhibit F**
Privacy and Security Provisions

**8. Compliance with Other Applicable Law**

**8.1** To the extent that other state and/or federal laws provide additional, stricter and/or more protective (collectively, more protective) privacy and/or security protections to PHI or other confidential information covered under this Agreement beyond those provided through HIPAA, Contractor agrees:

**8.1.1** To comply with the more protective of the privacy and security standards set forth in applicable state or federal laws to the extent such standards provide a greater degree of protection and security than HIPAA or are otherwise more favorable to the individuals whose information is concerned; and

**8.1.2** To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate, pursuant to Section 17 of this Agreement.

**8.2** Examples of laws that provide additional and/or stricter privacy protections to certain types of PHI and/or confidential information, as defined in Section 4. of this Agreement, include, but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and Institutions Code section 5328, and California Health and Safety Code section 11845.5.

**8.3** If Contractor is a Qualified Service Organization (QSO) as defined in 42 CFR section 2.11, Contractor agrees to be bound by and comply with subdivisions (2)(i) and (2)(ii) under the definition of QSO in 42 CFR section 2.11.

**9. Additional Responsibilities of Contractor**

**9.1 Nondisclosure**. Contractor shall not use or disclose PHI or other confidential information other than as permitted or required by this Agreement or as required by law.

**9.2 Safeguards and Security**.

**9.2.1** Contractor shall use safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and other confidential data and comply, where applicable, with subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the information other than as provided for by this Agreement. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels.

**9.2.2** Contractor shall, at a minimum, utilize a National Institute of Standards and Technology Special Publication (NIST SP) 800-53 compliant security framework when selecting and implementing its security controls and shall maintain continuous compliance with NIST SP 800-53 as it may be updated from time to time. The current version of NIST SP 800-53, Revision 5, is available online at https://csrc.nist.gov/publications/detail/sp/800-53/rev-5/final; updates will be available online at https://csrc.nist.gov/publications/sp800.

**9.2.3** Contractor shall employ FIPS 140-2 validated encryption of PHI at rest and in motion unless Contractor determines it is not reasonable and appropriate to do so based upon a risk assessment, and equivalent alternative measures are in place and documented as such. FIPS 140-2 validation can be determined online at https://csrc.nist.gov/projects/cryptographic-module-validation-program/validated-modules/search, with information about the Cryptographic Module Validation Program under FIPS 140-2 available online at https://csrc.nist.gov/Projects/cryptographic-module-validation-program/fips-140-2. In addition, Contractor shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.

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**Exhibit F**
Privacy and Security Provisions

**9.2.4** Contractor shall apply security patches and upgrades, and keep virus software up-to-date, on all systems on which PHI and other confidential information may be used.

**9.2.5** Contractor shall ensure that all members of its workforce with access to PHI and/or other confidential information sign a confidentiality statement prior to access to such data. The statement must be renewed annually.

**9.2.6** Contractor shall identify the security official who is responsible for the development and implementation of the policies and procedures required by 45 CFR Part 164, Subpart C.

**9.3 Contractor's Agent.** Contractor shall ensure that any agents, subcontractors, subawardees, vendors or others (collectively, "agents") that use or disclose PHI and/or confidential information on behalf of Contractor agree to the same restrictions and conditions that apply to Contractor with respect to such PHI and/or confidential information.

**10. Mitigation of Harmful Effects**. Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI and other confidential information in violation of the requirements of this Agreement.

**11. Access to PHI.** Contractor shall make PHI available in accordance with 45 CFR section 164.524.

**12. Amendment of PHI.** Contractor shall make PHI available for amendment and incorporate any amendments to protected health information in accordance with 45 CFR section 164.526.

**13. Accounting for Disclosures.** Contractor shall make available the information required to provide an accounting of disclosures in accordance with 45 CFR section 164.528.

**14. Compliance with DHCS Obligations.** To the extent Contractor is to carry out an obligation of DHCS under 45 CFR Part 164, Subpart E, comply with the requirements of the subpart that apply to DHCS in the performance of such obligation.

**15. Access to Practices, Books and Records.** Contractor shall make its internal practices, books, and records relating to the use and disclosure of PHI on behalf of DHCS available to DHCS upon reasonable request, and to the federal Secretary of Health and Human Services for purposes of determining DHCS' compliance with 45 CFR Part 164, Subpart E.

**16. Return or Destroy PHI on Termination; Survival.** At termination of this Agreement and any successor agreements, if feasible, Contractor shall return or destroy all PHI and other confidential information received from, or created or received by Contractor on behalf of, DHCS that Contractor still maintains in any form and retain no copies of such information. If return or destruction is not feasible, Contractor shall notify DHCS of the conditions that make the return or destruction infeasible, and DHCS and Contractor shall determine the terms and conditions under which Contractor may retain the PHI. If such return or destruction is not feasible, Contractor shall extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

**17. Breaches and Security Incidents.** Contractor shall implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and take the following steps:

**17.1 Notice to DHCS.**

**17.1.1** Contractor shall notify DHCS **within 24 hours by email** (or by telephone if Contractor is unable to email DHCS) of the discovery of:

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**Exhibit F**
Privacy and Security Provisions

**17.1.1.1** Unsecured PHI if the PHI is reasonably believed to have been accessed or acquired by an unauthorized person;

**17.1.1.2** Any suspected security incident which risks unauthorized access to PHI and/or other confidential information;

**17.1.1.3** Any intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement; or

**17.1.1.4** Potential loss of confidential data affecting this Agreement.

**17.1.2** Notice shall be provided to the DHCS Program Contract Manager (as applicable), the DHCS Privacy Office, and the DHCS Information Security Office (collectively, "DHCS Contacts") using the DHCS Contact Information at Section 17.6. below.

Notice shall be made using the current DHCS "Privacy Incident Reporting Form" ("PIR Form"; the initial notice of a security incident or breach that is submitted is referred to as an "Initial PIR Form") and shall include all information known at the time the incident is reported. The form is available online at https://www.dhcs.ca.gov/formsandpubs/laws/priv/Documents/Privacy-Incident-Report-PIR.pdf .

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI, Contractor shall take:

**17.1.2.1** Prompt action to mitigate any risks or damages involved with the security incident or breach; and

**17.1.2.2** Any action pertaining to such unauthorized disclosure required by applicable Federal and State law.

**17.2 Investigation.** Contractor shall immediately investigate such security incident or confidential breach.

**17.3 Complete Report**. To provide a complete report of the investigation to the DHCS contacts within ten (10) working days of the discovery of the security incident or breach. This "Final PIR" must include any applicable additional information not included in the Initial Form. The Final PIR Form shall include an assessment of all known factors relevant to a determination of whether a breach occurred under HIPAA and other applicable federal and state laws. The report shall also include a full, detailed corrective action plan, including its implementation date and information on mitigation measures taken to halt and/or contain the improper use or disclosure. If DHCS requests information in addition to that requested through the PIR form, Contractor shall make reasonable efforts to provide DHCS with such information. A "Supplemental PIR" may be used to submit revised or additional information after the Final PIR is submitted. DHCS will review and approve or disapprove Contractor's determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and Contractor's corrective action plan.

**17.3.1** If Contractor does not complete a Final PIR within the ten (10) working day timeframe, Contractor shall request approval from DHCS within the ten (10) working day timeframe of a new submission timeframe for the Final PIR.

**17.4 Notification of Individuals**. If the cause of a breach is attributable to Contractor or its agents, Contractor shall notify individuals accordingly and shall pay all costs of such notifications, as well as all costs associated with the breach. The notifications shall comply with applicable federal and state law. DHCS shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.

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**Exhibit F**
Privacy and Security Provisions

**17.5 Responsibility for Reporting of Breaches to Entities Other than DHCS.** If the cause of a breach of PHI is attributable to Contractor or its subcontractors, Contractor is responsible for all required reporting of the breach as required by applicable federal and state law.

**17.6 DHCS Contact Information**. To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated here. DHCS reserves the right to make changes to the contact information below by giving written notice to Contractor. These changes shall not require an amendment to this Agreement.

| **DHCS Program Contract Manager** | **DHCS Privacy Office** | **DHCS Information Security Office** |
|---|---|---|
| See the Scope of Work exhibit for Program Contract Manager information. | Privacy Office<br>c/o: Office of HIPAA Compliance<br>Department of Health Care Services<br>P.O. Box 997413, MS 4722<br>Sacramento, CA 95899-7413<br><br>Email: incidents@dhcs.ca.gov<br><br>Telephone: (916) 445-4646 | Information Security Office<br>DHCS Information Security Office<br>P.O. Box 997413, MS 6400<br>Sacramento, CA 95899-7413<br><br>Email: incidents@dhcs.ca.gov |

**18. Responsibility of DHCS.** DHCS agrees to not request the Contractor to use or disclose PHI in any manner that would not be permissible under HIPAA and/or other applicable federal and/or state law.

**19. Audits, Inspection and Enforcement**

**19.1** From time to time, DHCS may inspect the facilities, systems, books and records of Contractor to monitor compliance with this Agreement. Contractor shall promptly remedy any violation of this Agreement and shall certify the same to the DHCS Privacy Officer in writing. Whether or how DHCS exercises this provision shall not in any respect relieve Contractor of its responsibility to comply with this Agreement.

**19.2** If Contractor is the subject of an audit, compliance review, investigation or any proceeding that is related to the performance of its obligations pursuant to this Agreement, or is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, Contractor shall promptly notify DHCS unless it is legally prohibited from doing so.

**20. Termination**

**20.1 Termination for Cause**. Upon DHCS' knowledge of a violation of this Agreement by Contractor, DHCS may in its discretion:

**20.1.1** Provide an opportunity for Contractor to cure the violation and terminate this Agreement if Contractor does not do so within the time specified by DHCS; or

**20.1.2** Terminate this Agreement if Contractor has violated a material term of this Agreement.

**20.2 Judicial or Administrative Proceedings.** DHCS may terminate this Agreement if Contractor is found to have violated HIPAA, or stipulates or consents to any such conclusion, in any judicial or administrative proceeding.

**21. Miscellaneous Provisions**

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**Exhibit F**
Privacy and Security Provisions

**21.1 Disclaimer**. DHCS makes no warranty or representation that compliance by Contractor with this Agreement will satisfy Contractor's business needs or compliance obligations. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of PHI and other confidential information.

**21.2. Amendment**.

**21.2.1** Any provision of this Agreement which is in conflict with current or future applicable Federal or State laws is hereby amended to conform to the provisions of those laws. Such amendment of this Agreement shall be effective on the effective date of the laws necessitating it, and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

**21.2.2** Failure by Contractor to take necessary actions required by amendments to this Agreement under Section 21.2.1 shall constitute a material violation of this Agreement.

**21.3 Assistance in Litigation or Administrative Proceedings**. Contractor shall make itself and its employees and agents available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers and/or employees based upon claimed violation of HIPAA, which involve inactions or actions by the Contractor.

**21.4 No Third-Party Beneficiaries**. Nothing in this Agreement is intended to or shall confer, upon any third person any rights or remedies whatsoever.

**21.5 Interpretation**. The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and other applicable laws.

**21.6 No Waiver of Obligations**. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

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# Contractor Certification Clauses

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

| Contractor/Bidder Firm Name (Printed) | Federal ID Number |
|---|---|
| County of Yolo | 94-6000548 |

By (Authorized Signature)

DocuSigned by:
Nolan Sullivan
D196B33D5DAB46E...

Printed Name and Title of Person Signing

Nolan Sullivan Director

| Date Executed | Executed in the County of |
|---|---|
| November 4, 2022 | Yolo |

**CONTRACTOR CERTIFICATION CLAUSES**

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

1) the dangers of drug abuse in the workplace;

2) the person's or organization's policy of maintaining a drug-free workplace;

3) any available counseling, rehabilitation and employee assistance programs; and,

4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

1) receive a copy of the company's drug-free workplace policy statement; and,

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2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES $50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably

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required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of $100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of $100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

## DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and

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Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

STATE OF CALIFORNIA
# AGREEMENT SUMMARY
STD 215 (Rev. 04/2020)

| AGREEMENT NUMBER | AMENDMENT NUMBER |
|---|---|
| 21-10127 | |

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

| 1. CONTRACTOR'S NAME | | 2. FEDERAL I.D. NUMBER |
|---|---|---|
| County of Yolo | | 94-6000548 |
| 3. AGENCY TRANSMITTING AGREEMENT | 4. DIVISION, BUREAU, OR OTHER UNIT | 5. AGENCY BILLING CODE |
| Department of Health Care Services | Community Services Division | 085110 |
| 6a. CONTRACT ANALYST NAME | 6b. EMAIL | 6c. PHONE NUMBER |
| Raymond Ng | raymond.ng@dhcs.ca.gov | (916) 552-8006 |

7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?

