

AGREEMENT FOR SERVICES 153-S1511
Residential Services for Minors with Serious Emotional Problems

THIS AGREEMENT made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Victor Treatment Centers, Inc., a California Corporation duly qualified to conduct business in the State of California, whose principle place of business is 1360 East Lassen Avenue, Chico, CA 95973 (hereinafter referred to as "Contractor") and whose Agent for Service of Process is Douglas E. Scott, 1360 East Lassen Avenue, Chico, CA 95973.

R E C I T A L S

WHEREAS, County has determined that it is necessary to obtain a contractor to provide twenty-four (24) hour residential services for County-authorized minors with serious emotional problems (hereinafter referred to as "Client" or "Clients") to provide specialty mental health services for clients on an "as requested" basis for the Health and Human Services agency, Mental Health Division; and

WHEREAS, County Health and Human Services Agency, Social Services Division has executed an Agreement with Contractor to provide "as requested" protection in the form of shelter care and/or foster care placement for children under a separate Agreement 923-0811; and

WHEREAS, Contractor has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable Federal, State (all references to "State" in this Agreement shall mean the State of California unless otherwise specified), and local laws; and

WHEREAS, County has determined that the provision of these services provided by Contractor is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by County of El Dorado Charter, Section 210 (b) (6) and/or Government Code 31000;

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

ARTICLE I

Scope of Services: Contractor acknowledges that this Agreement is funded in whole or in part with funds from the State of California and the Federal Government.

A. DEFINITIONS:

Assessment	Includes a clinical analysis of the history and status of a Client’s mental, emotional, or behavioral disorder and diagnosis. Can also include an appraisal of the Client’s community functioning in several areas, which may include living situation, daily activities, social support systems, and health status. Relevant cultural issues are to be addressed in all assessment activities.
Beneficiary	Any person who is certified as eligible under the Medi-Cal Program (AUTHORITY: Title 9, California Code of Regulations (CCR) Section 1810.205 and Title 22, CCR, Section 51000.2), as currently interpreted or as amended during the term of this Agreement.
Case Management	<p>Activities provided to assist Clients to access needed medical, educational, social, prevocational, vocational, rehabilitative, or other needed community services for Clients. These activities may include:</p> <ul style="list-style-type: none"> • Consultation - interagency and intra-agency consultation or collaboration involving people in professional relationships with the Client (e.g., CPS worker, Probation Officer, teacher, mental health staff, and pediatrician). Supervision is not billable to case management consultation. • Linkage - locating and securing services and resources in the community needed by the client. Examples of linkage could include assisting Client obtain funding such as Social Security Income, Medi-Cal, etc.; assistance with medical/dental care; education; vocational training; parenting classes, etc. • Access – Assisting a Client to access mental health services such as telephoning Dial-A-Ride on behalf of a Client unable to arrange transportation on their own due to mental illness and impairment in functioning, or providing interpretation and identification of cultural factors on behalf of Client during medication evaluation appointment. (Note – interpretation services alone are not a billable service). • Placement – Locating and securing appropriate living environment for the Client (can include pre-placement visits, placement, and placement follow-up). Case management placement can also be billed while a Client is in an acute psychiatric hospital, when the Client is within thirty (30) days of discharge, but only if the living environment at discharge from the hospital is in question or has yet to be determined.
Collateral	A service activity involving a significant support person in a Client’s life with the intent of improving or maintaining the mental health status of the client. The Client may or may not be present for this activity. A “support person” is someone in a non-professional relationship with the Client.

The Core Practice Model(CPM)	The Core Practice Model (CPM) is a set of concepts, values, principles, and standards of practice that outline an integrated approach to working with children/youth and families involved with child welfare who have or may have mental health needs. It provides a framework for all child welfare and mental health agencies, service providers and community/tribal partners working with youth and families.
Crisis Intervention	An emergency response service enabling the Client to cope with a crisis, while maintaining his/her status as a functioning member of the community to the greatest possible extent. A crisis is an unplanned event that results in the Client's need for immediate service intervention in order to avoid the need for a higher level of care. Crisis Intervention services are limited to stabilization of the presenting emergency. The emergency may or may not conclude with acute hospitalization.
DHCS	California Department of Health Care Services
DMH	California Department of Mental Health (transitioned to DHCS 2012)
EPSDT	Early and Periodic Screening, Diagnosis and Treatment of eligible Medi-Cal beneficiaries as funded, administered and regulated by the Federal and State governments, with specific reference to Short-Doyle Medi-Cal services provided to any beneficiary under the age of twenty-one (21) with non-restricted Medi-Cal eligibility.
Family Therapy or Rehabilitation	A therapeutic or rehabilitative activity with a Client and their family. "Family" is as defined by the Client, and may include biological, adopted, foster and extended family members. "Family" may be understood in a non-traditional manner, e.g. residents at a Board and Care facility.
Group Therapy or Rehabilitation	<ul style="list-style-type: none"> • Therapy - A therapeutic intervention delivered to a group of Clients that focuses primarily on symptom reduction as a means to decrease functional impairments. Therapy can only be delivered and billed for by a clinician for whom therapy is within their scope of practice. • Rehabilitation – A service delivered to a group of Clients, which may include assistance in improving, maintaining, or restoring functional skills. These include daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system.
Individual Therapy or Rehabilitation	<p>Therapy: A therapeutic intervention that focuses primarily on symptom reduction as a means to decrease functional impairments. Therapy can only be delivered and billed for by a clinician for whom therapy is within their scope of practice.</p> <p>Rehabilitation: A service that may include assistance in improving, maintaining, or restoring a Client's functional skills. These include daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system.</p>
Medical Necessity	The principal criteria by which the Mental Health Plan decides authorization and/or reauthorization for covered services. Medical Necessity must exist in order to determine when mental health treatment is eligible for reimbursement under Plan benefits as defined by the State Department of Mental Health or State Department of Health Care Services.

