

# ORIGINAL

**AGREEMENT FOR SERVICES #3524**  
Specialty Mental Health Services for Children and Young Adults

---

**THIS AGREEMENT** is 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 New Morning Youth and Family Services, a California non-profit public benefit corporation, duly qualified to conduct business in the State of California, whose principal place of business is 6765 Green Valley Road, Placerville, CA 95667, and whose Agent for Service of Process is *Matthew Arenchild, 3177 Warren Lane, El Dorado Hills, CA 95762*, (hereinafter referred to as "Contractor");

## RECITALS

**WHEREAS**, County has contracted with the State of California to serve as the Mental Health Plan (MHP) for the County of El Dorado. As the MHP, the County must provide or arrange for the provision of certain mandated services, including outpatient Specialty Mental Health Services (SMHS) for children and young adults, age twenty-four (24) and under (hereinafter referred to as Client(s)); and

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to provide outpatient SMHS for County-authorized Clients who meet the criteria for outpatient SMHS set forth in Welfare and Institutions Code (WIC) Section 5600.3 and California Code of Regulations (CCR) Title 9, Division 1; 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 El Dorado County Charter, Section 210(b)(6) and/or Government Code (GC) 31000;

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

## **ARTICLE I**

### **Scope of Services:**

- A. **Purpose:** To provide evidence and strength-based, culturally competent, flexible, individual-centered, family driven, effective, quality SMHS to all eligible individuals referred from the County.
- B. **Target Population:** The target population for the services herein are individuals age twenty-four (24) and under who meet the criteria for outpatient SMHS set forth in WIC Section 5600.3 and CCR, Title 9, Division 1 and who are referred from the County (“Client” or “Clients”). In cases in which there is more than one (1) individual in the same family receiving mental health services, each individual shall be a separate Client. The terms “Medi-Cal Beneficiary” or “Medi-Cal Beneficiaries” refer to those Clients who have Medi-Cal as of the date of the Authorized Service provided.
- C. **General Program and Service Requirements:**
- 1) Contractor agrees to furnish the personnel and equipment necessary to provide comprehensive outpatient SMHS, as defined in the California Code of Regulations (CCR) Title 9, Division 1, including services identified by the State as part of the Continuum of Care Reform, and includes the use of parent partners and peer advocates for Clients referred to the Contractor from the County. For the purposes of this Agreement, “parent partners” shall mean parents who have lived experience with the Child Welfare System, and “peer advocates” shall mean individuals who have prior personal participation with Child Welfare Services as a child/youth.
  - 2) Services shall be provided based on medical necessity criteria, in accordance with an individualized Treatment Plan, as approved and authorized by County.
  - 3) Contractor shall abide by all applicable State, federal, and county laws, statutes, regulations, and information notices (“Program Requirements”), and all Policies and Procedures adopted by County to implement said Program Requirements.
    - a) Contractor shall ensure compliance with the terms and conditions of this Agreement, including but not limited to the following: All references to County Agreements with California Department of Health Care Services (DHCS) and governing legislation shall be as currently exists or as may be amended during the term of this Agreement. Replaced, amended, or new DHCS/County Agreements and governing legislation will not necessitate an amendment to this Agreement.
    - b) Contractor shall ensure compliance with the Outpatient Specialty Mental Health Services Protocol (“Outpatient SMHS Protocol”) attached hereto as Exhibit A, and incorporated herein and made by reference a part hereof. Revisions to the Outpatient SMHS Protocol shall become part of this Agreement upon acknowledgment of receipt in writing by the Contractor, and shall become effective ten (10) business days after receipt. No further amendment of the Agreement shall be necessary to revise the Outpatient SMHS Protocol provided that changes to the Outpatient SMHS Protocol do not conflict with any other provisions of this Agreement.
  - 4) Contractor agrees to be responsible to ensure all provided services and documentation are consistent and in accordance with MHP Agreement(s) with the

- DHCS in effect at the time services are provided (the “MHP Agreement”). Said agreement(s) are available at <http://www.edcgov.us/HHSAForContractors>.
- 5) SMHS shall be provided to the individual Client, and may include family/parents/caregivers/guardians, or other significant support persons.
  - 6) Contractor shall ensure that families are offered training and given information that will support them in their roles as active, informed decision-makers for and with their family member who is the Client.
  - 7) Contractor shall collaborate with all parties that may be involved with the Client and family, including but not limited to parents, schools, doctors, social services, County CWS, Alta Regional, County Substance Use Disorder Services, and County Probation.
  - 8) Contractor shall provide referrals and/or facilitate linkage to community-based and social service organizations for needs such as housing, food, clothing and transportation as may be appropriate based upon Client needs.
  - 9) To the extent required based upon Client’s legal status, Contractor shall insure that all staff accompanying a Client into the community as a part of SMHS delivery will maintain ongoing supervision and care for the Client throughout the service event, to include receiving the Client from and returning the Client to Client’s current placement, and advising the appropriate responsible adult of the Client’s return. Contractor shall develop and maintain a policy and procedure reflecting this requirement and submit any updates to the Contract Administrator.
  - 10) Discharge planning will be a focus throughout treatment.
  - 11) Contractor shall identify all Clients due to age-out of SMHS provided by Contractor and into Adult SMHS. Contractor will initiate appropriate treatment referrals to the County to insure that mental health treatment linkages are in place, and will participate with the Client, County or designated staff, and other key support providers in creating a plan that assures a successful transition. To the extent possible, transition planning will commence at least one (1) year prior to the Client’s anticipated transition from Contractor’s SMHS to Adult Specialty Mental Health Services.
  - 12) In the event a Client is determined by Contractor to need a higher or lower level of services, Contractor shall notify the County per the process set forth in the Outpatient SMHS Protocol. The County will determine if the Client needs to move to a higher or lower level of service. In such situations, the County will make the final determination as to which service provider shall provide those services and authorize the services accordingly.
  - 13) Contractor shall report any changes in program eligibility to the County.
  - 14) Planned Discharge (Graduation): Contractor shall strive to demonstrate a graduation rate of fifty percent (50%) of unduplicated clients to community resources each fiscal year of this Agreement. For purposes of this Agreement, “graduation” shall mean planned discharge from Outpatient SMHS to community resources, and “fiscal year” shall mean the period starting July 1 and ending June 30.
  - 15) Contractor must submit to their Contract Administrator, and be approved by the County, any Evidenced Based Practices (EBPs) prior to implementation within an existing or new program.
  - 16) Contractor is prohibited from using any unconventional mental health treatments. Such unconventional mental health treatments include, but are not limited to: Rebirthing Therapy, Holding Therapy, Quiet Play Program, Strong Sitting Time Out, Isolation, Wrapping, EMDR, Eco-Therapy, Theraplay and Reparative or Conversion Therapy for the purpose of altering a person's sexual orientation or

gender identity. Such unconventional treatments also include, but are not limited to, any treatments that violate the Client's personal rights as provided in Title 22, Division 6, Chapter 1, Section 80072(3) of the CCR.