☐ No ☑ Yes *(If Yes, enter prior Contractor Name and Agreement Number)*

| PRIOR CONTRACTOR NAME | PRIOR AGREEMENT NUMBER |
|---|---|
| County of Yolo | 18-95289 A01 |

8. BRIEF DESCRIPTION OF SERVICES

Contractor shall provide Behavioral Health Services and shall administer the Mental Health Services Act, Lanterman-Petris-Short (LPS) Act, Projects for Assistance in Transition from Homelessness (PATH), Community Mental Health Services Block Grant (MHBG), Substance Abuse Treatment and Prevention Block Grant (SABG), and Crisis Counseling Assistance and Training Program (CCP) programs and oversees county provision of community mental health services pursuant to the Bronzan-McCorquodale Act according to the attached agreement.

9. AGREEMENT OUTLINE *(Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)*

Services provided through Welfare & Institutions, Division 9 Public Social Services, Part 3, Aid and Medical Assistance Chapter 8.9. Transition of Community-Based Mental Health [14700-14726].

DHCS shall monitor this Agreement to ensure compliance with applicable federal and State law and applicable regulations. (Gov. Code, §§ 11180-11182; Welf. & Inst. Code, §§ 5614, 5717; subd. (b), 5651, subd. (b)(10) & 14124.2, subd. (a).)

10. PAYMENT TERMS *(More than one may apply)*

☐ Monthly Flat Rate ☐ Quarterly ☐ One-Time Payment ☐ Progress Payment
☐ Itemized Invoice ☐ Withhold _____ % ☐ Advanced Payment Not To Exceed
☐ Reimbursement / Revenue _____ or _____ %
☐ Other *(Explain)*

11. PROJECTED EXPENDITURES

| FUND TITLE | ITEM | FISCAL YEAR | CHAPTER | STATUTE | PROJECTED EXPENDITURES |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| OBJECT CODE | AGREEMENT TOTAL | |
|---|---|---|
| *OPTIONAL USE* | AMOUNT ENCUMBERED BY THIS DOCUMENT | $0.00 |
| | PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT | $0.00 |
| *I certify upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.* | TOTAL AMOUNT ENCUMBERED TO DATE | $0.00 |

| ACCOUNTING OFFICER'S SIGNATURE | ACCOUNTING OFFICER'S NAME *(Print or Type)* | DATE SIGNED |
|---|---|---|
| DocuSigned by: Darrell Fuller D43CGE243852483... | Darrell Fuller | October 6, 2021 |

SCO ID: 4260-2110127

STATE OF CALIFORNIA
**AGREEMENT SUMMARY**
STD 215 (Rev. 04/2020)

| AGREEMENT NUMBER | AMENDMENT NUMBER |
|---|---|
| 21-10127 | |

12. AGREEMENT

| AGREEMENT | TERM FROM | TERM THROUGH | TOTAL COST OF THIS TRANSACTION | BID, SOLE SOURCE, EXEMPT |
|---|---|---|---|---|
| Original | 07/01/2021 | 06/30/2024 | $0.00 | Exempt. See item 13 |
| Amendment 1 | | | | |
| | | **TOTAL** | $0.00 | |

13. BIDDING METHOD USED
- ☐ Request for Proposal (RFP) *(Attach justification if secondary method is used)*
- ☐ Use of Master Service Agreement
- ☐ Invitation for Bid (IFB)
- ☑ Exempt from Bidding *(Give authority for exempt status)*
- ☐ Sole Source Contract *(Attach STD. 821)*
- ☑ Other *(Explain)* SCM 5.80B.2.b-Subvention/local asst/direct services & W&I Code §14703

*Note: Proof of advertisement in the State Contracts Register or an approved form STD. 821, Contract Advertising Exemption Request, must be attached*

14. SUMMARY OF BIDS *(List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank)*
N/A - Exempt from bidding. See Item 13.

15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, EXPLAIN REASON(S) *(If an amendment, sole source, or exempt, leave blank)*
N/A - Exempt from bidding. See Item 13.

16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?
See Exhibit A, Scope of Work for payment information. Rates were dictated by federal agency.

17a. JUSTIFICATION FOR CONTRACTING OUT *(Check one)*
- ☐ Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.
- ☐ Contracting out is justified based on Government Code 19130(b). When this box is checked, a completed JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60 must be attached to this document.
- ☑ Not Applicable (Interagency / Public Works / Other Exempt )

17b. EMPLOYEE BARGAINING UNIT NOTIFICATION
- ☑ *By checking this box, I hereby certify compliance with Government Code section 19132(b)(1).*

| AUTHORIZED SIGNATURE | SIGNER'S NAME *(Print or Type)* | DATE SIGNED |
|---|---|---|
| DocuSigned by: Maksim Lyulkin FEA9395B4B5D4D2... | Maksim Lyulkin | October 6, 2021 |

18. FOR AGREEMENTS IN EXCESS OF $5,000: Has the letting of the agreement been reported to the Department of Fair Employment and Housing? ☐ No ☑ Yes ☐ N/A

19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10? ☐ No ☑ Yes ☐ N/A

20. FOR CONSULTING AGREEMENTS: Did you review any contractor evaluations on file with the DGS Legal Office? ☐ None on file ☐ No ☐ Yes ☑ N/A

21. IS A SIGNED COPY OF THE FOLLOWING ON FILE AT YOUR AGENCY FOR THIS CONTRACTOR?
- A. Contractor Certification Clauses: ☐ No ☑ Yes ☐ N/A
- B. STD 204 Vendor Data Record: ☐ No ☐ Yes ☑ N/A

22. REQUIRED RESOLUTIONS ARE ATTACHED ☐ No ☑ Yes ☐ N/A

23. IS THIS A SMALL BUSINESS AND/OR A DISABLED VETERAN BUSINESS CERTIFIED BY DGS?
☑ No ☐ Yes
SB/DVBE Certification Number:

24. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? (If an amendment, explain changes if any) ☑ No *(Explain below)* ☐ Yes ____ % of Agreement
N/A - DVBE does not apply due to PCC Exemption.

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN THREE YEARS? ☑ No ☐ Yes *(If Yes, provide justification below)*

*I certify that all copies of the referenced Agreement will conform to the original agreement sent to the Department of General Services.*

| SIGNATURE | NAME/TITLE *(Print or Type)* | DATE SIGNED |
|---|---|---|
| DocuSigned by: Raymond Ng B0A171D7FA02484... | Raymond Ng SSA | October 6, 2021 |

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DocuSign Envelope ID: 87BA507D-FEA5-4C9D-87BC-DC99EEB269CB

SCO ID: 4260-2110127

STATE OF CALIFORNIA
**AGREEMENT SUMMARY**
STD 215 (Rev. 04/2020)

| AGREEMENT NUMBER | AMENDMENT NUMBER |
|---|---|
| 21-10127 | |

## JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60

In the space provided below, the undersigned authorized state representative documents, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions set forth in Government Code section 19130(b). Please specify the applicable subsection. Attach extra pages if necessary.

N/A per Budget Act – Statutes of 2020, Chapter 6, Item 4260-116-0890:
2. Contracts entered into or amended for federal grants included in this item, to address the opioid epidemic through prevention, treatment, or recovery services, are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and from the re- view or approval of any division of the Department of General Services.

*The undersigned represents that, based upon his or her personal knowledge, information or belief the above justification correctly reflects the reasons why the contract satisfies Government Code section 19130(b).*

| SIGNATURE | NAME/TITLE *(Print or Type)* | DATE SIGNED | |
|---|---|---|---|
| PHONE NUMBER | STREET ADDRESS | | |
| EMAIL | CITY | STATE | ZIP |

DocuSign

## Certificate Of Completion

Envelope Id: 384500D1E1854A3B8065FDEA9F8998E4
Subject: Please DocuSign: 21-10127 Internal signatures - Yolo.pdf
Source Envelope:
Document Pages: 5
Certificate Pages: 5
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Signatures: 4
Initials: 0

Status: Completed

Envelope Originator:
Raymond Ng
1501 Capitol Ave
Sacramento, CA 95814-5005
Raymond.Ng@dhcs.ca.gov
IP Address: 158.96.4.13

## Record Tracking

Status: Original
10/5/2021 3:41:15 PM
Security Appliance Status: Connected
Storage Appliance Status: Connected

Holder: Raymond Ng
Raymond.Ng@dhcs.ca.gov
Pool: FedRamp
Pool: Department of Health Care Services (CA DHCS)

Location: DocuSign

Location: DocuSign

| Signer Events | Signature | Timestamp |
|---|---|---|
| Darrell Fuller<br>Darrell.Fuller@dhcs.ca.gov<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Darrell Fuller<br>D43CEE243852483...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 158.96.4.13 | Sent: 10/5/2021 3:44:29 PM<br>Viewed: 10/6/2021 7:54:41 AM<br>Signed: 10/6/2021 7:54:49 AM |
| **Electronic Record and Signature Disclosure:**<br>Accepted: 10/6/2021 7:54:41 AM<br>ID: efbf643d-b42e-4421-922d-009ec31ff64b | | |
| Maksim Lyulkin<br>Maksim.Lyulkin@dhcs.ca.gov<br>Chief, Contract Unit B<br>Department of Health Care Services (CA DHCS)<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Maksim Lyulkin<br>EFA9395B4B5D4D2...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 158.96.4.13 | Sent: 10/6/2021 7:54:51 AM<br>Viewed: 10/6/2021 9:21:19 AM<br>Signed: 10/6/2021 9:21:24 AM |
| **Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | | |
| Raymond Ng<br>raymond.ng@dhcs.ca.gov<br>SSA<br>Department of Health Care Services (CA DHCS)<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Raymond Ng<br>B0A171D7FA02484...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 158.96.4.13 | Sent: 10/6/2021 9:21:26 AM<br>Viewed: 10/6/2021 9:29:19 AM<br>Signed: 10/6/2021 9:29:30 AM |
| **Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | | |
| Marlies Perez<br>marlies.perez@dhcs.ca.gov<br>Division Chief<br>Department of Health Care Services<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Marlies Perez<br>C595D8936F1F429...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 158.96.4.13 | Sent: 10/6/2021 9:29:34 AM<br>Viewed: 10/6/2021 9:30:17 AM<br>Signed: 10/6/2021 9:30:28 AM |
| **Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | | |

| In Person Signer Events | Signature | Timestamp |
|---|---|---|
| **Editor Delivery Events** | **Status** | **Timestamp** |
| **Agent Delivery Events** | **Status** | **Timestamp** |
| **Intermediary Delivery Events** | **Status** | **Timestamp** |
| **Certified Delivery Events** | **Status** | **Timestamp** |
| **Carbon Copy Events** | **Status** | **Timestamp** |
| **Witness Events** | **Signature** | **Timestamp** |
| **Notary Events** | **Signature** | **Timestamp** |
| **Envelope Summary Events** | **Status** | **Timestamps** |
| Envelope Sent | Hashed/Encrypted | 10/5/2021 3:44:29 PM |
| Certified Delivered | Security Checked | 10/6/2021 9:30:17 AM |
| Signing Complete | Security Checked | 10/6/2021 9:30:28 AM |
| Completed | Security Checked | 10/6/2021 9:30:28 AM |
| **Payment Events** | **Status** | **Timestamps** |

**Electronic Record and Signature Disclosure**

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# Yolo County Agreement No. 21-196

**SCO ID:** 4260-2110127

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

| AGREEMENT NUMBER | PURCHASING AUTHORITY NUMBER (If Applicable) |
|---|---|
| 21-10127 | |

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
Department of Health Care Services

CONTRACTOR NAME
County of Yolo

2. The term of this Agreement is:

START DATE
July 1, 2021

THROUGH END DATE
June 30, 2024

3. The maximum amount of this Agreement is:
$0.00 (Zero Dollars)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

| | Exhibits | Title | Pages |
|---|---|---|---|
| | Exhibit A | Program Specification (including Special Terms and Conditions) | 24 |
| | Exhibit A, Attachment I | Request for Waiver | 1 |
| | Exhibit B | Funds Provision | 1 |
| + - | Exhibit C * | General Terms and Conditions (GTC 04/2017) | |
| + - | Exhibit D | Information Confidentiality and Security Requirements | 7 |
| + - | Exhibit E | Privacy and Information Security Provisions (including Attachment A) | 31 |

*Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.*
*These documents can be viewed at https://www.dgs.ca.gov/OLS/Resources*

*IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.*

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)
County of Yolo

| CONTRACTOR BUSINESS ADDRESS | CITY | STATE | ZIP |
|---|---|---|---|
| 137 N. Cottonwood Street, Suite 2500 | Woodland | CA | 95695 |

| PRINTED NAME OF PERSON SIGNING | TITLE |
|---|---|
| Jim Provenza | Board Chair |
| CONTRACTOR AUTHORIZED SIGNATURE | DATE SIGNED |
| | 08/31/21 |

APPROVED AS TO FORM:
PHILIP J. POGLEDICH
County Counsel

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**SCO ID:** 4260-2110127

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

| AGREEMENT NUMBER | PURCHASING AUTHORITY NUMBER (If Applicable) |
|---|---|
| 21-10127 | |

**STATE OF CALIFORNIA**

| CONTRACTING AGENCY NAME | | | |
|---|---|---|---|
| Department of Health Care Services | | | |
| CONTRACTING AGENCY ADDRESS | CITY | STATE | ZIP |
| 1501 Capitol Avenue, MS 4200 | Sacramento | CA | 95814 |
| PRINTED NAME OF PERSON SIGNING<br>Carrie Talbot | TITLE<br>SSMI, Contracts Section | | |
| CONTRACTING AGENCY AUTHORIZED SIGNATURE<br>Carrie Talbot | DATE SIGNED<br>10/7/2021 | | |
| CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL | EXEMPTION (If Applicable)<br>W&I Code §14703 | | |

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**Exhibit A**
Program Specifications

## 1. Service Overview

The California Department of Health Care Services (hereafter referred to as DHCS or Department) administers the Mental Health Services Act, Lanterman-Petris-Short (LPS) Act, Projects for Assistance in Transition from Homelessness (PATH), Community Mental Health Services Block Grant (MHBG), Substance Abuse Treatment and Prevention Block Grant (SABG), and Crisis Counseling Assistance and Training Program (CCP) programs and oversees county provision of community mental health services pursuant to the Bronzan-McCorquodale Act. Contractor (hereafter referred to as County in this Exhibit) must meet certain conditions and requirements to receive funding for these programs and community mental health services.