Medication Support Services	Service activities that include prescribing, administering, dispensing, and monitoring of psychiatric medications or biologicals (medical preparations made from living organisms such as serum, vaccine, antitoxin, etc.), which are necessary to alleviate the symptoms of mental illness. Activities may also include assessment/evaluation, medication injections, collateral, and case management as these activities relate to Medication Support Services. These services can only be provided and billed for by medical doctors, family nurse practitioners, physician assistants, nurses, and psychiatric technicians.
MHP	Mental Health Plan
Outpatient Services	Defined as Mode 15 category services by the State of California, and include: <ul style="list-style-type: none"> • Assessment • Case Management • Collateral • Crisis Intervention • Group Therapy • Individual Therapy, and • Medication Support Services
Plan Development	A service activity that consists of working with the Client and others in their support system to develop the Client Plan. May also include the process of getting the Client Plan approved and services authorized, e.g., presenting a case to the authority in charge of authorizing services. Attendance at an Individualized Education Program (IEP) may be billed to Plan Development if the progress note documents the staff person's participation in the IEP regarding planning mental health services that will better allow the student to achieve academically.
QIU	The County Quality Improvement Unit.
Rehabilitation	A service that may include assistance in improving, maintaining, or restoring a Client's functional skills. These include daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system.
SMHS	Specialty Mental Health Services
Therapeutic Behavioral Services (TBS)	Short-term one-to-one assistance to children or youth under the age of twenty-one (21) who have behaviors that put them at risk of losing their placement and/or if it has been determined that it is highly likely that without TBS the minor may need a higher level of care. TBS can be provided in a variety of settings including at home, in a group home, in the community, and during evening and weekend hours as needed. The minor must have a current Client Plan and be receiving other SMHS concurrent with TBS. TBS services require a separate authorization from the authorization of other SMHS.

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B. CONTRACTOR RESPONSIBILITIES:

1. Contractor agrees to furnish the personnel and equipment necessary to provide therapeutic treatment for clients on an “as requested” basis for the Health and Human Services Agency (HHS), Mental Health Division (MHD). All services provided by Contractor shall have prior written authorization by the HHS Director or Director’s designee. Referrals will be given verbally and MHD Coordinator will provide a written authorization for services, which shall become a part of the Client’s clinical record.
2. Contractor shall provide specialty mental health services to clients as defined in Title 9, California Code of Regulations, Rehabilitative and Developmental Services, Section 1810.247, as currently interpreted or as amended during the term of this Agreement.
3. Contractor shall provide quality care in a manner consistent with efficient, cost effective delivery of covered services.
4. Contractor shall provide covered services to Clients in the same manner in which it provides said services to all other individuals receiving services from Contractor subject to any limitations contained in Clients’ treatment plans.
5. While County Clients may be placed by the County in Contractor’s facility, Contractor recognizes that County is under no obligation to place any Client in Contractor’s facility.
6. Contractor agrees to provide documentation or reports to County when requested, to assure Contractor’s compliance with the terms of this Agreement.
7. Meetings: Contractor will participate in periodic meetings with MHD at the request of either party, for the purpose of reviewing the implementation of the program under this Agreement and will at all times cooperate in making data and information on the implementation of this Agreement available to MHD.
8. Interpretation Services: To the extent that it may be needed, free language interpretation services will be made available for Clients. It is expected that Contractor shall at all times have the internal capacity to provide the services called for in this Agreement with personnel that have the requisite cultural/linguistic competence required to achieve the purposes of this Agreement.
9. Reports and Data: Contractor shall collect and provide program implementation, financial, and related data and information on the activities conducted hereunder as may be requested by County. It is understood and agreed that Contractor’s timely submission of program implementation, financial, and related data, and County’s access to said data is an essential element of this Agreement.

C. SERVICE REQUIREMENTS:

1. **Outpatient Services:**

Contractor shall provide a full range of quality mental health outpatient services, as described in herein, to the child/youth and families/care providers individually, and in various combinations, as indicated by clinical need and reflected in the Treatment Plan.

- a. Services shall be provided in accordance with the County Mental Health Plan.
 - i. Mental health services shall be provided to the individual child or youth, and may include family or significant support persons.
 - ii. Services shall be provided anywhere in the community including home, school, office, or other sites. Place of service shall enhance delivery and access to service. Contractor hours shall be flexible to include weekends and evenings to accommodate the family/care provider.

- iii. The length, type, and duration of mental health services shall be defined in the Treatment Plan. Length of service will be based on clinical need as determined by the case-assigned Clinician/Therapist/Service Coordinator in collaboration with the child/youth/family, but will not exceed the time authorized by HHS/MHD on the Treatment Plan.
- iv. The Client shall be defined as the child/youth that is authorized to receive mental health services from the Contractor. In cases where there is more than one (1) child/youth in the same family receiving mental health services, each child/youth is to be considered a separate Client.
- v. Contractor shall provide referrals and/or facilitate linkage to community social services for needs such as housing, food, clothing, and transportation.