**D. Specialty Mental Health Services:**

- 1) SMHS 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. Unless otherwise specified, activities may be offered to all Clients age twenty-four (24) and under referred to the Contractor from the County for services under this Agreement. Services under this Agreement, as defined in Attachment "A" to the Outpatient SMHS Protocol, may include, but are not limited to:
  - a) Case Management
  - b) Collateral
  - c) Family Therapy or Rehabilitation
  - d) Assessment
  - e) Individual Therapy
  - f) Individual Rehabilitation
  - g) Group Therapy or Rehabilitation
  - h) Medication Support Services
  - i) Crisis Intervention
  - j) Therapeutic Behavioral Services (Clients under age twenty-one (21) only)
  - k) Plan Development
  - l) Intensive Care Coordination (ICC) (Clients under age twenty-one (21) only)
  - m) Intensive Home-Based Services (IHBS) (Clients under age twenty-one (21) only)
- 2) Full Service Partnership (FSP) Program and Service Requirements:
  - a) The purpose of the FSP program is to provide eligible Clients with community- or family-based service alternatives to group home care. This process facilitates access to normalized and inclusive community options, activities, and opportunities.
  - b) FSP program and service requirements include those identified under "General Program and Service Requirements" and "Specialty Mental Health Services" in addition to the program and service requirements specified in this section.
  - c) Contractor shall provide a full range of mental health outpatient services to the Clients and families/care providers individually, and in various combinations, as indicated by clinical need and reflected in the Treatment Plan.
  - d) 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 Clients and families/care providers.
  - e) Contractor shall follow the "Child, Youth, and Family Full Service Partnership Toolkit," as may be amended and which may be accessed at <https://www.cibhs.org/publication/fsp-toolkits>; and the County's current Mental Health Services Act (MHSA) Plan, along with all applicable State and federal laws and regulations related to the provision of Medi-Cal authorized SMHS for provision of FSP services to eligible Clients. Contractor shall ensure that staff has the necessary qualifications,

experience, and training to successfully provide the full range of FSP services with fidelity to a wraparound service model.

- f) Contractor shall ensure that services provided support outcomes of reducing out-of-home placements; maintaining family and foster care stability; increasing permanency for foster youth; increasing school performance; and decreasing incarceration, psychiatric hospitalization, and out-of-home placement.
- g) If hospitalization or other out-of-home service is required, these service modalities are used as resources and not as a place to live.
- h) Non-Mental Health Supportive Services and Goods:
  - 1) Non-Mental Health Supportive Services and Goods may be utilized to support the Treatment Plan goals provided that the service and/or good is identified in the Client's Treatment Plan.
  - 2) Non-Mental Health Supportive Services and Goods are not for the Client's basic placement needs, but for the services, goods, and additional supportive services needs to specifically address a Client's medical necessity.

**E. Availability of Services:**

- 1) In accordance with CCR, Title 9, Section 1810.405, Contractor shall:
  - a) Comply with timely access requirements for services as established by the State, taking into account the urgency of need for services.
  - b) Ensure services are available to Medi-Cal Beneficiaries that are no less than the hours of operation available to non-Medi-Cal Beneficiaries.
  - c) Make services available to beneficiaries twenty-four (24) hours a day, seven (7) days a week, when medically necessary.
- 2) Services must be provided in each Client's preferred language. To the extent that it may be needed, language interpretation services will be made available for Clients, at no cost to Client or County, in the preferred language and/or format (e.g., large font, audio, braille) identified by the Client as described in the section titled "Documentation and Information Requirements" under this Article I. All service related correspondence must be provided in the Client's preferred language.
- 3) Contractor shall provide services throughout the community including home, school, office, or other appropriate sites in order to enhance delivery and access to service to achieve the most effective provision of services. Contractor hours shall be flexible to include weekends and evenings to accommodate the family/care provider/significant support provider.
- 4) Compliance with "Availability of Services" requirements shall be subject to audit by County. Noncompliance shall result in a Corrective Action Plan (CAP).

**F. Clients Involved in Child Welfare Services (CWS):**

- 1) Contractor shall provide services to Clients involved with CWS if referred to the Contractor from the County.
- 2) In addition to the requirements set for herein, Contractor will provide services to Clients involved in CWS based on Child Welfare outcomes pertaining to safety, permanency, and well-being as per WIC Section 10601.2.
- 3) Services will be provided in collaboration with the Client and family support system including as appropriate, but not limited to, Child Family Team (CFT), Client's parents/caregivers/guardians, education, primary care providers, social services, Alta

Regional Center, Substance Use Disorder Services, listed tribe or Indian custodian (if applicable), foster family agency social worker or Short-Term Residential Therapeutic Program (STRTP) representative, Court Appointed Special Advocates (CASA), parent partners, peer advocates, and County Probation/Justice Services.

- a) Families will have a high level of decision-making influence and will be encouraged to use their natural supports. Contractor shall involve the CFT and Client support system as appropriate, in all treatment planning and decision making regarding the Client’s services as documented in the Client’s treatment plan.
- 4) Contractor shall insure a licensed or license waived Clinician, as defined in the MHP Agreement, has the primary responsibility for carrying all CWS-involved cases. Contractor may use unlicensed or non-waived staff in accordance with County guidelines to provide non-therapy services, including case management services and collateral contact services.
- 5) Contractor shall provide the Client’s CWS Social Worker with a copy of the following documents in the time frame specified:

<b>Document Completed / Event</b>	<b>Time Frame</b>
Assignment of Case Manager	Within three (3) working days of receiving a referral for SMHS from the County
Treatment Plan	Within two (2) weeks of completion
Discharge Summary or Termination Report	Within five (5) days of discharge or termination of services
Written Progress Report	Every ninety (90) days during the time in which the Client is receiving services
No response to request to schedule an appointment	Within five (5) working days of initial request to Client or parent/legal guardian/caregiver.
Scheduled appointment missed without twenty-four (24) hours prior notice.	Same business day as the scheduled appointment.

**G. Documentation and Information Requirements:**

All documentation must be completed in compliance with Medi-Cal requirements.

1) Clinical Record:

- a) Contractor shall maintain adequate Client records, with a preference for an electronic clinical record, on each individual Client, which shall include diagnostic studies, records of Client interviews, treatment plans, progress notes, and records of services provided by various professional and paraprofessional personnel, in sufficient detail to permit an evaluation of services. Such records shall comply with all applicable federal, State, and county record maintenance requirements. Contractor shall ensure all written “Service Authorizations” documents shall become a part of the Client’s clinical record.
- b) Contractor shall provide Clients with, and document in the Clients’ clinical record the provision of the “Guide to Medi-Cal Mental Health Services,” “Notice of Privacy Practices,” and “Informed Consent” at the first appointment after receiving the Initial Authorization, at the time of re-assessment, and upon Client request. The “Guide to Medi-Cal Mental

- Health Services” can be accessed on the County Mental Health website, currently located at <https://www.edcgov.us/Government/MentalHealth>.
- c) Contractor shall inform Clients who are Medi-Cal Beneficiaries about grievance, appeal, expedited appeal, fair hearing, and expedited fair hearing procedures and timeframes as specified in 42 Code of Federal Regulations (CFR) Part 438 and State guidance. Contractor shall provide Clients with a copy of the County’s documents titled “What is a Grievance” and “Grievance Form,” and document the provision of this information in the Clients’ clinical record.
  - d) Services Provided in Language Other Than English
    - 1) If services are provided to a Client in a language other than English, Contractor shall document the use of an alternate language in the Client’s clinical record and identify the language in which services were provided.
    - 2) In the event of the use of an interpreter services in the provision of SMHS, Contractor shall document in the Clients’ clinical record the name of the interpreter service and the language utilized.
- 2) Progress Notes:  
 Progress notes must minimally contain the required elements to be an allowable Medi-Cal billable service, including but not limited to the following elements: the date and time the services were provided; the date and time the documentation was entered into the medical record; the amount of time taken to provide the services; the location of the intervention; the relevant clinical decisions and alternative approaches for future interventions; the specific interventions applied; how the intervention relates to the Client’s mental health functional impairment and qualifying diagnosis; identify the Client’s response to the intervention; document any referrals to community resources and other agencies (when appropriate); be signed by the person providing the service (or electronic equivalent) with the person’s type of professional degree, licensure, or job title. A progress note must be written for every service contact.
- 3) Assessment and Re-Assessment:  
 Contractor shall complete the initial assessment at the first contact with the Client and a re-assessment prior to the end of each Service Authorization Period if the Contractor believes the Client continues to meet medical necessity for SMHS, in a format meeting the criteria set forth in the Outpatient SMHS Protocol and in the MHP Agreement in effect at the time services are provided. For the purposes of this Agreement, “Service Authorization Period” shall mean the period in which services are authorized by County.
- 4) Treatment Plans:
  - a) Contractor shall develop individualized culturally appropriate Treatment Plans meeting the criteria set forth in the Outpatient SMHS Protocol and in the MHP Agreement in effect at the time services are provided.
  - b) Contractor shall modify the Treatment Plan when effectiveness or progress is not evident, or to meet the changing needs of the Client.
  - c) Contractor staff will maintain services for Clients even when difficulties and challenges (e.g., a psychiatric emergency) disrupt the Treatment Plan.
- 5) Re-Authorization of Services:
  - a) Contractor shall review each Treatment Plan a minimum of once within each Service Authorization Period to assess Client progress and outcomes, and update the Treatment Plan. This process includes a review of the needs