This Agreement, which is County's performance contract, as required by Welfare and Institutions Code (Welf. & Inst. Code) sections 5650, subd. (a), 5651, 5897, and California Code of Regulations (Cal. Code Regs.), Title 9, section 3310, sets forth conditions and requirements that County must meet in order to receive this funding. This Agreement does not cover federal financial participation or State general funds as they relate to Medi-Cal services provided through the Mental Health Plan Contracts. County agrees to comply with all of the conditions and requirements described herein.

DHCS shall monitor this Agreement to ensure compliance with applicable federal and State law and applicable regulations. (Gov. Code, §§ 11180-11182; Welf. & Inst. Code, §§ 5614, 5717, subd. (b), 5651, subd. (b)(10) & 14124.2, subd. (a).)

## 2. Service Location

The services shall be performed at appropriate sites as described in this contract.

## 3. Service Hours

The services shall be provided during times required by this contract.

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**Exhibit A**
Program Specifications

## 4. Project Representatives

A. The project representatives during the term of this Agreement will be:

| Department of Health Care Service | County of Yolo |
|---|---|
| Contract Manager: Ivan Bhardwaj<br>Telephone: (916) 345-7483<br>Fax: (916) 440-7621<br>Email: Ivan.Bhardwaj@dhcs.ca.gov | Karen Larsen, LMFT<br>Behavioral Health Director<br>Telephone: (530) 666-8516<br>Email: karen.larsen@yolocounty.org |

B. Direct all inquiries to:

| Department of Health Care Services | County of Yolo |
|---|---|
| Behavioral Health – Community Services Division/Federal Grants Section<br><br>Attention: DeAnn Harrison<br>1501 Capitol Avenue, MS 2624<br>P.O. Box Number 997413<br>Sacramento, CA, 95899-7413<br><br>Phone: (916) 345-8700<br>Email: DeAnn.Harrison@dhcs.ca.gov | Attention: Mila Green, PhD CPHQ<br>137 N. Cottonwood Street, Suite 2500<br>Woodland, CA, 95695<br><br>Phone: (530) 666-8544<br>Fax: (530) 666-8294<br>Email: mila.green@yolocounty.org |

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this Agreement.

## 5. General Requirements for Agreement

Welfare and Institutions Code section 5651, subdivision (b), provides specific assurances, which are listed below, that must be included in this Agreement. County shall:

A. Comply with the expenditure requirements of Welfare and Institutions Code section 17608.05,

B. Provide services to persons receiving involuntary treatment as required by Part 1 (commencing with section 5000) and Part 1.5 (commencing with section 5585) of Division 5 of the Welfare and Institutions Code,

DocuSign Envelope ID: 87BA507D-FEA5-4C9D-87BC-DC99EEB269CB



**Exhibit A**
Program Specifications

C. Comply with all of the requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with section 5700) of Division 5 of the Welfare and Institutions Code, and submit cost reports and other data to DHCS in the form and manner determined by the DHCS,

D. Ensure that the Local Mental Health Advisory Board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Welfare and Institutions Code section 5604.2,

E. Comply with all provisions and requirements in law pertaining to patient rights,

F. Comply with all requirements in federal law and regulation, and all agreements, certifications, assurances, and policy letters, pertaining to federally funded mental/behavioral health programs, including, but not limited to, the Projects for Assistance in Transition from Homelessness grant, Community Mental Health Services Block Grant, and Substance Abuse Prevention and Treatment Block Grant programs.

G. Provide all data and information set forth in sections 5610 and 5664 of the Welfare and Institutions Code,

H. If County elects to provide the services described in Chapter 2.5 (commencing with section 5670) of Division 5 of the Welfare and Institutions Code, comply with guidelines established for program initiatives outlined in this chapter, and

I. Comply with all applicable laws and regulations for all services delivered, including all laws, regulations, and guidelines of the Mental Health Services Act.

**6. Services Authority**

A. **The Mental Health Services Act Program**

1) Program Description

Proposition 63, which created the Mental Health Services Act (MHSA), was approved by the voters of California on November 2, 2004. The Mental Health Services (MHS) Fund, which provides funds to counties for the implementation of its MHSA programs, was established pursuant to Welfare and Institutions Code section 5890. The MHSA was designed to expand California's public mental health programs and services through

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**Exhibit A**
Program Specifications

funding received by a one percent tax on personal incomes in excess of $1 million. Counties use this funding for projects and programs for prevention and early intervention, community services and supports, workforce development and training, innovation, plus capital facilities and technological needs through mental health projects and programs. The State Controller distributes MHS Funds to the counties to plan for and provide mental health programs and other related activities outlined in a county's three-year program and expenditure plan or annual update. MHS Funds are distributed by the State Controller's Office to the counties on a monthly basis.

DHCS shall monitor County's use of MHS Funds to ensure that the County meets the MHSA and MHS Fund requirements. (Gov. Code §§ 11180-11182; Welf. & Inst. Code, §§ 5651, subd. (b)(10), 5897, subd. (d), & 14124.2, subd. (a).)

2) Issue Resolution Process

County shall have an Issue Resolution Process (Process) to handle client disputes related to the provision of their mental health services. The Process shall be completed in an expedient and appropriate manner. County shall develop a log to record issues submitted as part of the Process. The log shall contain the date the issue was received; a brief synopsis of the issue; the final issue resolution outcome; and the date the final issue resolution was reached.

3) Revenue and Expenditure Report

County shall submit its Revenue and Expenditure Report (RER) electronically to the Department and the Mental Health Services Oversight and Accountability Commission by January 31 following the close of the fiscal year in accordance with Welfare and Institutions Code sections 5705 and 5899, regulations, and DHCS-issued guidelines. The RER shall be certified by the County's Behavioral Health Director (also referred to as "mental health director"), using the DHCS-issued certification form (DHCS Form 1820). Data submitted shall be full and complete. If the RER does not meet the requirements, in accordance with the procedure in section 9 of this Agreement, DHCS may withhold payments from the MHS Fund until the County submits a complete RER. (Welf. & Inst. Code, §§ 5655; Cal. Code Regs., tit. 9, § 3510, subd. (a.)

4) Distribution and Use of Local Mental Health Services Funds:

a. Welfare and Institutions Code section 5891, subdivision (c), provides that commencing July 1, 2012, on or before the 15th day of each

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month, pursuant to a methodology provided by DHCS, the State Controller shall distribute to County's Local Mental Health Services Fund (MHS Fund) (established by County pursuant to Welfare and Institutions Code section 5892, subdivision (f)) all unexpended and unreserved funds on deposit as of the last day of the prior month in the Mental Health Services Fund for the provision of specified programs and other related activities.

b. The expenditure for Prevention and Early Intervention (PEI) may be increased by County if DHCS determines that the increase will decrease the need and cost for additional services to severely mentally ill persons in County by an amount at least commensurate with the proposed increase. (Welf. & Inst. Code, § 5892, subd. (a)(4).)

   Local MHS Fund money distributed to counties by the State Controller's Office includes funding for annual planning costs pursuant to Welfare and Institutions Code section 5848. The total of these costs shall not exceed five percent of the total annual revenues received for the Local MHS Fund. The planning costs shall include money for County's mental health programs to pay for the costs of having consumers, family members, and other stakeholders participate in the planning process, and for the planning and implementation required for private provider contracts to be expanded to provide additional services. (Welf. & Inst. Code, § 5892, subd. (c).)

c. County shall use Local MHS Fund monies to pay for those portions of the mental health programs/services for children and adults for which there is no other source of funds available. (Welf. & Inst. Code, §§ 5813.5, subd. (b), 5878.3 subd. (a); Cal. Code Regs., tit. 9, § 3610, subd. (d).)

d. County shall only use Local MHS Funds to expand mental health services. These funds shall not be used to supplant existing State or County funds utilized to provide mental health services. These funds shall only be used to pay for the programs authorized in Welfare and Institutions Code sections 5890 and 5892. These funds may not be used to pay for any other program and may not be loaned to County's general fund or any other County fund for any purpose. (Welf. & Inst. Code, § 5891, subd. (a).)

e. All expenditures for County mental health programs shall be consistent with a currently approved three-year program and expenditure plan or

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annual update pursuant to Welfare and Institutions Code section 5847. (Welf. & Inst. Code, §§ 5891, subd. (d), 5892, subd. (g).)

5) Three-Year Program and Expenditure Plan and Annual Updates:

a. County shall prepare and submit a three-year program and expenditure plan, and annual updates, adopted by County's Board of Supervisors, to the Mental Health Services Oversight and Accountability Commission (MHSOAC) and DHCS within 30 calendar days after adoption. (Welf. & Inst. Code, § 5847, subd. (a).) The three-year program and expenditure plan and annual updates shall include all of the following:

i. A program for PEI in accordance with Part 3.6 of Division 5 of the Welfare and Institutions Code (commencing with section 5840). (Welf. & Inst. Code, § 5847, subd. (b)(1).)

ii. A program for services to children in accordance with Part 4 of Division 5 of the Welfare and Institutions Code (commencing with section 5850), to include a wraparound program pursuant to Chapter 4 of Part 6 of Division 9 of the Welfare and Institutions Code (commencing with section 18250), or provide substantial evidence that it is not feasible to establish a wraparound program in the County. (Welf. & Inst. Code, § 5847, subd. (b)(2).)

iii. A program for services to adults and seniors in accordance with Part 3 of Division 5 of the Welfare and Institutions Code (commencing with section 5800). (Welf. & Inst. Code, § 5847, subd. (b)(3).)

iv. A program for innovation in accordance with Part 3.2 of Division 5 of the Welfare and Institutions Code (commencing with section 5830). (Welf. & Inst. Code, § 5847, subd. (b)(4).) Counties shall expend funds for their innovation programs upon approval by the Mental Health Services Oversight and Accountability Commission. (Welf. & Inst. Code, § 5830, subd. (e).)

v. A program for technological needs and capital facilities needed to provide services pursuant to Part 3 of Division 5 of the Welfare and Institutions Code (commencing with section 5800), Part 3.6 of Division 5 of the Welfare and Institutions Code (commencing with section 5840), and Part 4 of Division 5 of the

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Welfare and Institutions Code (commencing with section 5850). All plans for proposed facilities with restrictive settings shall demonstrate that the needs of the people to be served cannot be met in a less restrictive or more integrated setting. (Welf. & Inst. Code, § 5847, subd. (b)(5).)

vi. Identification of shortages in personnel to provide services pursuant to the above programs and the additional assistance needed from the education and training programs established pursuant to Part 3.1 of Division 5 of the Welfare and Institutions Code (commencing with section 5820). (Welf. & Inst. Code, § 5847, subd. (b)(6); Cal. Code Regs., tit. 9, § 3830, subd. (b).)

vii. Establishment and maintenance of a prudent reserve to ensure the County program will continue to be able to serve children, adults, and seniors that it is currently serving pursuant to Part 3 of Division 5 of the Welfare and Institutions Code (commencing with section 5800), Part 3.6 of Division 5 of the Welfare and Institutions Code (commencing with section 5840), and Part 4 of Division 5 of the Welfare and Institutions Code (commencing with section 5850), during years in which revenues for the Local MHS Fund are below recent averages adjusted by changes in the State population and the California Consumer Price Index. (Welf. & Inst. Code, § 5847, subd. (b)(7).)

viii. Certification by County's Behavioral Health Director, which ensures that County has complied with all pertinent regulations, laws, and statutes of the MHSA, including stakeholder participation and non-supplantation requirements. (Welf. & Inst. Code, § 5847, subd. (b)(8).)

ix. Certification by County's Behavioral Health Director and County's Auditor-Controller that the County has complied with any fiscal accountability requirements as directed by DHCS, and that all expenditures are consistent with the requirements of the MHSA pursuant to California Code of Regulations, Title 9, sections 3500 and 3505. (Welf. & Inst. Code, § 5847, subd. (b)(9).)

b. County shall include services in the programs described in section 6, subparagraphs A, 5.a.i. through 5.a.v., inclusive, to address the needs of transition age youth between the ages of 16 and 25 years old,

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including the needs of transition age foster youth. (Welf. & Inst. Code, § 5847, subd. (c).)

c. County shall prepare expenditure plans for the programs described in section 6, subparagraphs A, 5.a.i. through 5.a.v., inclusive, and annual expenditure updates. Each expenditure plan and annual update shall indicate the number of children, adults, and seniors to be served, and the cost per person. The expenditure update shall also include utilization of unspent funds allocated in the previous year and the proposed expenditure for the same purpose. (Welf. & Inst. Code, § 5847, subd. (e).)

d. County's three-year program and expenditure plan and annual updates shall include reports on the achievement of performance outcomes for services provided pursuant to the Adult and Older Adult Mental Health System of Care Act, Prevention and Early Intervention, and the Children's Mental Health Services Act, which are funded by the Local MHS Fund and established jointly by DHCS and the MHSOAC, in collaboration with the County Behavioral Health Directors Association of California. (Welf. & Inst. Code, § 5848, subd. (c).) County contracts with providers shall include the performance goals from the County's three-year program and expenditure plan and annual updates that apply to each provider's programs and services.

e. County's three-year program and expenditure plan and annual update shall consider ways to provide services to adults and older adults that are similar to those established pursuant to the Mentally Ill Offender Crime Reduction Grant Program. Funds shall not be used to pay for persons incarcerated in State prison or parolees from State prisons. (Welf. & Inst. Code, § 5813.5, subd. (f).)