2. Therapeutic Behavioral Services (TBS)

- a. Contractor shall provide TBS in accordance with the DMH/DHCS guidelines, and as outlined in the Mental Health Plan.
- b. Contractor shall develop the TBS Client plan in order to provide an array of individualized, one-to-one services that target behaviors or symptoms that jeopardize existing placements, or are barriers to transitioning to a lower level of residential placement.
- c. Contractor shall ensure that services are available at times and locations that are convenient for parents/care providers and acceptable to the child/youth.
- d. Contractor shall develop a Transition Plan at the inception of TBS.
 - i. The Transition Plan shall outline the decrease and/or discontinuance of TBS when they are no longer needed, or appear to have reached a plateau in effectiveness.
 - ii. When applicable, Contractor shall include a plan for transition to adult services when the child/youth turns twenty-one (21) years old, and is no longer eligible for TBS.
- e. Contractor shall provide services at any community location not otherwise prohibited by regulations. These may include homes, foster homes, group homes, after school programs, and other community settings.
- f. Contractor shall incorporate all goals and objectives on the IEP related to the child/youth's mental health needs into the child/youth's TBS Client plan when appropriate.
- g. Contractor shall provide the number of service hours to the child/youth as indicated on the TBS Client plan. Billable service hours shall not exceed twenty- four (24) hours on any given day.
- h. Contractor shall comply with all TBS policies and procedures developed by HHS/MHD incorporated by reference as if fully set forth herein.
- i. Contractor shall comply with all letters related to TBS readily available on the DHCS website, incorporated by reference as if fully set forth herein.

3. Intake – Eligibility Determination:

- a. Each beneficiary receiving services shall meet the criteria for EPSDT/SMHS continuously for the duration of provision of services. Eligibility for EPSDT/SMHS is established by completion of an assessment with the beneficiary and their family. The assessment must establish Medical Necessity as previously defined.

- b. Eligibility for Mental Health Treatment requires at least one item be present from each of “Diagnostic Criteria,” “Impairment Criteria,” and “Intervention Related Criteria” as defined below.
- i. Diagnostic Criteria: Eligibility requires at least one (1) of the following Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) “Included Diagnoses,” which will be the focus of the intervention being provided.

Included Diagnoses:	
Adjustment Disorders	Medication-Induced Movement Disorders
Attention Deficit and Disruptive Behavior Disorders	Mood Disorders
Dissociative Disorders	Other Disorders of Infancy, Childhood, or Adolescence
Eating Disorders	Paraphilia
Elimination Disorders	Personality Disorders, excluding Antisocial Personality Disorder
Factitious Disorders	Pervasive Developmental Disorder, except Autistic Disorder, which is “Excluded.”
Feeding and Eating Disorders of Infancy or Early Childhood	Schizophrenia and Other Psychotic Disorders
General Identity Disorders	Impulse-Control Disorders Not Otherwise Specified

Excluded Diagnoses:	
Antisocial Personality Disorder	Mental Retardation
Autistic Disorders (Other Pervasive Developmental Disorders are “Included”)	Motor Skills Disorder
Mental Disorders Due to a General Medical Condition	Other conditions that may be a focus of clinical attention, except “Medication Induced Movement Disorders” which are “Included”
Delirium, Dementia, and Amnesic and Other Cognitive Disorders	Sexual Dysfunctions
Learning Disorders	Sleep Disorders
Communication Disorders	Substance-Related Disorders
Tic Disorders	

Presence of an “Excluded Diagnosis” does not preclude eligibility for service for an “Included Diagnosis.”

- ii. **Impairment Criteria.** Must have at least one of the following three items as a result of the mental disorder(s) identified in the section titled “Diagnostic Criteria”:
- 1) A significant impairment in an important area of life functioning, or
 - 2) A probability of significant deterioration in an important area of life functioning, or
 - 3) Children also qualify if there is a probability the child will not progress developmentally as individually appropriate. (Children covered under EPSDT qualify if they have a mental disorder that can be corrected or ameliorated, current State Department of Health Services EPSDT regulations also apply).

iii. **Intervention Related Criteria:** Must have all three items shown below:

- 1) The focus of proposed interventions is to address the condition identified in the section titled "Impairment Criteria" above, and
 - 2) It is expected the beneficiary will benefit from the proposed intervention by significantly diminishing the impairment, or preventing significant deterioration in an important area of life functioning, and/or for children it is probable the child will progress developmentally as individually appropriate (or if covered by EPSDT can be corrected or ameliorated), and
 - 3) The condition would not be responsive to physical healthcare based treatment.
- iv. EPSDT beneficiaries with an included diagnosis and a substance related disorder may receive SMHS directed at the substance use component. The intervention must be consistent with, and necessary to the attainment of, the specialty mental health treatment goals.
- c. Contractor shall not accept a referral for a child/youth if s/he cannot be offered an appointment to be seen within ten (10) business days.
- d. Contractor shall screen one hundred percent (100%) of referred children/youth for Medi-Cal eligibility upon initial assessment and monthly for all children/youth receiving services in the case of group homes, and with each additional service in the case of outpatient services. The eligibility screening shall include verifying the County of El Dorado as the responsible County, and confirming for valid full scope aid codes.
- i. If the child/youth becomes ineligible for Medi-Cal, Contractor shall take the necessary steps to ensure the timely re-instatement of Medi-Cal eligibility.
- e. If services defined in California Government Code, Title I, Division 7, Chapter 26.5 ("Chapter 26.5") are authorized by County, Contractor shall provide such services in accordance with Code Sections 7572.5, 7576, 7582, 7585, and 7586, as currently interpreted or as amended during the term of this Agreement.
- i. Contractor shall coordinate with MHD Quality Improvement Unit (QIU) to include tracking Chapter 26.5 status and notification of all changes to the level of services for all Chapter 26.5 eligible children and youth.
 - ii. Contractor shall attend IEP Team Meetings if requested by County.