- and strategies to support movement to the community, independence, the shift from formal to informal services and supports, and the transition to less intensive services or the adult service system.
- b) Contractor shall submit requests for reauthorization of a client by completing the process specified in the Outpatient SMHS Protocol.
- 6) Crisis Intervention Services:
- a) Contractor shall be available twenty-four (24) hours per day, seven (7) days per week including holidays to provide twenty-four (24) hour crisis intervention services in accordance with CCR, Title 9, Division 1 to Clients being served, which shall include informing Clients, and their families as appropriate, whom to contact for emergency services when the Contractor's facility is closed. Contractor shall notify County Psychiatric Emergency Services upon referral of Client for crisis intervention requiring evaluation for WIC Section 5150.
- b) Crisis Intervention Services include, but are not limited to:
- 1) Immediate face-to-face response to a crisis call, if clinically indicated.
  - 2) Immediate support services to all significant support people as related to the Client's Treatment Plan.
  - 3) Emergency meeting to review safety plans and review and revise Treatment Plan, as appropriate.
- c) Contractor's Crisis Intervention protocol shall include services for Crisis Intervention in accordance with CCR, Title 9, Division 1, or other SMHS necessary to address the Client's urgent or emergency psychiatric condition (crisis services) up to and including referral for WIC 5150 assessment. A copy of the Contractor's Crisis Intervention Protocol shall be submitted to the Contract Administrator.
- d) The Crisis Intervention protocol shall ensure the availability of appropriately trained and qualified staff and include procedures for addressing crises and urgent needs that are agreed upon in writing by County and Contractor.
- 7) Discharge Summary:
- a) Planned Discharge (Graduation): Contractor shall provide the County a copy of the written Discharge Summary within fourteen (14) days following a planned discharge (graduation); and
- b) Unplanned Discharge: Contractor shall provide the County a copy of the written Discharge Summary within thirty (30) days following the last date of service for unplanned discharges.
- 8) Psychiatric and Medication Support Services:
- a) Psychiatric and Medication Support Services shall be provided and documented in accordance with CCR, Title 9, Division 1 and Medi-Cal billing requirements.
- b) Contractor shall notify the County in writing when the waiting time to see a Psychiatrist exceeds twenty (20) days.
- 9) Requirements Regarding Information Provided to Clients:
- a) The Contractor shall provide information in a manner and format that is easily understood and readily accessible to beneficiaries. (42 CFR Section 438.10(c)(1).)
- b) The Contractor shall provide all written materials for Clients in easily understood language, format, and alternative formats that take into



consideration the special needs of beneficiaries. (42 CFR Section 438.10(d)(6).)

- 1) **Language:** Contractor shall make its materials that are critical to obtaining services, including, at a minimum, provider directories, beneficiary handbooks, appeal and grievance notices, denial and termination notices, and Contractor's mental health education materials, available in the prevalent non-English languages in the County. (42 CFR Section 438.10(d)(3). The Contractor shall include taglines provided in "Language Assistance," attached hereto as Exhibit B, and incorporated herein and made by reference a part hereof, in the prevalent non-English languages in the State, as well as large print, explaining the availability of written translation or oral interpretation to understand the information provided. (42 CFR Section 438.10(d)(2).)
  - 2) **Font:** Contractor shall provide all written materials for potential Clients and Clients in a font size no smaller than 12 point (42 CFR Section 438.10(d)(6)(ii)). "Large print" means printed in a font size no smaller than 18 point (42 CFR Section 438.10(d)(3).
  - 3) **Alternate Formats:** The Contractor shall ensure its informational materials are available in alternative formats, including large print, audio and/or braille depending upon the needs of the Clients, upon request of the potential Clients or Clients at no cost.
  - 4) **Auxiliary Aids:** The Contractor shall make auxiliary aids and services, such as TTY/TDY, available upon request and free of charge to each Client. (42 CFR Section 438.10(d)(3)-(4).) Contractor shall also notify Clients how to access these services. (42 CFR Section 438.10(d)(5)(ii)-(iii).)
  - 5) **Interpretation:** The Contractor shall make interpreter services, including American Sign Language (ASL), available and free of charge for any language. (42 CFR Section 438.10(d)(2), (4)-(5).) Contractor shall notify Clients that the service is available and how to access those services. (42 CFR Section 438.10(d)(5)(i), (iii).)
  - c) The Contractor shall inform beneficiaries that information is available in alternate formats and how to access those formats. (42 CFR Section 438.10.)
- 10) **Cultural Competency Plan:** Upon request, Contractor shall provide each Client with a copy of its Cultural Competency/Linguistic Policy and Procedure. Contractor shall provide its Cultural Competency/Linguistic Policy to County, upon request.

#### H. **Operation and Administration:**

- 1) Contractor agrees to furnish at no additional expense to County beyond the amounts identified under Article III "Compensation for Services," all space, facilities, equipment, and supplies necessary for its proper operation and maintenance.
- 2) Contractor, if incorporated, shall be in good standing and operate according to the provisions of its Articles of Incorporation and By-Laws. Said documents and any amendments thereto shall be maintained and retained by Contractor and made available for review or inspection by County at reasonable times during normal business hours.

- 3) Contractor shall notify the County of any/all changes in leadership staff within ten (10) days of change. Leadership staff includes but is not limited to Executive Director, Clinical/Program Director, Chief Fiscal Officer, Psychiatrist, and Chairperson of the Board of Directors.
- 4) If Contractor becomes aware that a beneficiary becomes ineligible for Medi-Cal, Contractor shall notify the County prior to the beneficiary's next appointment and refer the beneficiary and caregiver to the beneficiary's Medi-Cal Eligibility Worker.
- 5) All program-related written materials must be provided, minimally, in English and the County's Medi-Cal threshold language.
- 6) In the event that Contractor is required by subpoena to testify in any matter arising out of or concerning this Agreement by any party other than County, Contractor shall not be entitled to any compensation from County for time spent or expense incurred in giving or preparing for such testimony, including travel time. Contractor must seek compensation from the subpoenaing party, and County shall not be liable if Contractor fails to receive compensation.
- 7) Contractor shall have representative staff attend County-sponsored Provider Meetings and other work groups as established and scheduled.
- 8) Notification of Events:
  - a) Occurrences of a Serious Nature: Contractor shall notify Contract Administrator, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature. For the purpose of this Agreement an occurrence of a serious nature shall include, but is not be limited to, accidents, injuries, acts of negligence, acts that are reportable to a governing body, hospitalizations, any event that impacts delivery of services to Client(s), events that are usually or reasonably preventable, and of a nature such that the risk impacts the provision of services and/or this Agreement for Services or loss or damage to any County property in possession of Contractor.
  - b) Notification of Death: Contractor shall notify Contract Administrator immediately by telephone upon becoming aware of the death of any Client served under this Agreement due to any cause. The Contractor shall follow up with a written report faxed or hand-delivered within twenty-four (24) hours of the telephone notification.
    - 1) Notification Content: The Notification of Death shall contain the name of the deceased, the date and time of death, the nature, and circumstances of the death, and the name(s) of Contractor's officers or employees with knowledge of the incident.