6) Planning Requirements and Stakeholder Involvement:

a. County shall develop its three-year program and expenditure plan and annual update with local stakeholders, including adults and seniors with severe mental illness, families of children, adults, and seniors with severe mental illness, providers of services, law enforcement agencies, education, social services agencies, veterans, representatives from veterans organizations, providers of alcohol and drug services, health care organizations, and other important interests. Counties shall demonstrate a partnership with constituents and stakeholders throughout the process that includes meaningful stakeholder involvement on mental health policy, program planning, and implementation, monitoring, quality improvement, evaluation, and budget allocations. County shall prepare and circulate a draft plan and

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update for review and comment for at least 30 calendar days to representatives of stakeholder interests and any interested party who has requested a copy of the draft plans. (Welf. & Inst. Code, § 5848, subd. (a); Cal. Code Regs., tit. 9, §§ 3300, 3310, 3315 & 3320.)

b. County's mental health board, established pursuant to Welfare and Institutions Code section 5604, shall conduct a public hearing on the County's draft three-year program and expenditure plan and annual updates at the close of the 30 calendar day comment period. Each adopted three-year program and expenditure plan or annual update shall summarize and analyze substantive recommendations and describe substantive changes to the three-year program and expenditure plan and annual updates. The County's mental health board shall review the adopted three-year program and expenditure plan and annual updates and recommend revisions to the County's mental health department. (Welf. & Inst. Code, § 5848, subd. (b); Cal. Code Regs., tit. 9, § 3315.)

c. The County shall provide for a Community Planning Process as the basis for developing the Three-Year Program and Expenditure Plans and updates. The County shall designate positions and or units responsible for the overall Community Program Planning Process; coordination and management of the Community Program Planning Process; ensuring stakeholders have the opportunity to participate; ensuring that stakeholders reflect the diversity of the demographics of the County; and providing outreach to clients and their family members. The Community Program Planning process shall, at a minimum, include involvement of clients and their family members in all aspects of the Process; participation of stakeholders; and training, as needed, to County staff and stakeholders, clients, and family members regarding the stakeholder process. (Cal. Code Regs., tit. 9, § 3300.)

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d. The County shall adopt the following standards in planning, implementing, and evaluating the programs and/or services provided with MHSA funds:
   i. Community Collaboration, as defined in California Code of Regulations, Title 9, section 3200.060
   ii. Cultural Competence, as defined in section 3200.100;
   iii. Client Driven, as defined in section 3200.050;
   iv. Family Driven, as defined in section 3200.120;
   v. Wellness, Recovery and Resilience focused; and
   vi. Integrated Service Experiences for clients and their families, as defined in section 3200.190.

   The planning, implementation and evaluation process includes, but is not limited to, the Community Program Planning Process; development of the Three-Year Program and Expenditure Plans and updates; and the manner in which the County delivers services and evaluates service delivery. (Cal. Code Regs., tit. 9, § 3320.)

7) County Requirements for Handling MHSA Funds

   a. County shall place all funds received from the State MHS Fund into a Local MHS Fund. The Local MHS Fund balance shall be invested consistent with other County funds and the interest earned on the investments shall be transferred into the Local MHS Fund. (Welf. & Inst. Code, § 5892, subd. (f).)

   b. When accounting for all receipts and expenditures of MHSA funds, County must adhere to uniform accounting standards and procedures that conform to the Generally Accepted Accounting Principles (GAAP), as prescribed by the State Controller in California Code of Regulations, Title 2, division 2, chapter 2, subchapter 1, Accounting Procedures for Counties, sections 901-949, and a manual, which is currently entitled "Accounting Standards and Procedures for Counties" and available at http://www.sco.ca.gov/pubs_guides.html, (Gov. Code, § 30200),

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except County shall report as spent the full cost of an asset purchased with Capital Facilities and Technological Needs funds.

8) Department Compliance Investigations:

a. DHCS may investigate County's performance of the Mental Health Services Act related provisions of this Agreement and compliance with the provisions of the Mental Health Services Act, and relevant regulations. In conducting such an investigation, DHCS may inspect and copy books, records, papers, accounts, documents and any writing, as defined by Evidence Code section 250, that is pertinent or material to the investigation of the County. For purposes of this Paragraph, "provider" means any person or entity that provides services, goods, supplies or merchandise, which are directly or indirectly funded pursuant to MHSA. (Gov. Code, §§ 11180, 11181, & 11182; Welf. & Inst. Code, §§ 5651, subd. (b)(9), 5897, subd. (d), & 14124.2.)

9) County Breach, Plan of Correction and Withholding of State Mental Health Funds:

a. If DHCS determines that County is out-of-compliance with the Mental Health Services Act related provisions of this Agreement, DHCS may request that County submit a plan of correction, including a specific timeline to correct the deficiencies, to DHCS. (Welf. & Inst. Code, § 5897, subd. (e).)

b. In accordance with Welfare and Institutions Code section 5655, if DHCS considers County to be substantially out-of-compliance with any provision of the Mental Health Services Act or relevant regulations, including all reporting requirements, other than timely submission of a complete Revenue and Expenditure Report, the director shall order County to appear at a hearing before the Director or the Director's designee to show cause why the Department should not take administrative action. County shall be given at least twenty (20) days' notice before the hearing.

c. If the Director determines that there is or has been a failure, in a substantial manner, on the part of County to comply with any provision of the Welfare and Institutions Code or its implementing regulations, and that administrative sanctions are necessary, the Department may

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invoke any, or any combination of, the following sanctions per Welfare and Institutions Code section 5655:

i. Withhold part or all State mental health funds from County.
ii. Require County to enter into negotiations with DHCS to agree on a plan for County to address County's non-compliance.
iii. Bring an action in mandamus or any other action in court as may be appropriate to compel compliance. Any action filed in accordance with the section shall be entitled to a preference in setting a date for hearing.

B. **Bronzan-McCorquodale Act**

1) Description

The Bronzan-McCorquodale Act realigned responsibility for administration of community mental health services, for the indigent population, to counties (Welf. & Inst. Code, § 5600) and provided a dedicated funding source. The County's primary goal in using the funds is to provide an array of treatment options to seriously emotionally disturbed children and adults who have a serious mental disorder, in every geographic area, to the extent resources are available to the County. (Welf. & Inst. Code, §§ 5600.3, 5600.35, 5600.4) The mission of California's mental health system shall be to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings. (Welf. & Inst. Code, § 5600.1)

2) County Obligations

County shall comply with all requirements in the Bronzan McCorquodale Act (Welf. & Inst. Code, § 5600 et. Seq.) and specifically, county shall comply with the following:

a. County shall fund children's services pursuant to the requirements of Welfare and Institutions Code sections 5704.5 and 5704.6.

b. County shall comply with reporting requirements developed by the Department. (Welf. & Inst. Code, §§ 5610, 5664, 5614, subd. (b)(4))

c. To the extent resources are available, County shall maintain the program principles and array of treatment options required under

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Welfare and Institutions Code sections 5600.2 to 5600.9, inclusive. (Welf. & Inst. Code, § 5614, subd. (b)(5))

d. County shall report data to the state required by the performance outcome systems for adults and children. (Welf. & Inst. Code, §§ 5610, 5664, 5614, subd. (b)(6))

C. **Lanterman-Petris-Short Act**

1) Description

The Lanterman-Petris-Short (LPS) Act was enacted to end indefinite involuntary commitment of persons with mental health disorders and to provide prompt evaluation and treatment, to establish consistent personal rights standards, and to provide services in the least restrictive setting for individuals served under the Act. (Welf. & Inst. Code § 5001.) Pursuant to Welfare and Institutions Code section 5400, DHCS administers the LPS Act and may adopt standards as necessary.

2) Reporting and Data Submission Requirements

a. The County shall maintain data on the number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day post-certification intensive treatment, the number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code, the number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established in the County. (Welf. & Inst. Code § 5402, subds. (a)-(b).) Upon request from DHCS, the County shall provide the aforementioned data or other information, records, and reports, which DHCS deems necessary for the purposes of Welfare and Institutions Code section 5402. (*Id.* at subd. (b).)

b. The County shall maintain data on the number of persons whose rights were denied under the LPS Act and the right or rights which were denied. Quarterly, the County shall provide DHCS with a report of the number of persons whose rights were denied under the LPS Act and shall identify the right or rights which were denied. (Welf. & Inst. Code § 5326.1.)

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c. The County shall collect information and submit reports to DHCS as specified in Welfare and Institutions Code section 5326.15, subdivision (a).

3) Laura's Law

If the County operates an Assisted Outpatient Treatment Program pursuant to Welfare and Institution Code, Division 5, Part 1, Chapter 2, Article 9, (Laura's Law), it shall be required to comply with all applicable statutes including, but not limited to, Welfare and Institutions Code sections 5345 through 5349.1, inclusive. In addition, a county or group of counties that has a Laura's Law program shall:

a. Maintain and provide data to DHCS regarding the services the county provides under Laura's Law. (Welf. & Inst. Code § 5348 (d).) The report shall include an evaluation of the effectiveness of the strategies employed by each program in reducing homelessness and hospitalization of persons in the program and in reducing involvement with local law enforcement by persons in the program. The County shall maintain and include in the report to DHCS all of the information enumerated in Welfare and Institutions Code section 5348, subdivision (d), paragraphs (1) through (14).

b. Pay for the provision of services under Welfare and Institutions Code sections 5347 and 5348 using funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount within the Support Services Account of the Local Revenue Fund 2011, funds from the Mental Health Services Fund when included in county plans pursuant to Section 5847, and any other funds from which the Controller makes distributions to the counties for those purposes. (Welf. & Inst. Code § 5349.)

D. **Projects For Assistance In Transition From Homelessness Program (42 U.S.C. §§ 290cc-21 -290cc-35, inclusive)**

Pursuant to Title 42 of the United States Code, sections 290cc-21 through 290cc-35, inclusive, the State of California has been awarded federal homeless funds through the federal McKinney Projects for Assistance in Transition from Homelessness (PATH) formula grant. The PATH grant funds community based outreach, mental health and substance abuse

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referral/treatment, case management and other support services, as well as a limited set of housing services for the homeless mentally ill.

County shall submit its Request for Application (RFA) responses and required documentation specified in DHCS' RFA to receive PATH funds. County shall complete its RFA responses in accordance with the instructions, enclosures and attachments available on the DHCS website at: http://www.dhcs.ca.gov/services/MH/Pages/PATH.aspx.

If County applied for and DHCS approved its request to receive PATH grant funds, the RFA, County's RFA responses and required documentation, and DHCS' approval constitute provisions of this Agreement and are incorporated by reference herein. County shall comply with all provisions of the RFA and the County's RFA responses.

The PATH grant is a federal award within the meaning of Title 2 Code of Federal Regulations part 200. This contract is a subaward to County. County is a subrecipient and subject to all applicable requirements in Title 2 Code of Federal Regulations part 200 and Title 45 Code of Federal Regulations part 75, including, but not limited to, the County requirement to have a single audit performed for PATH funds in accordance with the audit requirements in Title 2 Code of Federal Regulations part 200, subpart F, or Title 45 Code of Federal Regulations part 75.