5. Miscellaneous Requirements

- a. Contractor shall provide comprehensive SMHS, as defined in Title 9, CCR, Division 1, Chapter 11, as currently interpreted or as amended during the term of this Agreement, to children and youth who are referred by County and who meet the criteria established in, and in accordance with, the MHP.
- b. Contractor shall obtain written pre-authorization for all mental health services from the MHD QIU. Services rendered by Contractor without pre-authorization shall not be reimbursed.
- c. Contractor shall adhere to guidelines in accordance with Policy and Procedures issued by the MHD QIU.
- d. Contractor shall collaborate with all parties involved with the child and family including but not limited to parents, schools, doctors, social services, Alta Regional, alcohol and drug service providers, and Probation. Contractor shall provide referral and linkages as appropriate.

- e. Contractor shall involve child/parents/caregivers/guardians in all treatment planning and decision-making regarding the child's services as documented in the child/youth's Treatment Plan.
- f. Contractor shall provide clinical supervision to all treatment staff in accordance with the State Board of Behavioral Sciences and State Board of Psychology.
- g. Contractor shall attend County-sponsored provider meetings and other work groups as requested.
- h. Contractor shall provide Clients with a copy of the El Dorado County Mental Health Plan Grievance and Appeal brochures and "Guide to Medi-Cal Mental Health Services." If requested, Contractor shall assist Clients/families in the Grievance or Appeal process outlined in the above referenced documents.
- i. Contractor shall complete all performance outcomes requirements in accordance with the DMH and the MHD.
- j. Contractor shall adhere to the guidelines in accordance with policies and procedures issued by MHD QIU including but not limited to:
 - i. Contractor shall complete all chart documentation as defined in the QIU.
 - ii. Contractor shall participate in all County required Utilization Reviews.
 - iii. Contractor shall conduct his or her own internal Utilization Review.
 - iv. Contractor shall comply with audit requests by the County.
- k. Contractor is prohibited from using any unconventional mental health treatments on children. Such unconventional treatments include, but are not limited to, any treatments that violate the children's personal rights as provided in Title 22, CCR, Division 6, Chapter 1, Section 80072(3). Use of any such treatments by Contractor or any therapist providing services for Contractor shall constitute a material breach of this Agreement and may be cause for termination of this Agreement.

D. **MEDICATION SUPPORT SERVICES:** Services shall include prescribing, administering, dispensing, and monitoring of psychiatric medications or biologicals that are necessary to alleviate the symptoms of mental illness. These services can only be provided, and billed for, by medical doctors, family nurse practitioners, physician assistants, nurses, and psychiatric technicians. Sessions/activities as noted below are inclusive of time required for documentation:

Activities:	Session shall be less than or equal to:
Assessment / Evaluation - Initial	90 minutes
Assessment / Evaluation – Follow Up	45 minutes
Case Management	15 minutes
Medication Refill	10 minutes

E. **EVALUATION OF CONTRACTOR'S PERFORMANCE:**

The County shall evaluate the Contractor's performance under this Agreement after completion of the Agreement. County shall maintain a copy of any written evaluation in the County contract file. The County's determination as to satisfactory work shall be final absent fraud or mistake.

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ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall remain in effect through August 31, 2017 unless terminated by one of the parties pursuant to the provisions under the Articles titled “Fiscal Considerations” and “Default, Termination, and Cancellation” herein.

ARTICLE III

Compensation for Services: Contractor shall submit monthly invoices no later than thirty (30) days following the end of a “service month” except in those instances where Contractor obtains written approval from County Health and Human Services Agency Director or Director’s designee granting an extension of the time to complete billing for services or expenses. For billing purposes, a “service month” shall be defined as a calendar month during which Contractor provides services in accordance with the Article titled “Scope of Services.”

For services provided herein, County agrees to pay Contractor monthly in arrears and within forty-five (45) days following the County’s receipt and approval of itemized invoice(s) identifying services rendered.

A. Rates: The following rates are effective upon final execution of this Agreement 153-S1511.

Service Type	Unit	Rate
Case Management Services	Minute	\$2.02
Mental Health Services	Minute	\$2.61
Medication Support Services	Minute	\$4.82
Crisis Intervention	Minute	\$3.88

B. Invoices/Remittances:

1. Invoices / Remittance shall be addressed as indicated in the table below or to such other location as County or Contractor may direct per the Article titled “Notice to Parties.”

Mail invoices to:	Mail remittance to:
County of El Dorado- HHSA 3057 Briw Rd, Suite B Placerville, CA 95667 Attn: Finance Unit	Victor Treatment Center, Inc. 1360 East Lassen Avenue Chico, CA 95973 Attn: Accounts Receivable

ARTICLE IV

Maximum Obligation: The maximum contractual obligation under this Agreement shall not exceed \$300,000 for all of the stated services and during the term of the Agreement. In no event shall County be obligated to pay Contractor for any amount above the total maximum obligation of this Agreement for Services.

ARTICLE V

Cost Report: Contractor shall submit an annual Cost Report to County on or before October 31 of each year for the preceding fiscal period of July 1 through June 30 (Fiscal Period). Contractor shall prepare the Cost Report in accordance with the State Department of Mental Health or State

Department of Health Care Services Cost and Financial Reporting System Local Program Financial Support Instruction Manual, incorporated by reference as if fully set forth herein.

The Cost Report shall be the final financial record of services rendered under this Agreement, for subsequent audits, if any. Such reported costs and allocations shall be supported by source documentation maintained by Contractor and available at any time to Contract Administrator upon reasonable notice.

It is agreed between County and Contractor that the provisional rates stated in this Agreement are intended to approximate the Contractor's actual costs. Should the actual rate as determined in the Cost Report for the Fiscal Period be less than the provisional rate, Contractor agrees to reimburse County for all amounts paid in excess of the actual rate. Reimbursement shall be remitted to County no later than December 31 following the Fiscal Period. Based upon written approval by the HHS Director, this reimbursement may be made via monthly installment payments for up to six (6) months.