**I. Service Provider Requirements:**

- 1) Staffing Requirements:
  - a) For the purposes of this Agreement "staff" shall mean any person employed on a part-time, full-time, extra-help, temporary or volunteer basis who works at, for, or with the Contractor during the term of this Agreement.
  - b) Contractor agrees to furnish professional personnel in accordance with the regulations, including all amendments thereto, issued by the State or County. Contractor shall operate continuously throughout the term of this Agreement with at least the minimum of staff required by law for provision of services hereunder; such personnel shall be qualified in accordance with all applicable laws and regulations.

- c) 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 and linguistic competence required to provide SMHS services under this Agreement.
  - d) Contractor shall provide clinical supervision or consultation to all treatment staff, licensed, registered, waived, or unlicensed providing services under this Agreement.
  - e) Staff seeking licensure shall receive clinical supervision in accordance with the appropriate State Licensure Board.
  - f) Contractor shall complete and submit a Clinical Supervision or Oversight Plan to the Contract Administrator.
- 2) Credentialing, Re-Credentialing, and Licensing:
- a) Contractor shall perform credentialing and re-credentialing activities per CCR Title 9, Sections 1810.435(a) and 1810.435(b), and DHCS Mental Health and Substance Use Disorder Services (MHSUDS) Information Notice 18-019, (This and subsequent notices can be found at <https://www.dhcs.ca.gov/formsandpubs/Pages/MHSUDS-Information-Notices.aspx>), shall review its providers for continued compliance with standards at least once every three years, and shall make proof of those credentials upon request.
  - b) Required Licenses and Credentials: Contractor hereby represents and warrants that Contractor and any of its staff or subcontractors providing services under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor, staff, and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.
- 3) Enrollment, Provider Selection, and Screening:
- a) Comply with the provisions of 42 CFR, Sections 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.
  - b) 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 CFR part 455, subparts B and E. (42 CFR Section 438.608(b).)
  - c) 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 CFR Section 438.602(b)(2).)
  - d) The Contractor shall have written policies and procedures for selection and retention of providers. (42 CFR Section 438.214(a).) 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 CFR Section 438.12(a)(2), 438.214(c).)
- e) The Contractor may not discriminate in the selection, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable State law, solely on the basis of that license or certification. (42 CFR Section 438.12(a)(1).)
  - f) Contractor shall only use licensed, registered, or waived providers acting within their scope of practice for services that require a license, waiver, or registration. (CCR Title 9, Section 1840.314(d).)
  - g) The Contractor is not located outside of the United States. (42 CFR Section 602(i).)
  - h) A background screening of all employees who may access personal health information (PHI) or personal information (PI) 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 employee's background check documentation for a period of three (3) years.
- 4) Debarment and Suspension Certification:
- a) Federal funds may not be used for any contracted services if Contractor is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency.
  - b) In accordance with Title 45 CFR Part 76.100, Title 42 CFR Sections 1128 and 1128A, Social Security Act; Title 42 CFR Sections 438.214 and 438.610; and Mental Health Letter No. 10-05 and DHCS MHSUDS Information Notice 18-020, Contractor will comply with the Federal Health and Human Services, Office of Inspector General's requirement that any provider excluded from participation in federal health care programs, including Medicare or Medicaid/Medi-Cal, may not provide services under this Agreement. Payment will be denied for any services provided by a person identified as excluded from participation in federal health care programs.
  - c) Consistent with the requirements of 42 CFR 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 through checks of federal and State databases at intervals identified in MHSUDS Information Notice 18-019 as may be amended or replaced. The following identifies these databases:
    - 1) Office of Inspector General List of Excluded Individuals/Entities (LEIE)
    - 2) DHCS Medi-Cal List of Suspended or Ineligible Providers
    - 3) Social Security Administration's Death Master File
    - 4) National Plan and Provider Enumeration System (NPPES)
    - 5) Excluded Parties List System (EPLS)
  - d) If the Contractor finds a party that is excluded, it must promptly notify the County (42 CFR Section 438.608(a)(2),(4)) and the County will notify the State, and take action consistent with 42 CFR Section 438.610((d) and cease billing for any services rendered by the excluded provider as of the

effective date of the exclusion. 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.

- e) Allowing staff listed in any State or federal database to provide services performed under this Agreement will result in corrective action.
- f) Contractor shall not assign or continue the assignment of any employees, agents (including subcontractors), students, or volunteers ("Assigned Personnel") who have been convicted or incarcerated within the prior ten (10) years for any felony as specified in Penal Code Sections 667.5 and/or 1192.7, to provide direct care to clients.
- g) By signing this Agreement, the Contractor agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR part 3017, 45 CFR part 76, 40 CFR part 32, or 34 CFR part 85.
- h) 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 nonprocurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549. (42 CFR Section 438.610(a)(1).)
  - 2) An individual or entity who is an affiliate, as defined in the Federal Acquisition Regulation at 48 CFR 2.101, of a person described in this section. (42 CFR Section 438.610(a)(2).)
- i) 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 period of three (3) years preceding this 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 or destruction of records, making false Statements, or receiving stolen property;
  - 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 h(2) herein; and
  - 4) Have not within a three-year period preceding this agreement had one or more public transactions (federal, State or local) terminated for cause or default.
  - 5) 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.

- 6) 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.
- j) If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the County Contract Administrator, or successor.
- k) The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order (FEO) 12549.
- l) The Contractor shall provide the County with its Data Universal Numbering System (DUNS) number, and will be required to register and maintain an active registration with the Federal Government's System of Award Management ([www.sam.gov](http://www.sam.gov)); evidence of registration renewal must be provided by the Contractor to the County within thirty (30) days of request.

**J. Outcomes and Reporting:**

- 1) Contractor shall collect and provide data as required and in a format approved by the County. Contractor must maintain the ability to, and utilize, transmission of data electronically and securely via high-speed internet.
- 2) It is understood and agreed that Contractor's timely submission of information regarding program implementation, financial data, or other related data is an essential element of this Agreement, and that said data shall be available upon request by County.
- 3) Contractor shall regularly review Contractor's charting, data input and invoice systems to ensure compliance with County, and State policies and procedures, and establish mechanisms to prevent inaccurate claim submissions.
- 4) Contractor 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 CFR Section 438.608(a), (a)(5)). Service verification will be accomplished using the form and method designated by County as described in the Outpatient SMHS Protocol. Contractor shall maintain the service verification form as part of its compliance program's records and shall submit a copy of said forms to the Contract Administrator or designee within seven (7) calendar days of request from the County.
- 5) Client Satisfaction Surveys:
  - a) Consumer Perception Survey: Contractor shall participate in the biannual or other time period specified by the State, Consumer Perception Survey by distributing the required State-designed surveys to clients, who are referred to Contractor from the County, and/or their family/guardians and returning the surveys to the County per the instructions issued by the County. The County will provide the Contractor of the dates of the Consumer Perception Survey and instructions for completion and return of the surveys.
  - b) Other Client Satisfaction Surveys: Within fifteen (15) days of the end of

each quarter, Contractor shall submit to the County the results of any other Client Satisfaction Survey(s) administered by Contractor to clients referred to Contractor from the County.