E. **Community Mental Health Services Grant Program (42 U.S.C. § 300x-1 et seq.)**

Pursuant to Title 42 United States Code section 300x et seq., the State of California has been awarded the federal Community Mental Health Services Block Grant funds, known as Mental Health Block Grant (MHBG). County mental health agencies utilize MHBG funding to provide a broad array of mental health services within their mental health system of care (SOC) programs. These programs provide services to the following target populations: children and youth with serious emotional disturbances (SED) and adults and older adults with serious mental illnesses (SMI).

County shall submit its RFA responses and required documentation specified in DHCS' RFA to receive MHBG funding. County shall complete its RFA responses in accordance with the instructions, enclosures and attachments.

If County applied for and DHCS approved its request to receive MHBG grant funds, the RFA, County's RFA responses and required documentation, and DHCS' approval constitute provisions of this Agreement and are incorporated

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by reference herein. County shall comply with all provisions of the RFA and the County's RFA responses.

The MHBG is a federal award within the meaning of Title 2 Code of Federal Regulations part 200. This contract is a subaward to County. County is a subrecipient and subject to all applicable requirements in Title 2 Code of Federal Regulations part 200 and Title 45 Code of Federal Regulations part 75, including, but not limited to, the County requirement to have a single audit performed for MHBG funds in accordance with the audit requirements in Title 2 Code of Federal Regulations part 200, subpart F, or Title 45 Code of Federal Regulations part 75.

F. **Substance Abuse Prevention And Treatment Block Grant Program (42 U.S.C. § 300x-1 et seq.)**

Pursuant to Title 42 United States Code section 300x et seq., the State of California has been awarded the federal Substance Abuse Treatment and Prevention Block Grant funds (known as SABG). County Alcohol and Other Drug Programs utilize SABG funding to provide a broad array of alcohol and other drug program treatment and prevention services within their system of care programs.

County shall submit its RFA responses and required documentation specified in DHCS' RFA to receive SABG funding. County shall complete its RFA responses in accordance with the instructions, enclosures and attachments.

If County applied for, and DHCS approved its request to receive SABG funds, the RFA, County's RFA responses and required documentation, and DHCS' approval constitute provisions of this Agreement and are incorporated by reference herein. County shall comply with all provisions of the RFA and the County's RFA responses.

The SABG is a federal award within the meaning of Title 2 Code of Federal Regulations part 200. This contract is a subaward to County. County is a subrecipient and subject to all applicable requirements in Title 2 Code of Federal Regulations part 200 and Title 45 Code of Federal Regulations part 75, including, but not limited to, the County requirement to have a single audit performed for SABG funds in accordance with the audit requirements in Title 2 Code of Federal Regulations part 200, subpart F, or Title 45 Code of Federal Regulations part 75.

G. **Crisis Counseling Assistance And Training Program (42 U.S.C. § 5183)**

Pursuant to Title 42 United States Code section 5183, and upon the issuance of a Presidential declaration of a major disaster, the State of California may

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be awarded Federal Emergency Management Agency (FEMA) funding for the Crisis Counseling Assistance and Training Program (CCP). The CCP supports short-term interventions that involve assisting disaster survivors in understanding their current situation and reactions, mitigating stress, developing coping strategies, providing emotional support, and encouraging linkages with other individuals and agencies that help survivors in their recovery process. These funds are used to provide services to all individuals affected during a disaster.

1) The CCP is comprised of three funding terms:

   a. Immediate Services Program (ISP) – Funding is provided for the CCP for 60 days from the date of the Presidential declaration.

   b. Immediate Services Program Extension (ISP Extension) – Funding is provided to cover the period from the day after the end of the ISP to the award date of the Regular Services Program (RSP).

   c. Regular Services Program (RSP) – Funding is provided for 9 months from award date to continue and expand the provision of crisis counseling program services.

2) Participation in the CCP is optional. County's request to the State of California that it apply for CCP funding on behalf of the County shall be County's agreement to comply with all applicable federal and State requirements, including the FEMA or Substance Abuse and Mental Health Services Administration (SAMHSA) approved funding application and budget; applicable requirements in the Notice of Award (from FEMA or SAMHSA) to the State, including special and standard program conditions or terms, supplemental grant information, and the federal Health and Human Services Grants Policy Statement; 44 Code of Federal Regulations part 206.171, 42 Code of Federal Regulations part 38 and FEMA or SAMHSA CCP secondary guidance that is in effect on the date County receives the award of funding.

3) The CCP is a federal award within the meaning of Title 2 Code of Federal Regulations part 200. This contract is a subaward to County. County is a subrecipient and subject to all applicable requirements in Title 2 Code of Federal Regulations part 200 and Title 45 Code of Federal Regulations part 75, including, but not limited to, the County requirement to have a single audit performed for CCP funds in accordance with the audit requirements in Title 2 Code of Federal Regulations part 200, subpart F, or Title 45 Code of Federal Regulations part 75. CCP Funding shall not be used to supplant existing resources. County expenditure of CCP Funds are subject to State and federal oversight, including on-sight

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program performance reviews and federal audits. (44 C.F.R. § 206.171(k) & 42 C.F.R. § 38.9.)

4) For reference, FEMA Crisis Counseling Assistance and Training Program (FEMA secondary guidance), is accessible at the following link: https://www.samhsa.gov/dtac/ccp-toolkit.

## 7. Reporting and Data Submission Requirements

County shall comply with all data and information submission requirements specified in this Agreement.

A. County shall provide all applicable data and information required by federal and/or State law in order to receive any funds to pay for its MHSA programs, PATH grant (if the County receives funds from this grant), MHBG grant (if the County receives funds from this grant), SABG grant (if the County receives funds from this grant), CCP program, or County provision of community mental health services provided with 1991 realignment funds (other than Medi-Cal). These federal and State laws include Title 42 of the United States Code, sections 290cc-21 through 290ee-10 and 300x through 300x-68, inclusive, Welfare & Institutions Code sections 5610 and 5664 and the regulations that implement, interpret or make specific, these federal and State laws and any DHCS-issued guidelines that relate to the programs or services.

B. County shall comply with DHCS reporting requirements related to the County's receipt of federal or State funding for mental/behavioral health programs. County shall submit complete and accurate information to DHCS, and as applicable the Mental Health Services Oversight and Accountability Commission, including, but not limited, to the following:

1) Client and Service Information (CSI) System Data, as specified in Title 9 of the California Code of Regulations, section 3530.10. (See also section 7, subparagraph (C) of this Agreement.)

2) MHSA Quarterly Progress Reports, as specified in the California Code of Regulations, Title 9, section 3530.20. MHSA Quarterly Progress Reports

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provide the actual number of clients served by MHSA-funded program. Reports are submitted on a quarterly basis.

3) Full Service Partnership Performance Outcome data, as specified in the California Code of Regulations, Title 9, section 3530.30.

4) Consumer Perception Survey data, as specified in the California Code of Regulations, Title 9, section 3530.40.

5) The Annual Mental Health Services Act Revenue and Expenditure Report, as specified in Welfare and Institutions Code section 5899, subdivision (a), and the California Code of Regulations, Title 9, sections 3510, 3510.010, and 3510.020 and DHCS-issued guidelines.

6) Innovative Project Reports (annual, final and supplements), as specified in the California Code of Regulations, Title 9, sections 3580 through 3580.020.

7) The Annual Prevention and Early Intervention report, as specified in the California Code of Regulations, Title 9, sections 3560 and 3560.010.

8) Three Year Program and Evaluation Reports, as specified in the California Code of Regulations, Title 9, sections 3560 and 3560.020.

9) Co-occurring Mental Health and Substance Use Disorder Assessments in accordance with Welfare & Institutions Code section 5891.5.

C. County shall submit CSI data to DHCS, in accordance with Title 9 of the California Code of Regulations, section 3530.10, and according to the specifications set forth in DHCS' CSI Data Dictionary. County shall:

1) Report complete and accurate monthly CSI data to DHCS within 60 calendar days after the end of the month in which services were provided.

2) If complete and accurate data are not reported within 60 calendar days, the county must be in compliance with an approved plan of correction.

3) Make diligent efforts to minimize errors on the CSI error file.

4) Correct all errors on the CSI error file.

5) Notify DHCS 90 calendar days prior to any change in reporting system and/or change of automated system vendor.

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D. In the event that DHCS or County determines that, due to federal or State law changes or business requirements, an amendment is needed of either County's or DHCS' obligations under this contract relating to either DHCS' or County's information needs, both DHCS and County agree to provide notice to the other party as soon as feasible prior to implementation. This notice shall include information and comments regarding the anticipated requirements and impacts of the projected changes. DHCS and County agree to meet and discuss the design, development, and costs of the anticipated changes prior to implementation.

E. For all mental health funding sources received by County that require submission of a cost report, County shall submit a fiscal year-end cost report by December 31 following the close of the fiscal year in accordance with applicable federal and State law, regulations and DHCS-issued guidelines. (Welf. & Inst. Code § 5705; Cal. Code Regs., tit. 9, §§ 3500, 3505.) The cost report shall be certified as true and correct, and with respect to Local Mental Health Service Fund moneys, that the County is in compliance with the California Code of Regulations, Title 9, section 3410, Non-Supplant. The certification must be completed by the Behavioral Health Director and one of the following: the County mental health department's chief financial officer (or equivalent), an individual who has delegated authority to sign for and reports directly to the County mental health department's chief financial officer (or equivalent), or the County's auditor-controller (or equivalent). Data submitted shall be full and complete. County shall also submit a reconciled cost report certified by the Behavioral Health Director and the County's auditor-controller as being true and correct no later than 18 months after the close of the following fiscal year.

F. If applicable to a specific federal or State funding source covered by this Agreement, County shall require each of its subcontractors to submit a fiscal year-end cost report to DHCS no later than December 31 following the close of the fiscal year, in accordance with applicable federal and State laws, regulations, and DHCS-issued guidelines.

**8. Special Terms and Conditions**

A. Audit and Record Retention

(Applicable to agreements in excess of $10,000)

1) County and/or Subcontractor(s) shall maintain records, including books, documents, and other evidence, accounting procedures and practices, sufficient to properly support all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this

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**Exhibit A**
Program Specifications

Agreement, including any matching costs and expenses. The forgoing constitutes "records" for the purpose of this provision.

2) County's and/or Subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.

3) County agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States, shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. County agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, County agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement.

4) County and/or Subcontractor(s) shall preserve and make available his/her records (1) for a period of ten years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (a) or (b) below.

   a. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.

   b. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the ten-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later.

5) County and/or Subcontractor(s) may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books, and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, County and/or Subcontractor(s) must supply or make available applicable devices, hardware, and/or software necessary to view, copy, and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

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**Exhibit A**
Program Specifications

6) County shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in 2 Code of Federal Regulations part 200.

B. Dispute Resolution Process for Projects for Assistance in Transition from Homelessness Program Grant, Community Mental Health Services Grant Program, and Substance Abuse Prevention and Treatment Block Grant Program.

If a dispute arises between the Contractor and DHCS regarding Contractor compliance with Section 6 of this Agreement, subparagraph D, Projects for Assistance in Transition from Homelessness Program, subparagraph E, Community Mental Health Services Grant Program, or subparagraph F, Substance Abuse Prevention and Treatment Block Grant Program, the Contractor must seek resolution using the process outlined below.

1) The Contractor must first informally discuss the problem with the DHCS Project Representative listed in subparagraph 3 below. If the parties are unable to resolve the problem informally, the Contractor must mail a written Statement of Dispute, with supporting evidence, to DHCS at the address listed in subparagraph 3 below. The Statement of Dispute must describe the issues in dispute, the legal authority or other basis for the Contractor's position, and the remedy sought.

2) The Branch Chief of DHCS' Operations Branch will decide the dispute and mail a written decision to the Contractor within twenty (20) working days of receiving the Statement of Dispute from the Contractor. The decision will be in writing, resolve the dispute, and include a statement of the reasons for the decision that addresses each issue raised by the Contractor. If applicable, the decision will also indicate any action Contractor must take to comply with the decision. The Branch Chief's decision shall be the final administrative determination of DHCS.

3) Unless otherwise agreed to in writing by DHCS, the Statement of Dispute, supporting documentation, and all correspondence and documents related to the dispute resolution process shall be directed to the following:

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**Exhibit A**
Program Specifications

Department of Health Care Services
Community Services Division/Federal Grants Section
Attention: Waheeda Sabah
1500 Capitol Avenue, MS 2624
P.O. Box Number 997413
Sacramento, CA, 95899-7413

C. Novation

If County proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with County, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

D. Welfare and Institutions Code section 5751.7 Waiver

1) County shall comply with Welfare and Institutions Code section 5751.7 and ensure that minors are not admitted into inpatient psychiatric treatment with adults. If this requirement creates undue hardship to County due to inadequate or unavailable alternative resources, County may request a waiver of this requirement. County shall submit the waiver request on Attachment I of this Agreement to DHCS.