ARTICLE VI

Special Terms and Conditions: By signing this Agreement, Contractor and any of Contractor's subcontractors providing services under this Agreement pursuant to the Article titled "Assignment and Delegation" shall comply with these terms and conditions.

ARTICLE VII

Audit and Inspection Rights: Contractor agrees that County, California Department of Health Care Services, or Department of Mental Health (DHCS-DMH), the State Department of General Services, the Bureau of State Audits, the Auditor General, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of five (5) years after final payment, unless a longer period of records retention is stipulated. 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, Contractor agrees to include a similar right of the County and State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

County or State staff shall be permitted to work side-by-side with Contractor's staff to the extent and under conditions as directed by the County Contract Administrator. In this connection, County or State staff shall be given access to all data, working papers, etc., which Contractor seeks to utilize.

The Contractor shall allow County, DHCS-DMH, California Health and Human Services Agency (HSS), the Comptroller General of the United States, and other State or Federal agencies, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and subcontractors, pertaining to such

services at any time during normal business hours. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Agreement including working papers, reports, financial records and books of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries. Upon request, at any time during the period of this contract, the Contractor shall furnish any such record, or copy thereof, to County or State. Authorized agencies shall maintain the confidentiality of such books and records in accordance with applicable laws and regulations.

The Contractor agrees to include in any subcontractor's agreement the requirement to make all of its books and records, pertaining to the goods and services furnished under the terms of the subcontract, available for inspection, examination or copying by the County, State, the Comptroller General of the United States, and other authorized Federal and State agencies, or their duly authorized representatives, at all reasonable times at the subcontractor's place of business or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least five (5) years from the close of County's fiscal year in which the subcontract was in effect.

From time to time, the County or the State may inspect the facilities, systems, books, and records of Contractor to monitor compliance with the Agreement.

Contractor shall promptly remedy any violation of any provision of the Agreement and shall certify the same to the County Contract Administrator and the (State of California) Information Security Officer in writing.

The fact that the County or State 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 the Agreement.

The County or State's failure to detect, or the detection of any unsatisfactory practices, but failure to notify Contractor or require Contractor's remediation of the unsatisfactory practices does not constitute acceptance of such practice or a waiver of the County or State's enforcement rights under the Agreement.

ARTICLE VIII

Disabled Veteran Business Enterprises (DVBE): Unless specifically waived by the County, Contractor shall comply with the Disabled Veteran Business Enterprises participation goal in accordance with the provisions of Public Contract Code Section 10115 et seq.

ARTICLE IX

Drug Free Workplace Certification: Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and shall provide a drug-free workplace.

ARTICLE X

Key Personnel: Contractor's key personnel at the time of this Agreement shall be as noted in the section titled "Notice to Parties." Any substitution of Contractor's key personnel as identified at the time of execution requires written approval by Contract Administrator.

ARTICLE XI

License and Certifications:

- A. Inpatient Contracts and Subcontracts: If this Agreement is for inpatient services, the Contractor acknowledges that they must maintain necessary licensing and certification. All inpatient subcontracts must require that subcontractors maintain necessary licensing and certification, and all subcontractors must comply with the terms of this Agreement.
- B. Permits and Licenses: The Contractor shall procure and keep in full force and effect during the term of this Agreement all permits, registrations and licenses necessary to accomplish the work specified in this Agreement, and give all notices necessary and incident to the lawful execution of the work.

The Contractor shall keep informed of, observe, comply with, and cause all of its agents, subcontractors and employees to observe and to comply with all prevailing Federal, State, and local laws, and rules and regulations made pursuant to said Federal, State, and local laws, which in any way affect the conduct of the work of this Agreement. If any conflict arises between provisions of the plans and specifications and any such law above referred to, then the Contractor shall immediately notify the County in writing.

ARTICLE XII

Non-Discrimination Provisions: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including human immunodeficiency virus [HIV] and acquired immune deficiency syndrome [AIDS]), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and any subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code [GC] Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations [CCR] Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing GC Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code (CCR), are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Consistent with the requirements of applicable Federal or 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 on the

basis of race, color, gender, religion, marital status, national origin, age, sexual preference, or mental or physical handicap.

The Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

Notwithstanding other provisions of this section, the Contractor may require a determination of medical necessity pursuant to Title 9, CCR, Section 1820.205, Section 1830.205, or Section 1830.210, prior to providing covered services to a beneficiary.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

ARTICLE XIII

Record Retention: Contractor agrees to make all of its books and records pertaining to the goods and services furnished under the terms of this Agreement available for inspection, examination, or copying by authorized County, the Comptroller General of the United States, State of California or Federal agencies, or their duly authorized representatives, at all reasonable times at Contractor's place of business or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least five (5) years from the close of the County's fiscal year in which the Agreement was in effect, or longer period as may be required by Federal or State of California law, including, but not limited to any record retention laws pertaining to minors, psychiatric health facilities, psychology clinics, psychologists and/or other licensed professionals. If at the end of the applicable retention period, there is litigation or an audit or other investigation involving those books or records, Contractor will retain the books or records until the resolution of such litigation, audit, or investigation.

ARTICLE XIV

Public Hearings: If public hearings on the subject matter dealt with in this Agreement are held within one (1) year from the Agreement expiration date, Contractor shall make available to testify the personnel assigned to this Agreement at the hourly rates specified in the Contractor's proposed budget. County shall reimburse Contractor for travel of said personnel at the Agreement rates for such testimony as may be requested by County or State.

ARTICLE XV

Utilization Review: Contractor shall establish and maintain systems to review the quality and appropriateness of services in accordance with applicable Federal and State statutes and regulations, and guidelines operative during the term of this Agreement.