- 6) Contractor shall complete and submit the following Client-specific documentation to the County within the time frames specified:

<b>Document Completed / Event</b>	<b>Time Frame</b>
California Child and Adolescent Needs and Strengths (CANS) Early Childhood, incorporated herein as Attachment “B” to the Outpatient SMHS Protocol, with the content and format required by the State (only for Clients birth to age five (5) that are involved with Child Welfare Services)	Initially with the Treatment Plan and minimally thereafter for each Client as part of the re-authorization packet, upon significant life events, at discharge, or as requested more frequently by the County in writing.
California Child and Adolescent Needs and Strengths (CANS) with the content and format required by the State (only for Clients age five (5) to twenty (20), inclusive).	Initially with the Treatment Plan and minimally thereafter for each Client as part of the re-authorization packet, upon significant life events, at discharge, or as requested more frequently by the County in writing.
Adult Needs and Strengths Assessment (ANSA) with the content and format approved by the County (only for Clients age twenty-one (21) and over).	Initially with the Treatment Plan and minimally thereafter for each Client as part of the re-authorization packet, upon significant life events, at discharge, or as requested more frequently by the County in writing.
Pediatric Symptom Checklist 35 (PSC-35), incorporated herein as Attachment “C” to the Outpatient SMHS Protocol, with the content and format required by the State, completed by the Client’s parent/legal guardian/caregiver for Clients ages three (3) through seventeen (17), inclusive.	Initially with the Treatment Plan and minimally thereafter for each Client as part of the re-authorization packet, upon significant life events, at discharge, or as requested more frequently by the County in writing.
MHP Outcome Measures, attached hereto as Exhibit C, and incorporated herein and made by reference a part hereof.	Annually within thirty (30) days after the end of the fiscal year.
For each Client enrolled in an FSP Program, the Partnership Assessment Form (PAF).	Upon submittal of the initial Treatment Plan at the beginning of services.
For each Client enrolled in an FSP Program, the Key Event Tracking Form (KET).	Upon change of any key event.
For each Client enrolled in an FSP Program, a Quarterly Assessment (3M) Form.	Within fifteen (15) days following the quarter being reported, with each quarter ending September 30, December 31, March 31, and June 30 of each fiscal year.

- 7) Contractor shall complete and submit the following program-specific documentation to the County within the time frames specified:

<b>Document Completed / Event</b>	<b>Time Frame</b>
Quality Improvement Work Plan	Within thirty (30) days following the start of the fiscal year subject to the Quality Improvement Work Plan.
Quality Improvement Work Plan Evaluation	Within ninety (90) days following the end of the fiscal year being reported.
Network Adequacy Certification Tool Documentation	Within seven (7) days of each quarterly date of September 1, December 1, March 1, and June 1.
Grievance and Appeal Logs	Within sixty (60) days of the end of each fiscal year.
Evidence of Provider Credentialing and Re-Credentialing Activities per DHCS MHSUDS Information Notice 18-019, and the section titled "Service Provider Requirements."	Upon notification to County of any new provider to add to Avatar and every three (3) years thereafter during the course of the provider's employment with the Contractor.
Evidence of Exclusion Database Checks for all Contractor staff providing services under this Agreement per DHCS MHSUDS Information Notice 18-019, and the section titled "Service Provider Requirements."	<p>Monthly by the tenth (10<sup>th</sup>) day of each month for all providers:</p> <ul style="list-style-type: none"> <li>• OIG List of Excluded Individuals/Entities (LEIE)</li> <li>• System of Award Management (SAM) Excluded Parties List System (EPLS)</li> <li>• DHCS Medi-Cal List of Suspended or Ineligible Providers (S&amp;I List)</li> </ul> <p>Within ten (10) days of hiring/contracting for all providers (staff, network providers, subcontractors, person's with ownership or control interest, managing employee/agent of the Contractor)</p> <ul style="list-style-type: none"> <li>• Social Security Administration's Death Master File.</li> <li>• National Plan and Provider Enumeration System (NPPES)</li> <li>• LEIE</li> <li>• SAMEPSL</li> <li>• S&amp;I List</li> </ul>



<b>Document Completed / Event</b>	<b>Time Frame</b>
Interpreter Services Used, including the name of the service provider, the language utilized, the number of Clients for whom interpreter services were authorized, and the number of services provided in the alternate language per the section titled "Availability of Services."	Within fifteen (15) days of the end of each quarter (September 30, December 31, March 31, June 30).
Annual Outcome Report of the progress towards the Project Goals and the Outcome Measures identified in the current Mental Health Services Act Plan or Plan Update for the FSP programs.	Within thirty (30) days of the end of each fiscal year.

- 8) Provider Directory:
- a) Contractor shall maintain a Provider Directory with the content described in DHCS MHSUDS Information Notice 18-020.
  - b) The Provider Directory must be made available in paper form to beneficiaries at the time of their first appointment, as requested, and on the Contractor's website in a machine readable format, approved by the County, (42 CFR Section 438.10(h)(4)), and ensure that the provider directories include:
    - 1) Information on the category or categories of services available from each provider. (42 CFR Section 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 CFR Section 438.10(h)(1)(i)-(v).)
    - 3) The cultural and linguistic capabilities of network providers, including languages (including American Sign Language) offered by the provider or a skilled medical interpreter at the provider's office, and whether the provider has completed cultural competence training. (42 CFR Section 438.10(h)(1)(vii).)
    - 4) Whether network providers' offices/facilities have accommodations for people with physical disabilities, including offices, exam room(s) and equipment. (42 CFR Section 438.10(h)(1)(viii).)
    - 5) A means to identify which providers are accepting new beneficiaries. (42 CFR Section 438.10(h)(1)(vi).)
  - 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. (42 CFR Section 438.10(h)(3).)
- 9) Additional Reporting Information:
- a) Contractor will be notified in writing of any additional reporting requirements or changes identified to meet County, State and/or federal reporting needs.
  - b) County reserves the right to modify any reporting requirements or components during the term of the Agreement.
  - c) Contractor will provide requested reports within thirty days (30 days) of notification of any additional reporting requirements or changes to existing

- d) reporting requirements and components.
- d) Contractor shall, without additional compensation therefore, make further fiscal, program evaluation and progress reports as may be reasonably required by County or by the State concerning Contractor's activities as they affect the contract duties and purposes herein.
- 10) Failure to submit report(s) in a timely manner will result in delay of payment for services until said report(s) has been received.
- 11) Contractor notify County within ten (10) days of receipt of notification that Contractor is subject to any proposed or pending debarment, suspension, indictments or termination of a public transaction.

**K. Facilities:**

- 1) Medi-Cal Site Certification:
  - a) County shall audit Contractor’s facilities for Medi-Cal site certification, in accordance with DHCS protocol. Certification of Contractor as an organizational provider of SMHS shall be in conformance with (SD/MC) “Provider Re/Certification Protocol” requirements available at <https://www.dhcs.ca.gov/services/MH/Pages/Certifications.aspx>.
  - b) Contractor shall maintain at least the following Medi-Cal Site Certified and appropriate facility(ies) for the provision of Outpatient SMHS for Clients referred by County who meet the minimum requirements for Medi-Cal eligibility. Any subsequent facilities added or change to the locations listed below, must be approved by the County, in advance and in writing, prior to any relocation, closure, or other change in physical location.