2) DHCS shall review County's waiver request and provide a written notice of approval or denial of the waiver. If County's waiver request is denied, County shall prohibit health facilities from admitting minors into psychiatric treatment with adults.

3) County shall submit the waiver request to DHCS at the time County submits this Agreement, signed by County, to DHCS for execution. County shall complete Attachment I and attach it to this Agreement. See Exhibit A, Attachment I, entitled "Request For Waiver" of this Agreement for additional submission information.

4) Execution of this Agreement by DHCS shall not constitute approval of a waiver submitted pursuant to this section.

5) Any waiver granted in the prior fiscal year's Agreement shall be deemed to continue until either party chooses to discontinue it, as specified in Exhibit

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**Exhibit A**
Program Specifications

A, Attachment I. Execution of this Agreement shall continue independently of the waiver review and approval process.

6) In unusual or emergency circumstances, when County needs to request waivers after the annual Performance Contract has been executed, these requests should be e-mailed, with the subject line "Performance Contract: Unusual or Emergency Circumstances", immediately to:

California Department of Health Care Services
Community Services Division/Community Support Branch
Policy, Monitoring, & Finance Section
e-mail: MHSA@dhcs.ca.gov.

7) Each admission of a minor to a facility that has an approved waiver shall be reported to the Local Behavioral Health Director.

E. Americans with Disabilities Act

Contractor agrees to ensure that deliverables developed and produced pursuant to this Agreement shall comply with the accessibility requirements of section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973 as amended (29 U.S.C. § 794(d)), and regulations implementing that Act as set forth in Part 1194 of Title 36 of the Code of Federal Regulations. In 1998, Congress amended the Rehabilitation Act of 1973 to require federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code section 11135 codifies section 508 of the Act requiring accessibility of electronic and information technology.

F. Change in County Behavioral Health Director

County agrees to notify DHCS immediately if there is any change in the position of the County Behavioral Health Director. County shall provide DHCS the contact information for any new County Behavioral Health Director appointed

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**Exhibit A, Attachment I**
Request for Waiver

## Request for Waiver Pursuant To Section 5751.7 of the Welfare and Institutions Code

_____ hereby requests a waiver for the following public or private health facilities pursuant to section 5751.7 of the Welfare and Institutions Code for the term of this contract. These are facilities where minors may be provided psychiatric treatment with nonspecific separate housing arrangements, treatment staff, and treatment programs designed to serve minors. However, no minor shall be admitted for psychiatric treatment into the same treatment ward as an adult receiving treatment who is in the custody of any jailor for a violent crime, is a known registered sex offender, or has a known history of, or exhibits inappropriate sexual or other violent behavior which would present a threat to the physical safety of others.

The request for waiver must include, as an attachment, the following:

1. A description of the hardship to the County/City due to inadequate or unavailable alternative resources that would be caused by compliance with the State policy regarding the provision of psychiatric treatment to minors.

2. The specific treatment protocols and administrative procedures established by the County/City for identifying and providing appropriate treatment to minors admitted with adults.

3. Name, address, and telephone number of the facility

   - Number of the facility's beds designated for involuntary treatment
   - Type of facility, license(s), and certification(s) held (including licensing and certifying agency and license and certificate number)
   - A copy of the facility's current license or certificate and description of the program, including target population and age groups to be admitted to the designated facility.

4. If applicable, the County Board of Supervisors' decision to designate a facility as a facility for evaluation and treatment pursuant to Welfare and Institutions Code sections 5150, 5585.50, and 5585.55.

To rescind the waiver, either party shall send a letter to the other party on official letterhead signed by their respective Behavioral Health Director or his or her designee indicating that the party no longer grants or requests a waiver. If not otherwise specified by the party in the letter to the respective party, the discontinuance shall be effective the date the letter to the party is postmarked and the facility shall no longer be waivered as of this date.

When the Department denies or rescinds a waiver issued to a County, the facility and the County Behavioral Health Director or designee shall receive written notification from the Department, by certified mail or e-mail. The notice shall include the decision, the basis for the decision, and any supporting documentation.

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# Exhibit B
# Funds Provision

## 1. Budget Contingency Clause

A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, DHCS shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, DHCS shall have the option to either cancel this Agreement with no liability occurring to DHCS, or offer an agreement amendment to Contractor to reflect the reduced amount.

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**Exhibit D**
Information Confidentiality and Security Requirements

1. **Definitions**. For purposes of this Exhibit, the following definitions shall apply:

   A. **Public Information:** Information that is not exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.

   B. **Confidential Information:** Information that is exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.

   C. **Sensitive Information:** Information that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive Information may be either Public Information or Confidential Information. It is information that requires a higher than normal assurance of accuracy and completeness. Thus, the key factor for Sensitive Information is that of integrity. Typically, Sensitive Information includes records of agency financial transactions and regulatory actions.

   D. **Personal Information:** Information that identifies or describes an individual, including, but not limited to, their name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. **It is DHCS' policy to consider all information about individuals private unless such information is determined to be a public record.** This information must be protected from inappropriate access, use, or disclosure and must be made accessible to data subjects upon request. Personal Information includes the following:

   Notice-triggering Personal Information: Specific items of personal information (name plus Social Security number, driver license/California identification card number, or financial account number) that may trigger a requirement to notify individuals if it is acquired by an unauthorized person. 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 finger or voice print or a photograph. See Civil Code sections 1798.29 and 1798.82.

2. **Nondisclosure**. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure any Personal Information, Sensitive Information, or Confidential Information (hereinafter identified as PSCI).

3. The Contractor and its employees, agents, or subcontractors shall not use any PSCI for any purpose other than carrying out the Contractor's obligations under this Agreement.

4. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of any PSCI not emanating from the person who is the subject of PSCI.

5. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the person who is the subject of PSCI, any PSCI to anyone other than DHCS

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**Exhibit D**
Information Confidentiality and Security Requirements

without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.

6. The Contractor shall observe the following requirements:

**A. Safeguards.** The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PSCI, including electronic PSCI that it creates, receives, maintains, uses, or transmits on behalf of DHCS. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, Including at a minimum the following safeguards:

**1) Personnel Controls**

a. ***Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of DHCS, or access or disclose DHCS PSCI, must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.

b. ***Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.

c. ***Confidentiality Statement.*** All persons that will be working with DHCS PSCI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DHCS PSCI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of six (6) years following contract termination.

d. ***Background Check.*** Before a member of the workforce may access DHCS PSCI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

**2) Technical Security Controls**

a. ***Workstation/Laptop encryption.*** All workstations and laptops that process and/or store DHCS PSCI must be encrypted using a FIPS 140-2 certified algorithm which

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**Exhibit D**
Information Confidentiality and Security Requirements

is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the DHCS Information Security Office.

b. ***Server Security.*** Servers containing unencrypted DHCS PSCI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

c. ***Minimum Necessary.*** Only the minimum necessary amount of DHCS PSCI required to perform necessary business functions may be copied, downloaded, or exported.

d. ***Removable media devices.*** All electronic files that contain DHCS PSCI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.

e. ***Antivirus software.*** All workstations, laptops and other systems that process and/or store DHCS PSCI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

f. ***Patch Management.*** All workstations, laptops and other systems that process and/or store DHCS PSCI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.

g. ***User IDs and Password Controls.*** All users must be issued a unique user name for accessing DHCS PSCI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation symbols)

h. ***Data Destruction.*** When no longer needed, all DHCS PSCI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PSCI cannot be retrieved.

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**Exhibit D**
Information Confidentiality and Security Requirements

i. ***System Timeout.*** The system providing access to DHCS PSCI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.

j. ***Warning Banners.*** All systems providing access to DHCS PSCI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

k. ***System Logging.*** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DHCS PSCI, or which alters DHCS PSCI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If DHCS PSCI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

l. ***Access Controls.*** The system providing access to DHCS PSCI must use role based access controls for all user authentications, enforcing the principle of least privilege.

m. ***Transmission encryption.*** All data transmissions of DHCS PSCI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PSCI can be encrypted. This requirement pertains to any type of PSCI in motion such as website access, file transfer, and E-Mail.

n. ***Intrusion Detection.*** All systems involved in accessing, holding, transporting, and protecting DHCS PSCI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

**3) Audit Controls**

a. ***System Security Review.*** All systems processing and/or storing DHCS PSCI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.

b. ***Log Reviews.*** All systems processing and/or storing DHCS PSCI must have a routine procedure in place to review system logs for unauthorized access.

c. ***Change Control.*** All systems processing and/or storing DHCS PSCI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

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**Exhibit D**
Information Confidentiality and Security Requirements

**4) Business Continuity / Disaster Recovery Controls**

a. ***Emergency Mode Operation Plan.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic DHCS PSCI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.

b. ***Data Backup Plan.*** Contractor must have established documented procedures to backup DHCS PSCI to maintain retrievable exact copies of DHCS PSCI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore DHCS PSCI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data.

**5) Paper Document Controls**

a. ***Supervision of Data.*** DHCS PSCI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. DHCS PSCI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

b. ***Escorting Visitors.*** Visitors to areas where DHCS PSCI is contained shall be escorted and DHCS PSCI shall be kept out of sight while visitors are in the area.

c. ***Confidential Destruction.*** DHCS PSCI must be disposed of through confidential means, such as cross cut shredding and pulverizing.

d. ***Removal of Data.*** DHCS PSCI must not be removed from the premises of the Contractor except with express written permission of DHCS.

e. ***Faxing.*** Faxes containing DHCS PSCI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.

f. ***Mailing.*** Mailings of DHCS PSCI shall be sealed and secured from damage or inappropriate viewing of PSCI to the extent possible. Mailings which include 500 or more individually identifiable records of DHCS PSCI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of DHCS to use another method is obtained.

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**Exhibit D**
Information Confidentiality and Security Requirements

B. ***Security Officer.*** The Contractor shall designate a Security Officer to oversee its data security program who will be responsible for carrying out its privacy and security programs and for communicating on security matters with DHCS.

***Discovery and Notification of Breach. Notice to DHCS:***

(1) To notify DHCS **immediately** upon the discovery of a suspected security incident that involves data provided to DHCS by the Social Security Administration. This notification will be **by telephone call plus email or fax** upon the discovery of the breach. (2) To notify DHCS **within 24 hours by email or fax** of the discovery of unsecured PSCI in electronic media or in any other media if the PSCI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, any suspected security incident, intrusion or unauthorized access, use or disclosure of PSCI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by the contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of the contractor..

Notice shall be provided to the DHCS Program Contract Manager, the DHCS Privacy Officer and the DHCS Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves data provided to DHCS by the Social Security Administration, notice shall be provided by calling the DHCS EITS Service Desk. Notice shall be made using the "DHCS Privacy Incident Report" form, including all information known at the time. The contractor shall use the most current version of this form, which is posted on the DHCS Privacy Office website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Use" near the middle of the page) or use this link: http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx

C. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PSCI, the Contractor shall take:
1) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and
2) Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

D. ***Investigation of Breach***. The Contractor shall immediately investigate such security incident, breach, or unauthorized use or disclosure of PSCI. If the initial report did not include all of the requested information marked with an asterisk, then within seventy-two (72) hours of the discovery, The Contractor shall submit an updated "DHCS Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer:

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**Exhibit D**
Information Confidentiality and Security Requirements

E. ***Written Report***. The Contractor shall provide a written report of the investigation to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer, if all of the required information was not included in the DHCS Privacy Incident Report, within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.

F. ***Notification of Individuals***. The Contractor shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer shall approve the time, manner and content of any such notifications.

7. **Affect on lower tier transactions.** The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, regardless of whether they are for the acquisition of services, goods, or commodities. The Contractor shall incorporate the contents of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.

8. **Contact Information**. To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated herein. DHCS reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the Agreement to which it is incorporated.

| DHCS Program Contract Manager | DHCS Privacy Officer | DHCS Information Security Officer |
|---|---|---|
| See the Scope of Work exhibit for Program Contract Manager information | Privacy Officer<br>c/o Office of Legal Services<br>Department of Health Care Services<br>P.O. Box 997413, MS 0011<br>Sacramento, CA 95899-7413<br><br>Email:<br>privacyofficer@dhcs.ca.gov<br><br>Telephone: (916) 445-4646 | Information Security Officer<br>DHCS Information Security Office<br>P.O. Box 997413, MS 6400<br>Sacramento, CA 95899-7413<br><br>Email: iso@dhcs.ca.gov<br><br>Telephone: ITSD Help Desk<br>(916) 440-7000 or<br>(800) 579-0874 |

9. **Audits and Inspections.** From time to time, DHCS may inspect the facilities, systems, books and records of the Contractor to monitor compliance with the safeguards required in the Information Confidentiality and Security Requirements (ICSR) exhibit. Contractor shall promptly remedy any violation of any provision of this ICSR exhibit. The fact that DHCS inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this ICSR exhibit.