ARTICLE XVI

Additional Agreement Provisions:

- A. Agreement Work Hours and Safety Standards Act: The Contractor shall comply with the provisions of the Agreement Work Hours and Safety Standards Act (40 U.S.C. 327-333), as applicable. This Act 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 sections 102 and 107 of the Agreement Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (Title 29, CFR, Part 5).
- B. Captions: The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the clauses to which they pertain.
- C. Clean Air Act & Federal Water Pollution Control Act: The Contractor shall comply with the provisions of Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended, which provide that contracts and subcontracts of amounts in excess of \$100,000 shall contain a provision that requires the Contractor or subcontractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act. Violations shall be reported to the Centers for Medicare and Medicaid Services.
- D. Copeland Anti-Kickback Act: The Contractor shall comply with the provisions of the Copeland Anti-Kickback Act (18 U.S.C. 874 and 40 U.S.C. 276c), which requires that all contracts and subcontracts in excess of \$2,000 for construction or repair awarded by the Contractor and its subcontractors shall include a provision for compliance with the Copeland Anti-Kickback Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (Title 29, CFR, Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States").
- E. Davis-Bacon Act: The Contractor shall comply with the provisions of Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7), which requires 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 (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (Title 29, CFR, Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").
- F. Debarment and Suspension: The Contractor shall comply with the provisions of Title 2, CFR, Section 180 as implemented by Title 2 CFR Section 376, and Executive Orders 12549 and 12689, "Debarment and Suspension," which excludes parties listed on the General Services Administration's list of parties excluded from Federal procurement or nonprocurement programs from having a relationship with the Contractor.
- G. Federal Contractor Exclusions: Pursuant to Title 42, US Code Section 1320a-7 and 1320c-5, and Welfare and Institutions Code Section 14123, the Contractor shall not employ or enter into an Agreement with providers or other individuals and entities excluded from participation in Federal health care programs under either Section 1128 or 1128A of the Social Security Act. Federal financial participation is not available for amounts expended for providers excluded by Medicare, Medicaid, or the State Children's Insurance Program, except for emergency services.
- H. H Federal Regulations Requirements: If applicable, based on the services provided under this Agreement, the Contractor agrees to comply as follows:

1. The Contractor shall maintain written policies and procedures respecting advance directives in compliance with the requirements of Title 42, Code of Federal Regulations (CFR), Sections 422.128 and 438.6(i)(1), (3) and (4). 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 ninety (90) days after the effective date of the change.
2. The Contractor shall obtain approval from County prior to implementing a Physician Incentive Plan as described at Title 42, CFR, Section 438.6(h). County shall confer with DHCS-DMH as necessary and shall approve the Contractor's request only if the proposed Physician Incentive Plan complies with all applicable Federal and State regulations.

ARTICLE XVII

Publications and Reports:

- A. Publications: If a publication and/or report is required under this Contract, Contractor shall:
1. Incorporate any comments or revisions required by the County into any publication or report and shall not publish any material until it receives final County approval.
 2. Furnish two (2) copies of each publication and report required plus one reproducible original.
 3. Prepare all illustrations, maps, and graphs in a manner that allows the complete illustration to be contained on a single 8-1/2" by 11" page unless specific written approval is given to the contrary.
 4. Print all graphs, illustrations and printed materials in a single color throughout each publication unless prior County approval is granted.
 5. Place the Contractor's name only on the cover and title page of publications and reports and summaries. Covers and title pages shall read as follows:

DEPARTMENT OF MENTAL HEALTH

TITLE

By (Contractor)

6. County and the State of California reserve the right to use and reproduce all publications, reports, and data produced and delivered pursuant to this Agreement. County and the State of California further reserve the right to authorize others to use or reproduce such materials provided the author of the report is acknowledged in any such use or reproduction.
 7. If the publication and/or report are prepared by non-employees of the County and the State of California, and the total cost for such preparation exceeds \$5,000, the publication and/or report shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the publication and report in a separate section of the report (Government Code Section 7550).
- C. Progress Reports: If progress reports are required by this Agreement, Contractor shall provide a progress report in writing, or orally if approved by the County Contract Administrator, at intervals to be determined by Contract Administrator. This progress report shall include, but not be limited to, a statement that the Contractor is or is not on schedule, any pertinent reports, interim findings and other information as directed by County. Contractor shall cooperate with

and shall be available to meet with the County to discuss any difficulties, or special problems, so that solutions or remedies can be developed as soon as possible.

- D. **Presentation:** Upon request, Contractor shall meet with the County to present any findings, conclusions, and recommendations required by the Agreement for approval. If set forth in the Contract, Contractor shall submit a comprehensive final report for approval. Both the final meeting and the final report shall be completed on or before the date indicated in the Contract.

ARTICLE XVIII

Mandated Reporter: Contractor acknowledges and agrees to comply with mandated reporter requirements pursuant to the provisions of Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the California Penal Code, also known as The Child Abuse and Neglect reporting Act, and the Welfare and Institutions Code 15630 et seq. related to elder and dependent adults, as applicable.

ARTICLE XIX

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE XX

Contractor to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during term hereof.

ARTICLE XXI

Assignment and Delegation: County engages Contractor for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County. In the event County agrees in writing that Contractor may subcontract for services under this Agreement, Contractor shall include in any subcontract all the terms and conditions of the Article titled "Special Terms and Conditions"; shall require that all subcontractors comply with all terms and conditions of this Agreement; and shall require that all subcontractors comply with all pertinent Federal and State statutes and regulations.

ARTICLE XXII

Independent Contractor/Liability: Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates,

and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and responsible manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

ARTICLE XXIII

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County of El Dorado is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

Hold Harmless: Contractor agrees to hold harmless the State of California and its beneficiaries in the event the County cannot or shall not pay for services performed by the Contractor pursuant to this Agreement.