Facility Address	New Morning Youth & Family Services 6765 Green Valley Road Placerville, CA 95667	New Morning Youth & Family Services 3350 Country Club Drive, Unit 103 Cameron Park, CA 95682
------------------	--	--

- c) Contractor shall maintain current written policies and procedures required by the Short Doyle/Medi-Cal (SD/MC) Provider Certification & Re-Certification Protocol issued by the State.
- d) Contractor shall comply with the provisions of CCR Title 9, Section 1810.435.
- e) Contractor shall comply with the requirements of CCR Title 9, Section 1810.435(e) by cooperating with the County for inspection of any site owned, leased, or operated by the Contractor and used to deliver covered services to beneficiaries, except that on-site review is not required for a public school or a satellite site.
  - 1) “Satellite site” means a site owned, leased, or operated by an organizational provider at which SMHS are delivered to beneficiaries fewer than 20 hours per week, or, if located at a multiagency site at which SMHS are delivered by no more than two employees or contractors of the provider.
- 2) Changes to Site Certified Facilities: Contractor shall notify County of any changes that may affect Medi-Cal Site Certification, including but not limited to structural changes, relocation, expansion, closure, identification of staff as ineligible to provide services, in accordance with the section titled “Service Provider Requirements” herein, or major staffing/organizational structure changes. Such notification shall occur at least forty-five (45) days prior to the change occurring, to

the extent possible. If not possible in forty-five (45) days, Contractor shall provide County with notification in accordance with Article XIV "Notice to Parties" herein, within one (1) business day of changes.

- a) Contractor shall not provide Medi-Cal services at any site, other than a satellite site or a public school, prior to receiving authorization from the County to do so, nor may Contractor provide services at a site for which the Medi-Cal site certification has expired or otherwise terminated.
  - b) Contractor shall provide CMS, the State Medicaid agency, the County, and their agents, and/or designated contractors with access to provider locations to conduct unannounced on-site inspections of any and all provider locations, with the exception of satellite sites.
  - c) Correction of Issues Identified During Inspections: Contractor shall be responsible to address any issues identified by County during inspections to meet Medi-Cal requirements and shall provide County with a record of corrective action(s).
- 3) Signage, Documents and Media:
- a) All required signage shall be displayed in a manner that is easily accessible to all Clients, staff, family members, and visitors in all Contractor service locations providing Outpatient SMHS.
  - b) Posting of Signs and Availability of Forms/Documents/Audio Media: Contractor shall ensure compliance with "Provider Re/Certification Protocol."

**L. Utilization Review:**

- 1) Contractor shall establish and maintain systems to review the quality and appropriateness of services in accordance with federal and State Program Requirements operative during the term of this Agreement.
- 2) Contractor shall participate in all County-required Utilization Reviews.

**M. Problem Resolution and Beneficiary Rights:**

- 1) Problem Resolution: Contractor shall ensure that each Client is aware of, and has access to the County's Problem Resolution process.
- 2) Contractor shall comply with County written policies regarding the beneficiary rights, applicable laws and regulations relating to patients' rights, including but not limited to WIC 5325; CCR, Title 9, Sections 862 through 868; and 42 CFR Section 438.100. Should the Contractor receive approval to subcontract in accordance with Article X "Assignment and Delegation," Contractor shall ensure that its subcontractors comply with all applicable patient's rights laws and regulations; including the right to:
  - a) Receive information in accordance with 42 CFR 438.10 (42 CFR Section 438.100(b)(2)(i));
  - b) Be treated with respect and with due consideration for his or her dignity and privacy (42 CFR Section 438.100(b)(2)(ii));
  - c) Receive information on available treatment options and alternatives, presented in a manner appropriate to the beneficiary's condition and ability to understand (42 CFR Section 438.100(b)(2)(iii))
  - d) Participate in decisions regarding his or her health care, including the right to refuse treatment (42 CFR Section 438.100(b)(2)(iv));

- e) Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation (42 CFR Section 438.100(b)(2)(v));
  - f) Request and receive a copy of his or her medical records, and to request that they be amended or corrected. (42 CFR Section 438.100(b)(2)(vi); 45 CFR Sections 164.524-164.526);
  - g) Be furnished services in accordance with 42 CFR Sections 438.206 through 438.210 (42 CFR Section 438.100(b)(3));
  - h) Freely exercise his or her rights without adversely affecting the way the Contractor, subcontractor, or provider treats the beneficiary (42 CFR Section 438.100(c)).
- N. **Choice of Provider:** Contractor shall provide a beneficiary's choice of the person providing services to the extent possible and appropriate consistent with CCR Title 9, Section 1830.225, and 42 CFR part 438.3(I).

## ARTICLE II

**Term:** This Agreement shall become effective when fully executed by all parties hereto and shall cover the period of January 1, 2019 through June 30, 2021, unless terminated earlier pursuant to the provisions contained herein this Agreement under Article XIII "Default, Termination, and Cancellation" and Article XII "Fiscal Considerations."

## ARTICLE III

### Compensation for Services:

- A. **Services Invoiced:** Contractor shall only submit invoices for services authorized by the County and for which Medi-Cal documentation is prepared.
- B. **Invoices:**
  - 1) 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 HHSA 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 Article I "Scope of Services." Each invoice shall be accompanied by supportive documentation to verify all costs identified on the monthly invoice.
  - 2) Supplemental Invoices: For the purpose of this Agreement, supplemental invoices shall be defined as invoices submitted for additional services rendered during a month for which a prior invoice has already been submitted to County. Supplemental invoices should include the standard invoice format with description of services rendered and a detailed explanation why the invoice was not submitted in the approved timeframe.
    - a) For the period **July 1<sup>st</sup> through April 30<sup>th</sup>** of this Agreement: Supplemental invoices must be received sixty (60) days after the end of a service month for additional services as defined in Article I "Scope of Services." Supplemental invoices received after sixty (60) days after the end of a service month shall be neither accepted nor paid by the County.

- b) For the period **May 1<sup>st</sup> through June 30<sup>th</sup>** of this Agreement: Any supplemental invoices for additional services as defined in Article I “Scope of Services” received after **July 5<sup>th</sup>** shall be neither accepted nor paid by the County.
  - c) Any exceptions to the supplemental invoice process must be approved by HHSAs’s Chief Fiscal Officer.
- 3) Invoices shall be addressed as indicated in the table below or to such other location as County may direct per Article XIV “Notice to Parties.”

<b>Mail invoices to:</b>
County of El Dorado - HHSAs 3057 Briw Road, Suite B Placerville, CA 95667 Attn: Fiscal Unit

C. **Rates:** For the purposes of this Agreement, services shall be reimbursed at the following provisional rates:

Type of Service	Unit	FY 2018/19 Rate	FY 2019/20 Rate	FY 2020/21 Rate
Medication Support	Minute	\$4.96	\$5.11	\$5.27
All other services* (e.g., case management, mental health services, crisis intervention)	Minute	\$2.21	\$2.28	\$2.34

\* Claims for completing a discharge summary are not reimbursable. Reviewing a discharge summary with a Client for therapeutic purposes is a reimbursable service as long as it is clearly documented in the progress note.

D. **Non-Mental Health Supportive Services and Goods for Clients Enrolled in a FSP Program:**

- 1) Purchases of goods and services up to \$1,000 per Client, cumulatively through duration of treatment, may be purchased without prior approval by the County.
- 2) Purchases of more than \$1,000 per Client, cumulatively, must be approved in writing by the HHSAs Director or Assistant Director of Health Services, or successor.
- 3) Non-Mental Health Supportive Services and Goods must be shown separately on invoices, and invoices will include a running balance per Client. In addition, Contractor must provide supporting documentation in the form of original itemized receipts.
- 4) Non-Mental Health Supportive Services and Goods procured on behalf of the Client that are not in support of the Treatment Plan goals and/or not identified on the Treatment Plan will be disallowed.

E. **Failure to Provide Services or Documentation:** In the event Contractor fails to deliver Authorized Services or fails to provide documentation required under this Agreement, County at its sole discretion may delay the monthly payment for the period of time of

delay, cease all payments until such time as the services are provided and/or the documentation is received, or proceed as set forth herein under Article XIII "Default, Termination, and Cancellation."

**F. Medi-Cal Billing:** County shall serve as the fiscal intermediary for Medi-Cal claiming and reimbursement for services, and shall act on Contractor's behalf with regard to Medi-Cal claiming.