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# EXHIBIT E

## PRIVACY AND INFORMATION SECURITY PROVISIONS

This Exhibit E is intended to protect the privacy and security of specified Department information that Contractor may access, receive, or transmit under this Agreement. The Department information covered under this Exhibit E consists of: (1) Protected Health Information as defined under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA")(PHI): and (2) Personal Information (PI) as defined under the California Information Practices Act (CIPA), at California Civil Code Section 1798.3. Personal Information may include data provided to the Department by the Social Security Administration.

Exhibit E consists of the following parts:

1. Exhibit E-1, HIPAA Business Associate Addendum, which provides for the privacy and security of PHI.

1. Exhibit E-2, which provides for the privacy and security of PI in accordance with specified provisions of the Agreement between the Department and the Social Security Administration, known as the Information Exchange Agreement (IEA) and the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (Computer Agreement) to the extent Contractor access, receives, or transmits PI under these Agreements. Exhibit E-2 further provides for the privacy and security of PI under Civil Code Section 1798.3(a) and 1798.29.

2. Exhibit E-3, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit E in its entirety.

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## EXHIBIT E-1

### HIPAA Business Associate Addendum

**1. Recitals.**

A. A business associate relationship 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"), 42 U.S.C. Section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") between Department and Contractor arises only to the extent that Contractor creates, receives, maintains, transmits, uses or discloses PHI or ePHI on the Department's behalf, or provides services, arranges, performs or assists in the performance of functions or activities on behalf of the Department that are included in the definition of "business associate" in 45 C.F.R. 160.103 where the provision of the service involves the disclosure of PHI or ePHI from the Department, including but not limited to, utilization review, quality assurance, or benefit management. To the extent Contractor performs these services, functions, and activities on behalf of Department, Contractor is the Business Associate of the Department, acting on the Department's behalf. The Department and Contractor are each a party to this Agreement and are collectively referred to as the "parties."

B. The Department wishes to disclose to Contractor certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, to be used or disclosed in the course of providing services and activities as set forth in Section 1.A. of Exhibit E-1 of this Agreement. This information is hereafter referred to as "Department PHI".

C. The purpose of this Exhibit E-1 is to protect the privacy and security of the PHI and ePHI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, including, but not limited to, the requirement that the Department must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act.

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To the extent that data is both PHI or ePHI and Personally Identifying Information, both Exhibit E-2 (including Attachment B, the SSA Agreement between SSA, CHHS and DHCS, referred to in Exhibit E-2) and this Exhibit E-1 shall apply.

D. The terms used in this Exhibit E-1, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

**2. Definitions.**

A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

D. Department PHI shall mean Protected Health Information or Electronic Protected Health Information, as defined below, accessed by Contractor in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services on behalf of the Department as specified in Section 1.A. of Exhibit E-1 of this Agreement. The terms PHI as used in this document shall mean Department PHI.

E. Electronic Health Records shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921 and implementing regulations.

F. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.

G. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for

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the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR Section 160.103.

H. Privacy Rule shall mean the HIPAA Regulations that are found at 45 CFR Parts 160 and 164, subparts A and E.

I. Protected Health Information (PHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR Section 160.103 and as defined under HIPAA.

J. Required by law, as set forth under 45 CFR Section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.

L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Department PHI, or confidential data utilized by Contractor to perform the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit E-1 of this Agreement; or interference with system operations in an information system that processes, maintains or stores Department PHI.

M. Security Rule shall mean the HIPAA regulations that are found at 45 CFR Parts 160 and 164.

N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. Section 17932(h), any guidance issued by the Secretary pursuant to such Act and the HIPAA regulations.

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**3. Terms of Agreement.**

A. **Permitted Uses and Disclosures of Department PHI by Contractor.**

Except as otherwise indicated in this Exhibit E-1, Contractor may use or disclose Department PHI only to perform functions, activities or services specified in Section 1.A of Exhibit E-1 of this Agreement, for, or on behalf of the Department, provided that such use or disclosure would not violate the HIPAA regulations or the limitations set forth in 42 CFR Part 2, or any other applicable law, if done by the Department. Any such use or disclosure, if not for purposes of treatment activities of a health care provider as defined by the Privacy Rule, must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR Section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.

B. **Specific Use and Disclosure Provisions**. Except as otherwise indicated in this Exhibit E-1, Contractor may:

1) **Use and Disclose for Management and Administration**. Use and disclose Department PHI for the proper management and administration of the Contractor's business, provided that such disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed, in accordance with section D(7) of this Exhibit E-1, that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware that the confidentiality of the information has been breached.

2) **Provision of Data Aggregation Services**. Use Department PHI to provide data aggregation services to the Department to the extent requested by the Department and agreed to by Contractor. Data aggregation means the combining of PHI created or received by the Contractor, as the Business Associate, on behalf of the Department with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the Department

C. **Prohibited Uses and Disclosures**

1) Contractor shall not disclose Department PHI about an individual to

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

2) Contractor shall not directly or indirectly receive remuneration in exchange for Department PHI.

D. **Responsibilities of Contractor**

Contractor agrees:

1) **Nondisclosure**. Not to use or disclose Department PHI other than as permitted or required by this Agreement or as required by law, including but not limited to 42 CFR Part 2.

2) **Compliance with the HIPAA Security Rule**. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Department PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of the Department, in compliance with 45 CFR Sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of Department PHI other than as provided for by this Agreement. Contractor shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR Section 164, subpart C, in compliance with 45 CFR Section164.316. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Contractor will provide the Department with its current and updated policies upon request.

3) **Security**. Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

a. Complying with all of the data system security precautions listed in Attachment A, Data Security Requirements;

b. Achieving and maintaining compliance with the HIPAA

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Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement; and

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

4) **Security Officer**. Contractor shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with the Department.

5) **Mitigation of Harmful Effects**. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PHI by Contractor or its subcontractors in violation of the requirements of this Exhibit E.

6) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit E of which it becomes aware.

7) **Contractor's Agents and Subcontractors**.

a. To enter into written agreements with any agents, including subcontractors and vendors to whom Contractor provides Department PHI, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Contractor with respect to such Department PHI under this Exhibit E, and that require compliance with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. As required by HIPAA, the HITECH Act and the HIPAA regulations, including 45 CFR Sections 164.308 and 164.314, Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit E-1 into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI be reported to Contractor.

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b. In accordance with 45 CFR Section 164.504(e)(1)(ii), upon Contractor's knowledge of a material breach or violation by its subcontractor of the agreement between Contractor and the subcontractor, Contractor shall:

i) Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by the Department; or

ii) Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

8) **Availability of Information to the Department and Individuals to Provide Access and Information:**

a. To provide access as the Department may require, and in the time and manner designated by the Department (upon reasonable notice and during Contractor's normal business hours) to Department PHI in a Designated Record Set, to the Department (or, as directed by the Department), to an Individual, in accordance with 45 CFR Section 164.524. Designated Record Set means the group of records maintained for the Department health plan under this Agreement that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for the Department health plan for which Contractor is providing services under this Agreement; or those records used to make decisions about individuals on behalf of the Department. Contractor shall use the forms and processes developed by the Department for this purpose and shall respond to requests for access to records transmitted by the Department within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

b. If Contractor maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Contractor shall provide such information in an electronic format to enable the Department to fulfill its obligations under the HITECH

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Act, including but not limited to, 42 U.S.C. Section 17935(e) and the HIPAA regulations.

9) **Amendment of Department PHI.** To make any amendment(s) to Department PHI that were requested by a patient and that the Department directs or agrees should be made to assure compliance with 45 CFR Section 164.526, in the time and manner designated by the Department, with the Contractor being given a minimum of twenty (20) days within which to make the amendment.

10) **Internal Practices**. To make Contractor's internal practices, books and records relating to the use and disclosure of Department PHI available to the Department or to the Secretary, for purposes of determining the Department's compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Contractor, Contractor shall provide written notification to the Department and shall set forth the efforts it made to obtain the information.

11) **Documentation of Disclosures**. To document and make available to the Department or (at the direction of the Department) to an individual such disclosures of Department PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of such PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR Section 164.528 and 42 U.S.C. Section 17935(c). If Contractor maintains electronic health records for the Department as of January 1, 2009 and later, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.

12) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

a. **Initial Notice to the Department.** (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured PHI in electronic media or in any other media if the PHI was, or is

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reasonably believed to have been, accessed or acquired by an unauthorized person. (2) To notify the Department **within 24 hours (one hour if SSA data) by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement or this Exhibit E-1, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the Information Protection Unit (916.445.4646, 866-866-0602) or by emailing privacyofficer@dhcs.ca.gov). Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:
http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PHI, Contractor shall take:

i) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

ii) Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

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b. **Investigation and Investigation Report**. To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of PHI . Within 72 hours of the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Information Protection Unit.

c. **Complete Report**. To provide a complete report of the investigation to the Department Program Contract Manager and the Information Protection Unit within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten (10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.

d. **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary (after obtaining prior written approval of DHCS). If a breach of

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unsecured Department PHI involves more than 500 residents of the State of California or under its jurisdiction, Contractor shall first notify DHCS, then the Secretary of the breach immediately upon discovery of the breach. If a breach involves more than 500 California residents, Contractor shall also provide, after obtaining written prior approval of DHCS, notice to the Attorney General for the State of California, Privacy Enforcement Section. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

e. **Responsibility for Notification of Affected Individuals.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors and notification of the affected individuals is required under state or federal law, Contractor shall bear all costs of such notifications as well as any costs associated with the breach. In addition, the Department reserves the right to require Contractor to notify such affected individuals, which notifications shall comply with the requirements set forth in 42U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days after discovery of the breach. The Department Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.

f. **Department Contact Information**. To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

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| Department Program Contract Manager | DHCS Privacy Officer | DHCS Information Security Officer |
|---|---|---|
| See the Exhibit A, Program Specifications for Program Contract Manager information | Information Protection Unit<br>c/o: Office of HIPAA Compliance Department of Health Care Services<br>P.O. Box 997413, MS 4722<br>Sacramento, CA 95899-7413<br>(916) 445-4646; (866) 866-0602<br><br>Email: privacyofficer@dhcs.ca.gov<br><br>Fax: (916) 440-7680 | Information Security Officer<br>DHCS Information Security Office<br>P.O. Box 997413, MS 6400<br>Sacramento, CA 95899-7413<br><br>Email: iso@dhcs.ca.gov<br><br>Telephone: ITSD Service Desk (916) 440-7000; (800) 579-0874<br><br>Fax: (916)440-5537 |

13) **Termination of Agreement.** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Contractor knows of a material breach or violation by the Department of this Exhibit E-1, it shall take the following steps:

a. Provide an opportunity for the Department to cure the breach or end the violation and terminate the Agreement if the Department does not cure the breach or end the violation within the time specified by Contractor; or

b. Immediately terminate the Agreement if the Department has breached a material term of the Exhibit E-1 and cure is not possible.

14) **Sanctions and/or Penalties**. Contractor understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Contractors may result in the imposition of sanctions and/or penalties on Contractor under HIPAA, the HITECH Act and the HIPAA regulations.

## E. Obligations of the Department.

The Department agrees to:

1) **Permission by Individuals for Use and Disclosure of PHI**. Provide the Contractor with any changes in, or revocation of, permission by an

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Individual to use or disclose Department PHI, if such changes affect the Contractor's permitted or required uses and disclosures.

2) **Notification of Restrictions**. Notify the Contractor of any restriction to the use or disclosure of Department PHI that the Department has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PHI.

3) **Requests Conflicting with HIPAA Rules**. Not request the Contractor to use or disclose Department PHI in any manner that would not be permissible under the HIPAA regulations if done by the Department.

4) **Notice of Privacy Practices**. Provide Contractor with the web link to the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR Section 164.520, as well as any changes to such notice. Visit the DHCS website to view the most current Notice of Privacy Practices at: http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/NoticeofPrivacyPractices.aspx or the DHCS website at www.dhcs.ca.gov (select "Privacy in the right column and "Notice of Privacy Practices" on the right side of the page).

**F. Audits, Inspection and Enforcement**

If Contractor is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office for Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Exhibit E-1,Contractor shall immediately notify the Department. Upon request from the Department, Contractor shall provide the Department with a copy of any Department PHI that Contractor, as the Business Associate, provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI to the Secretary. Contractor is responsible for any civil penalties assessed due to an audit or investigation of Contractor, in accordance with 42 U.S.C. Section 17934(c).

**G. Termination.**

1) **Term.** The Term of this Exhibit E-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(J).

2) **Termination for Cause**. In accordance with 45 CFR Section

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164.504(e)(1)(iii), upon the Department's knowledge of a material breach or violation of this Exhibit E-1 by Contractor, the Department shall:

a. Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by the Department; or

b. Immediately terminate this Agreement if Contractor has breached a material term of this Exhibit E-1 and cure is not possible.