ARTICLE XXIV

Default, Termination, and Cancellation:

- A. Default: Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. The failure of County to enforce at any time the provisions of this Agreement, or to require at any time performance by the Contractor of any of the provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of County to enforce said provisions.

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7)-calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for Agreement resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.
- E. Transfer of Care: Prior to the termination or expiration of this Agreement and upon request by the County or State of California DHCS-DMH, the Contractor shall assist in the orderly transfer of beneficiaries' mental health care. In doing this, the Contractor shall make available to County or the State of California copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor, necessary for efficient case management of beneficiaries, as determined by County. Costs of reproduction shall be borne by the County. In no circumstances shall a beneficiary be billed for this service.
- F. Transfer of Records: In the event that Contractor ceases operation, all files that are subject to audit shall be transferred to the County for proper storage of physical records and electronic data. Contractor shall notify County of impending closure as soon as such closure has been determined, and provide County with a complete list of records in its possession pertaining to County clients and operational costs under this Agreement. County shall promptly advise Contractor which records are to be transferred to the custody of County. Records not transferred to custody of County shall be properly destroyed by Contractor, and Contractor shall provide documentation of proper destruction of all such records to County.

ARTICLE XXV

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
HEALTH AND HUMAN SERVICES AGENCY
3057 BRIW ROAD
PLACERVILLE, CA 95667
ATN: CONTRACTS UNIT

With a copy to:
COUNTY OF EL DORADO
CHIEF ADMINISTRATIVE OFFICE
PROCUREMENT AND CONTRACTS DIVISION
360 FAIR LANE, LOWER LEVEL
PLACERVILLE, CA 95667
ATTN: TERRI DALY, PURCHASING AGENT, or Successor

Or to such other location as the County directs.

Notices to Contractor shall be addressed as follows:

VICTOR TREATMENT CENTERS, INC.
1360 EAST LASSEN AVENUE
CHICO, CA 95973
ATTN: LENNY VERSER, CHIEF FINANCIAL OFFICER, or Successor

Or to such other location as the Contractor directs.

ARTICLE XXVI

Change of Address: In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties." Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary, provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XXVII

Confidentiality and Information Security Provisions: The Contractor shall comply with applicable laws and regulations, including but not limited to Sections 14100.2 and 5328 et seq. of the Welfare and Institutions Code, Section 431.300 et seq. of Title 42, Code of Federal Regulations, and the Health Insurance Portability and Accountability Act (HIPAA), and its implementing

regulations (including but not limited to Title 45, CFR, Parts 160, 162 and 164) regarding the confidentiality and security of individually identifiable health information (IIHI).

A. Nondisclosure: Contractor shall not use or disclose confidential, individually identifiable, or sensitive information other than as permitted or required by the Agreement and as required by law.

B. Confidentiality of Data and Documents: Contractor shall not disclose data or documents or disseminate the contents of the final or any preliminary report without written permission of the County Contract Administrator. However, all public entities shall comply with California Public Records Act (Government Code Sections 6250 et seq.) and the Freedom of Information Act (Title 5 of the United States Code Section 552), as applicable.

Permission to disclose information or documents on one occasion shall not authorize Contractor to further disclose such information or documents on any other occasions except as otherwise provided in the Agreement or required by law.

Contractor shall not comment publicly to the press or any other media regarding the data or documents generated, collected, or produced in connection with this contract, or the County or State's actions on the same, except to County or State staff or Contractor's own personnel involved in the performance of this Contract, or as required by law.

If requested by County, Contractor shall require each of its employees or officers who will be involved in the performance of this Agreement to agree to the above terms in a form to be approved by County and shall supply County with evidence thereof.

Each subcontract shall contain the foregoing provisions related to the confidentiality of data and nondisclosure.

After any data or documents submitted have become a part of the public records of the County or the State of California, Contractor may at its own expense and upon written approval by the County Contract Administrator, publish or utilize the same data or documents but shall include the following Notice:

LEGAL NOTICE

This report was prepared as an account of work sponsored by the Department of Mental Health (Department), but does not necessarily represent the views of the Department or any of its employees except to the extent, if any, that it has formally been approved by the Department. For information regarding any such action, communicate directly with the Department at P.O. Box 952050, Sacramento, California, 94252-2050. Neither said Department nor the State of California, nor any officer or employee thereof, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document. Nor does any party represent that use of the data contained herein, would not infringe upon privately owned rights without obtaining permission or authorization from any party who has any rights in connection with the data.

C. Provisions Relating to Data: "Data" as used in this Agreement means recorded information, regardless of form or characteristics, of a scientific or technical nature. It may, for example,

document research, experimental, developmental or engineering work; or be usable or be used to define a design or process; or support a premise or conclusion asserted in any deliverable document called for by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, charts, tables, mathematical modes, collections or extrapolations of data or information, etc. It may be in machine form, as punched cards, magnetic tape, computer printouts, or may be retained in computer memory.

“Generated data” is that data, which Contractor has collected, collated, recorded, deduced, read out, or postulated for utilization in the performance of this Agreement. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Agreement at State expense, together with complete documentation thereof, shall be treated in the same manner as generated data.

“Deliverable data” is that data which under terms of this Agreement is required to be delivered to the County. Such data shall be property of the County.

Prior to the expiration of any legally required retention period and before destroying any data, Contractor shall notify the County of any such contemplated action; and County may within thirty (30) days of said notification determine whether or not this data shall be further preserved. The County shall pay the expense of further preserving this data. County shall have unrestricted reasonable access to the data that is preserved in accordance with this Agreement.