- 1) Notwithstanding any other provision of this Agreement, Contractor shall be liable for:
  - a) The accuracy and validity of all data and information on all claims for Medi-Cal services which Contractor provides to County, and;
  - b) Ensuring that all Medi-Cal services are performed appropriately within any applicable guidelines, including but not limited to, administration, utilization review, documentation, and staffing.
- 2) Contractor shall comply with the requirements imposed by statutes, regulations, and rules governing reimbursement for Medi-Cal.
- 3) It is understood that the validity of such monthly billings, in terms of their compliance with State regulations, is subject to the review by the State and that County will be making payments on said billings in advance of said review and approval by the State, and in advance of the reimbursement by the State to County for sums expended thereunder. In the event any claim, or part thereof, is disapproved by the State or County, Contractor may take action to correct the billing for resubmittal. In the event that County is not reimbursed by the State for any amount it has paid to Contractor hereunder, Contractor shall reimburse County in the amount of such overpayment.
  - a) Contractor shall not be reimbursed for costs associated with any non-reimbursable claim.
  - b) County and Contractor will collaborate on claims corrections to continuously correct data as needed.
  - c) County may modify the claiming systems at any time in order to comply with changes in, or interpretations of State or federal laws, rules, regulations, manuals, guidelines, or directives. When possible, County shall notify Contractor in writing of any such modification and the reason for the modification thirty (30) days prior to the implementation of that modification.

**B. Remittance:** 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. Remittance shall be addressed as indicated in the table below or to such other location as Contractor may direct per Article XIV titled "Notice to Parties."

<b>Mail remittance to:</b>
New Morning Youth & Family Services 6765 Green Valley Road Placerville, CA 95667

Contractor agrees to hold harmless both the State and Clients in the event County cannot or does not pay for services performed by Contractor pursuant to this Agreement.

**ARTICLE IV**

**Maximum Obligation:** The maximum contractual obligation under this Agreement shall not exceed the combined total of the annual not-to-exceed amounts as set forth herein.

<b>Type of Service</b>	<b>Maximum Annual Contractual Obligation</b>		
	<b>Fiscal Year 2018/19</b>	<b>Fiscal Year 2019/20</b>	<b>Fiscal Year 2020/21</b>
Traditional SMHS	\$62,500	\$128,750	\$132,613
MHSA SMHS	\$24,375	\$50,213	\$51,719
<b>Maximum Obligation:</b>	<b>\$86,875</b>	<b>\$178,963</b>	<b>\$184,332</b>

In no event shall County be obligated to pay Contractor for any amount in excess of the maximum obligation per fiscal year of this Agreement.

**ARTICLE V**

**Financial Documents**

- A. **Audited Financial Reports:** Contractor shall submit to the County audited financial reports specific to this contract on an annual basis. The audit shall be conducted in accordance with generally accepted accounting principles (GAAP) and generally accepted auditing standards (GAAS) (42 CFR Section 438.3(m)).
  
- B. **Cost Report:** 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, or successor, upon reasonable notice. The Cost Settlement terms and other related clauses of this Agreement shall survive the term of the Agreement. If Cost Reporting, Cost Settlement, and Audits are performed during or after the termination date of the Agreement, Contractor shall reimburse County for the portion of the funding in this Agreement that is not reimbursed by State and/or federal governments.

Contractor shall prepare the Cost Report in accordance with the 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. Contractor shall return the completed Cost Report to County within thirty (30) days from issuance of Cost Report materials (“Cost Report Due Date”), including but not limited to instructions, templates and units of service reports by County, unless a written request for an extension is approved by the HHSA Chief Fiscal Officer, or successor. County shall review Contractor’s Cost Report and communicate with Contractor in order to verify units from County’s Electronic Health Record report and confirm that the various updates are included in the Cost Report. Contractor shall work with County responsively and cooperatively to finalize the Cost Report.

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. Costs will be settled to the lesser of actual and allowable costs, published charges and contracted rates and not exceeding the maximum amount of this Agreement.

If Contractor fails to submit an accurate and complete Cost Report by the Cost Report Due Date, County shall not make any further payments to Contractor under this Agreement until Contractor submits an accurate and complete Cost Report.

- C. **Cost Settlement:** Contractor will reimburse County, as indicated in the County/State Final Cost Settlement. Reimbursement shall be processed thirty (30) days after the State issues its report, or accomplished by a credit on funds due to Contractor on a subsequent Agreement. County shall notify Contractor of the issuance of the State's report. The County may also apply this cost recovery mechanism in order to be reimbursed for funds owed to the County from prior expired contracts between parties.

In the Final Cost Settlement process, the unit rate established in the preliminary cost settlement shall be the basis for reimbursement to the County, unless the State authorizes a change to the total units.

## ARTICLE VI

- A. **Audits, Inspections, Monitoring:** Contractor and/or Subcontractor shall comply with the requirements set forth in this Article. Contractor shall ensure any Subcontractors are aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code (PCC) Section 10115.10.

Contractor shall comply with audit requests by the County, at no cost to the County, including granting County access to Contractor's medical records as they relate to services provided to individual Clients who received SMHS pursuant to a Service Authorization from the County.

The Contractor shall maintain and make available to auditors at all levels, county, State, and federal, if applicable, accounting and program records including supporting source documentation, and cooperate with all auditors.

The Contractor, or auditors performing monitoring or audits of the Contractor, or its subcontracting service providers shall immediately report to the County any incidents of fraud, abuse, or other criminal activity in relation to this Agreement.

In the event any billings for services that are subject to recoupment, or otherwise disallowed, are identified through a County, State or federal audit, the County may recover from Contractor the amount subject to recoupment and/or disallowed. Reimbursement from Contractor to County shall be remitted to County no later than six (6) months following the notification of recoupment and/or disallowance. Based upon written approval by the HHS Director, this reimbursement may be made via monthly installment payments for up to six (6) months.



- 1) Audits/Thresholds:
- a) *If the Contractor is a nonprofit organization, as defined in Health and Safety Code [HSC] Section 38040, and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Contractor agrees to conduct an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to GAAS. This audit does not fulfill the audit requirements of Paragraph 1c below. The audit shall be completed by the fifteenth (15<sup>th</sup>) day of the fifth (5<sup>th</sup>) month following the end of the Contractor's fiscal year, and/or*
  - b) *If the Contractor is a nonprofit organization, as defined in HSC 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 conduct 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 1(c) below. The audit shall be completed by the fifteenth (15<sup>th</sup>) day of the fifth (5<sup>th</sup>) month following the end of the Contractor's fiscal year, and/or*
  - c) *If the Contractor expends \$750,000 or more in federal awards, either as a result of direct federal awards or by way pass-through funding from a State, County, or community based organization, the Contractor agrees to conduct an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 CFR 200, Subpart F, "Audit Requirements"(Commonly known as an A-133), and shall be completed by the end of the ninth month following the end of the audit period.*
  - d) *If the Contractor submits to DHCS a report of an audit other than a Single Audit as identified in 2 CFR 200.501(b), 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.*
  - e) *Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California GC Section 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.*
  - f) *Contractor shall 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, monitoring, audit, or copying by County, DHCS, Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS) Inspector General, the United States Comptroller General, their designees, and other authorized federal and State agencies (42 CFR Section 438.3(h)). This audit right will exist for ten (10) years from the final date of the contract period or from the date of completion of any*

- audit, whichever is later (42 CFR Section 438.230(c)(3)(iii).) County, DHCS, 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. (42 CFR Section 438.230(c)(3)(iv))
- g) 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. 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, including the exhaustion of all legal remedies, whichever is later. (See 42 CFR Sections 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.
- h) The Contractor, and subcontractors, shall retain all records and documents originated or prepared pursuant to 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 CFR 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 CFR Section 438.3(u); See also Section 438.3(h).) 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.
- i) Contractor agrees that the County, 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 County and/or State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).