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## EXHIBIT E-2

### Privacy and Security of Personal Information and Personally Identifiable Information Not Subject to HIPAA

**1. Recitals.**

A. In addition to the Privacy and Security Rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) the Department is subject to various other legal and contractual requirements with respect to the personal information (PI) and personally identifiable information (PII) it maintains. These include:

**1)** The California Information Practices Act of 1977 (California Civil Code §§1798 et seq.),

**2)** The Agreement between the Social Security Administration (SSA) and the Department, known as the Information Exchange Agreement (IEA), which incorporates the Computer Matching and Privacy Protection Act Agreement (CMPPA) between the SSA and the California Health and Human Services Agency. The IEA, including the CMPPA is attached to this Exhibit E as Attachment B and is hereby incorporated in this Agreement.

**3)** Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2.

B. The purpose of this Exhibit E-2 is to set forth Contractor's privacy and security obligations with respect to PI and PII that Contractor may create, receive, maintain, use, or disclose for or on behalf of Department pursuant to this Agreement. Specifically this Exhibit applies to PI and PII which is not Protected Health Information (PHI) as defined by HIPAA and therefore is not addressed in Exhibit E-1 of this Agreement, the HIPAA Business Associate Addendum; however, to the extent that data is both PHI or ePHI and PII, both Exhibit E-1 and this Exhibit E-2 shall apply.

C. The IEA Agreement referenced in A.2) above requires the Department to extend its substantive privacy and security terms to subcontractors who receive data provided to DHCS by the Social Security Administration. If Contractor receives data from DHCS that includes data provided to DHCS by the Social Security Administration, Contractor must comply with the following specific sections of the IEA Agreement: E. Security Procedures, F. Contractor/Agent Responsibilities, and G. Safeguarding and Reporting Responsibilities for Personally Identifiable Information ("PII"), and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the Social Security Administration. Contractor must also ensure that any agents, including a

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subcontractor, to whom it provides DHCS data that includes data provided by the Social Security Administration, agree to the same requirements for privacy and security safeguards for such confidential data that apply to Contractor with respect to such information.

D. The terms used in this Exhibit E-2, but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and Agreement. Any reference to statutory, regulatory, or contractual language shall be to such language as in effect or as amended.

**2. Definitions.**

A. "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.

B. "Breach of the security of the system" shall have the meaning given to such term under the California Information Practices Act, Civil Code section 1798.29(f).

C. "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).

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

E. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS).

F. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29 whose unauthorized access may trigger notification requirements under Civil Code section 1798.29. For purposes of this provision, identity shall include, but not be limited to, name, address, email address, 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.

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

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

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

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

**3. Terms of Agreement**

A. **Permitted Uses and Disclosures of Department PI and PII by Contractor**

Except as otherwise indicated in this Exhibit E-2, Contractor may use or disclose Department PI only to perform functions, activities or services for or on behalf of the Department pursuant to the terms of this Agreement provided that such use or disclosure would not violate the California Information Practices Act (CIPA) if done by the Department.

B. **Responsibilities of Contractor**

Contractor agrees:

1) **Nondisclosure.** Not to use or disclose Department PI or PII other than as permitted or required by this Agreement or as required by applicable state and federal law.

2) **Safeguards.** To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of Department PI and PII, to protect against anticipated threats or hazards to the security or integrity of Department PI and PII, and to prevent use or disclosure

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of Department PI or PII other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities, which incorporate the requirements of section 3, Security, below. Contractor will provide DHCS with its current policies upon request.

3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

a. Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements;

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

c. If the data obtained by Contractor from DHCS includes PII, Contractor shall also comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the Information Exchange Agreement, which are attached as Attachment B and incorporated into this Agreement. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. Contractor also agrees to ensure that any agents, including a subcontractor to whom it provides DHCS PII, agree to the same requirements for privacy and security safeguards for confidential data that apply to Contractor with respect to such information.

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4) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PI or PII by Contractor or its subcontractors in violation of this Exhibit E-2.

5) **Contractor's Agents and Subcontractors.** To impose the same restrictions and conditions set forth in this Exhibit E-2 on any subcontractors or other agents with whom Contractor subcontracts any activities under this Agreement that involve the disclosure of Department PI or PII to the subcontractor.

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

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

8) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.

9) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

   a. Initial Notice to the Department. (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured Department PI or PII in electronic media or in any other media if the PI or PII was, or is reasonably believed to have been, accessed or acquired

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by an unauthorized person, or upon discovery of a suspected security incident involving Department PII. (2) To notify the Department **within one (1) hour by email or fax** if the data is data subject to the SSA Agreement; and **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII in violation of this Agreement or this Exhibit E-1 or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

**b.** Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic Department PI or PII, notice shall be provided by calling the Department Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link: http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx .

**c.** Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII, Contractor shall take:

i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

**d.** **Investigation and Investigation Report**. To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of

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PHI. Within 72 hours of the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Department Information Security Officer.

e. **Complete Report**. To provide a complete report of the investigation to the Department Program Contract Manager and the Information Protection Unit within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten (10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.

f. **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PI or PII is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in CIPA, section 1798.29and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.

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g. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

h. **Department Contact Information**. To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

| Department Program Contract | DHCS Privacy Officer | DHCS Information Security Officer |
|---|---|---|
| See the Exhibit A, Program Specifications for Program Contract Manager information | Information Protection Unit<br>c/o: Office of HIPAA Compliance Department of Health Care Services<br>P.O. Box 997413, MS 4722<br>Sacramento, CA 95899-7413<br>(916) 445-4646<br>Email:<br>privacyofficer@dhcs.ca.gov<br><br>Telephone:(916) 445-4646 | Information Security Officer<br>DHCS Information Security Office<br>P.O. Box 997413, MS 6400<br>Sacramento, CA 95899-7413<br><br>Email: iso@dhcs.ca.gov<br><br>Telephone: ITSD Service Desk<br>(916) 440-7000 or<br>(800) 579-0874 |

**10) Designation of Individual Responsible for Security**

Contractor shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Exhibit E-2 and for communicating on security matters with the Department.

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## EXHIBIT E-3

### Miscellaneous Terms and Conditions

### Applicable to Exhibit E

1) **Disclaimer**. The Department makes no warranty or representation that compliance by Contractor with this Exhibit E, HIPAA or the HIPAA regulations will be adequate or satisfactory for Contractor's own purposes or that any information in Contractor's possession or control, or transmitted or received by Contractor, is or will be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of the Department PHI, PI and PII.

2) **Amendment**. The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Exhibit E may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, and other applicable state and federal laws. Upon either party's request, the other party agrees to promptly enter into negotiations concerning an amendment to this Exhibit E embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, and other applicable state and federal laws. The Department may terminate this Agreement upon thirty (30) days written notice in the event:

   a) Contractor does not promptly enter into negotiations to amend this Exhibit E when requested by the Department pursuant to this section; or

   b) Contractor does not enter into an amendment providing assurances regarding the safeguarding of Department PHI that the Department deems is necessary to satisfy the standards and requirements of HIPAA and the HIPAA regulations.

3) **Judicial or Administrative Proceedings**. Contractor will notify the Department if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Department may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The Department may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined.

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DHCS will consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.

4) **Assistance in Litigation or Administrative Proceedings**. Contractor shall make itself and any subcontractors, employees or agents assisting Contractor in the performance of its obligations under this Agreement, available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Department, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.

5) **No Third-Party Beneficiaries**. Nothing express or implied in the terms and conditions of this Exhibit E is intended to confer, nor shall anything herein confer, upon any person other than the Department or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

6) **Interpretation**. The terms and conditions in this Exhibit E shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, and the HIPAA regulations. The parties agree that any ambiguity in the terms and conditions of this Exhibit E shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations, and, if applicable, any other relevant state and federal laws.

7) **Conflict.** In case of a conflict between any applicable privacy or security rules, laws, regulations or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI, PI and PII from unauthorized disclosure. Further, Contractor must comply within a reasonable period of time with changes to these standards that occur after the effective date of this Agreement.

8) **Regulatory References**. A reference in the terms and conditions of this Exhibit E to a section in the HIPAA regulations means the section as in effect or as amended.

9) **Survival.** The respective rights and obligations of Contractor under Section 3, Item D of Exhibit E-1, and Section 3, Item B of Exhibit E-2, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.

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10) **No Waiver of Obligations**. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

11) **Audits, Inspection and Enforcement.** From time to time, and subject to all applicable federal and state privacy and security laws and regulations, the Department may conduct a reasonable inspection of the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit E. Contractor shall promptly remedy any violation of any provision of this Exhibit E. The fact that the Department inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this Exhibit E. The Department's failure to detect a non-compliant practice, or a failure to report a detected non-compliant practice to Contractor does not constitute acceptance of such practice or a waiver of the Department's enforcement rights under this Agreement, including this Exhibit E.

12) **Due Diligence.** Contractor shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Exhibit E and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and other applicable state and federal law, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Exhibit E.

13) **Term.** The Term of this Exhibit E-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(I), and when all Department PI and PII is destroyed in accordance with Attachment A.

14) **Effect of Termination**. Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all Department PHI, PI and PII that Contractor still maintains in any form, and shall retain no copies of such PHI, PI or PII. If return or destruction is not feasible, Contractor shall notify the Department of the conditions that make the return or destruction infeasible, and the Department and Contractor shall determine the terms and conditions under which Contractor may retain the PHI, PI or PII. Contractor shall continue to extend the protections of this Exhibit E to such Department PHI, PI and PII, and shall limit further use of such data to those purposes that make the return or destruction of such data infeasible. This provision shall apply to Department PHI, PI and PII that is in the possession of subcontractors or agents of Contractor.

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**Attachment A**
Data Security Requirements

## 1. Personnel Controls

A. **Employee Training**. All workforce members who assist in the performance of functions or activities on behalf of the Department, or access or disclose Department PHI or PI must complete information privacy and security training, at least annually, at Contractor's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following termination of this Agreement.

B. **Employee Discipline**. Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.

C. **Confidentiality Statement**. All persons that will be working with Department PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to Department PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for Department inspection for a period of six (6) years following termination of this Agreement.

D. **Background Check**. Before a member of the workforce may access Department PHI or PI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years.

## 2. Technical Security Controls

A. **Workstation/Laptop encryption**. All workstations and laptops that store Department PHI or PI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the Department Information Security Office.

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B. **Server Security**. Servers containing unencrypted Department PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

C. **Minimum Necessary**. Only the minimum necessary amount of Department PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.

D. **Removable media devices**. All electronic files that contain Department PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.

E. **Antivirus software**. All workstations, laptops and other systems that process and/or store Department PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

F. **Patch Management**. All workstations, laptops and other systems that process and/or store Department PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.

G. **User IDs and Password Controls**. All users must be issued a unique user name for accessing Department PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed at least every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

1) Upper case letters (A-Z)
2) Lower case letters (a-z)
3) Arabic numerals (0-9)

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4) Non-alphanumeric characters (punctuation symbols)

H. **Data Destruction**. When no longer needed, all Department PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the Department Information Security Office.

I. **System Timeout**. The system providing access to Department PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.

J. **Warning Banners**. All systems providing access to Department PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

K. **System Logging**. The system must maintain an automated audit trail which can identify the user or system process which initiates a request for Department PHI or PI, or which alters Department PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If Department PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

L. **Access Controls**. The system providing access to Department PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.

M. **Transmission encryption**. All data transmissions of Department PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing Department PHI can be encrypted. This requirement pertains to any type of Department PHI or PI in motion such as website access, file transfer, and E-Mail.

N. **Intrusion Detection**. All systems involved in accessing, holding, transporting, and protecting Department PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and revention solution.

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3. **Audit Controls**

A. **System Security Review**. Contractor must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing Department PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.

B. **Log Reviews**. All systems processing and/or storing Department PHI or PI must have a routine procedure in place to review system logs for unauthorized access.

C. **Change Control**. All systems processing and/or storing Department PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

4. **Business Continuity / Disaster Recovery Controls**

A. **Emergency Mode Operation Plan**. Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of Department PHI or PI held in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.

B. **Data Backup Plan**. Contractor must have established documented procedures to backup Department PHI to maintain retrievable exact copies of Department PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore Department PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of Department data.

5. **Paper Document Controls**

A. **Supervision of Data**. Department PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Department PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

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B. **Escorting Visitors**. Visitors to areas where Department PHI or PI is contained shall be escorted and Department PHI or PI shall be kept out of sight while visitors are in the area.

C. **Confidential Destruction**. Department PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.

D. **Removal of Data**. Only the minimum necessary Department PHI or PI may be removed from the premises of the Contractor except with express written permission of the Department. Department PHI or PI shall not be considered "removed from the premises" if it is only being transported from one of Contractor's locations to another of Contractors locations.

E. **Faxing**. Faxes containing Department PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.

F. **Mailing**. Mailings containing Department PHI or PI shall be sealed and secured from damage or inappropriate viewing of such PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of Department PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of the Department to use another method is obtained.