Contractor shall use best efforts to identify and furnish competent witnesses to testify in any court of law regarding data used in or generated under the performance of this Agreement.

ARTICLE XXVIII

Indemnity: The Contractor shall defend, indemnify, and hold the County, its Officers, employees, agents, and representatives, or State of California or its officers or employees, harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney’s fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, State of California employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Contractor, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County and the State of California harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XXIX

Litigation: The County, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the County or State of California or its officers or employees for which the Contractor must provide indemnification under this Agreement. The failure of the County to give such notice, information, authorization, or assistance shall not relieve the Contractor of its indemnification obligations. The Contractor shall immediately

notify the County of any claim or action against it which affects, or may affect, this Agreement, the terms and conditions hereunder, or the County or State of California, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of the County and State.

ARTICLE XXX

Debarment and Suspension Certification: By signing this Agreement, the Contractor agrees to comply with applicable Federal suspension and debarment regulations and Contractor further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-contractor utilized under the agreement:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- B. 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) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property;
- C. 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 the above Paragraph B;
- D. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
- E. Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under Federal regulations or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
- F. Shall include a clause titled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions.

The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal and State Governments, County may immediately terminate this Agreement for cause or default.

The Contractor shall comply with the provisions of Title 2, CFR, Section 180 as implemented by Title 2 CFR Section 376, and Executive Orders 12549 and 12689, "Debarment and Suspension," which excludes parties listed on the General Services Administration's list of parties excluded from Federal procurement or non-procurement programs from having a relationship with the Contractor.

ARTICLE XXXI

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California; and
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and \$2,000,000 aggregate.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions listed herein below (including an endorsement page for the "additional insured" language stating that:
 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, or volunteers.

- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of the County.

ARTICLE XXXII

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XXXIII

Interest of Contractor: Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

ARTICLE XXXIV

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation."

Gratuities and Contingency Fees: The County, by written notice to the Contractor, may terminate the right of Contractor to proceed under this Agreement if it is found, after notice and hearing by the

County or the State of California, that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County or the State of California with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or performing of such contract.

In the event this Agreement is terminated as provided in the paragraph above, County shall be titled (a) to pursue the same remedies against Contractor as it could pursue in the event of the breach of the Agreement by the Contractor, and (b) as a predetermined amount of liquidated damages, to exemplary damages in an amount which shall not be less than three times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

The rights and remedies of the County provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

The Contractor warrants by execution of this Agreement that no person or agency has been employed or retained by it to solicit or secure this Agreement upon a contract or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of Contractor, for the purpose of securing business. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability, paying only for the values of the work actually returned, or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Use of State Funds: Contractor, including its officers and members, shall not use funds received pursuant to this Agreement to support or pay for costs or expenses related to the following:

Campaigning or other partisan activities to advocate for either the election or defeat of any candidate for elective office, or for or against the passage of any proposition or ballot measure; or, Lobbying for either the passage or defeat of any legislation.

This provision is not intended and shall not be construed to limit any expression of a view, opinion, or position of any member of Contractor as an individual or private citizen, as long as State funds are not used; nor does this provision limit Contractor from merely reporting the results of a poll or survey of its membership.

Conflict of Interest Certification: In accordance with State of California laws and State of California Departmental policy, no employees (including contractors) shall participate in incompatible activities, which are in conflict with their job duties. In addition, State law requires employees whose positions are designated in the State Conflict of Interest Code to file statements of economic interest.

In signing this Agreement, Contractor certifies that they have read and understand Government Code 19990.

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ARTICLE XXXV

California Residency (Form 590): If Contractor is a California resident, Contractors must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XXXVI

Nonresident Withholding: If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

ARTICLE XXXVII

Taxpayer Identification Number (Form W-9) and County Payee Data Record Form: All independent Contractors or Corporations providing services to County must file a Department of the Treasury Internal Revenue Service Form W-9 with County, which certifies their Taxpayer Identification Number. All independent Contractors or Corporations providing services to County may also be required to file a County-issued "Payee Data Record" form with County.

ARTICLE XXXVIII

County Business License: It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of County of El Dorado without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XXXIX

Administrator: The County Officer or employee with responsibility for administering this Agreement is Jamie Samboceti, Program Manager, or successor.

ARTICLE XL

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

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ARTICLE XLI

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XLII

Force Majeure: Neither the County, the State of California, nor the Contractor shall be deemed to be in default in the performance of the terms of this Agreement if either party is prevented from performing the terms of this Agreement by causes beyond its control, including without being limited to: acts of God, interference, rulings or decision by municipal, Federal, State or other governmental agencies, boards or commissions; any laws and/or regulations of such municipal, State, Federal, or other governmental bodies; or any catastrophe resulting from flood, fire, explosion, or other causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other party written notice of the cause of delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable, to complete performance under this Agreement.

ARTICLE XLIII

Venue: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in County of El Dorado, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XLVI

No Third Party Beneficiaries: Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

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ARTICLE XLV

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:

By:  _____ Dated: 9/8/14
Jamie Samboceti, Program Manager
Health and Human Services Agency

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By:  _____ Dated: 9/8/14
Don Ashton, M.P.A., Director
Health and Human Services Agency

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Services 153-S1511 on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: 10/7/14

By: 
Norma Santiago, Chair
Board of Supervisors
"County"

ATTEST:
James S. Mitrison
Clerk of the Board of Supervisors

By:  Dated: 10/7/14
Deputy Clerk

-- CONTRACTOR --

VICTOR TREATMENT CENTERS, INC.
A CALIFORNIA CORPORATION

By:  Dated: 9/8/14
Leny Verser
Chief Financial Officer
"Contractor"

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