2) Inspection:

- a) Inspection shall occur at the Contractor's and/or subcontractor's place of business, premises, physical facilities, facility, office, or such part thereof as may be engaged in the performance of this Agreement in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least ten (10) years from the close of the State fiscal year in which the contract was in effect.
- b) The County or 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.
- c) County shall, at its sole discretion, perform annual, or more frequent, on-site and/or off-site audit of services provided under this Agreement. The County may inspect the facilities, systems, books, and records of the Contractor to monitor compliance with this Agreement. Identification of any exceptions or findings with regard to compliance with the terms and conditions of this Agreement shall be brought to the attention of the Contractor. Upon notification of an exception or finding, the Contractor shall submit a written CAP, including a proposed timeline for correction of said finding or exception, within thirty (30) days. The County will review and approve or revise the proposed CAP, and, if necessary, provide technical assistance to bring the vendor into compliance.
- d) Failure to comply with required corrective action could lead to civil penalties, as appropriate, pursuant to CCR, Title 9, Sections 1810.380 and 1810.385.
  - 1) The fact that the County inspects, or fails to inspect, or has the right to inspect, the Contractor's facilities, systems, and procedures does not relieve the Contractor of its responsibilities to comply with this Agreement. The County failure to notify the Contractor or require the Contractor's remediation of any unsatisfactory practice does not constitute acceptance of such practices or a waiver of the County enforcement rights under this Agreement.

3) Monitoring:

- a) Audits and/or inspections by any representative of the Federal government, State government, or County may include the review of any and all terms related to this agreement with the Contractor. Audits and/or inspections by the County may be performed by way of, but limited to, annual Contract Monitoring Surveys, administered by the County. Contractors receiving a Contract Monitoring Survey shall, within sixty (60) days of receipt, complete and return the survey along with all documentation,

details, and supporting materials required by the survey or otherwise necessary for the County to verify compliance with the terms and conditions of the Agreement. Failure to return the survey within the specified time period may result in the withholding of payment from the Contractor until such time as compliance with the terms of the Agreement can be verified. Verifying compliance may necessitate additional on-site reviews should information submitted by the Contractor be deemed insufficient or inaccurate.

- b) Upon notification of an exception or finding of non-compliance, the Contractor shall submit evidence of corrective action within thirty (30) days, or otherwise as specified in the notice of required corrective action provided by the County. Continued non-compliance will be considered a breach which may lead to termination of this Agreement in accordance with Article XIII "Default, Termination, and Cancellation."
- c) Contractor and/or subcontractor shall participate in the monitoring, reviews and/or audits of the County's records and documents by other State or federal agencies upon request of County.

#### **ARTICLE VII**

**Taxes:** Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE VIII**

**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 IX**

**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 X**

##### **Assignment and Delegation:**

- A. Contractor is engaged by County 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.
- B. Contractor shall not subcontract, assign or delegate services to providers excluded from participation in Federal health care programs under either Section 1128 or Section 1128A of the Social Security Act. (42 CFR Section 438.214(d).)
- C. Any work or services specified in this Agreement which will be performed by other than

the Contractor shall be evidenced by a written Agreement and contain:

- 1) The activities and obligations, including services provided, and related reporting responsibilities. (42 CFR Section 438.230(c)(1)(i).)
- 2) The delegated activities and reporting responsibilities in compliance with the Contractor's obligations in this Agreement. (42 CFR Section 438.230(c)(1)(ii).)
- 3) Subcontractor's agreement to submit reports as required by the Contractor and/or the County.
- 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 CFR Section 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 permitted by State or federal law when the County or the Contractor determine that the subcontractor has not performed satisfactorily. (42 CFR Section 438.230(c)(1)(iii).)
- 9) The nondiscrimination and compliance provisions of this Agreement.
- 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 County, DHCS, CMS, HHS Inspector General, the United States Comptroller General, their designees, and other authorized federal and State agencies. (42 CFR Section 438.3(h).) This audit right will exist for ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later. (42 CFR Section 438.230(c)(3)(iii).) The County, DHCS, 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. (42 CFR Section 438.230(c)(3)(iv).)
- 11) Inspection shall occur at the subcontractor's place of business, premises or physical facilities, in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least ten (10) 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 County.
- 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 as set forth in Article VI "Audits, Inspections, Monitoring" of this Agreement.
- 13) Subcontractor's agreement to hold harmless the State, County and Clients in the event the Contractor cannot or does not pay for services performed by the subcontractor pursuant to the subcontract.
- 14) Subcontractor's agreement to comply with the County and Contractor's policies and procedures on advance directives.

- 15) The "Smoke-Free Workplace Certification" will be inserted into any subcontracts entered into that provide for children's services as described in the Pro-Children Act of 1994.
- D. The Contractor shall maintain and adhere to an appropriate system, consistent with federal, State and local law, for the award and monitoring of contracts that contain acceptable standards for insuring accountability.
- E. The system for awarding contracts will contain safeguards to ensure that the Contractor does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds; or debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency.
- F. Subcontractors shall comply with the confidentiality requirements set forth in the section titled "Confidentiality" of Article XXX of this Agreement.
- G. Contractor shall monitor any subcontractor's compliance with the provisions of this agreement, and shall provide a corrective action plan if deficiencies are identified.
- H. No subcontract terminates the legal responsibility of the Contractor to the County to assure that all activities under this contract are carried out.
- I. Contractor shall take positive efforts to use small businesses, minority-owned firms and women's business enterprises, to the fullest extent practicable, including if the Contractor subcontracts services pursuant to Article X "Assignment and Delegation" Contractor shall:
  - 1) 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.
  - 2) 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.
  - 3) 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.
  - 4) 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.

## ARTICLE XI

**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 workman like 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 XII

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County 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.

## ARTICLE XIII

### **Default, Termination, and Cancellation:**

- A. **Bankruptcy:** This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- B. **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.
- C. **Default:** Upon the occurrence of default of any 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.

- D. **Judicial or Administrative Proceedings:** Contractor will notify the County if it is named as a defendant in a criminal proceeding for a violation of the Health Insurance Portability and Accountability Act (HIPAA) or other security or privacy law. The County may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The County 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. The County will consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.
- E. **Effect of Termination:** Upon termination or expiration of this Agreement for any reason, the Contractor shall return or destroy all individually identifiable health information (IIHI) received from the State that the Contractor still maintains in any form, and shall retain no copies of such IIHI or, if return or destruction is not feasible, it shall continue to extend the protections of this Agreement to such information, and limit further use of such IIHI to those purposes that make the return or destruction of such IIHI infeasible. This provision shall apply to IIHI that is in the possession of subcontractors or agents of the Contractor.
- F. **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 contract 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.

#### **ARTICLE XIV**

**Notice to Parties:** Unless otherwise specified herein, 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, Suite B  
Placerville, CA 95667  
ATTN: Contracts Unit

or to such other location as the County directs.

with a copy to

COUNTY OF EL DORADO  
Chief Administrative Office  
Procurement and Contracts Division  
330 Fair Lane  
Placerville, CA 95667  
ATTN: Purchasing Agent



Notices to Contractor shall be addressed as follows:

NEW MORNING YOUTH AND FAMILY SERVICES, INC.  
6765 Green Valley Road  
Placerville, CA 95667  
ATTN: David Ashby, Executive Director

or to such other location as the Contractor directs.

#### **ARTICLE XV**

**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 Article XIV "Notice to Parties." Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, or successor, 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 XVI**

**Indemnity:** The Contractor shall defend, indemnify, and hold the County 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, 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 harmless includes the duties to defend set forth in California Civil Code Section 2778.

#### **ARTICLE XVII**

**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 Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 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 or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 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 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 stating that:
  - 1) The insurer will not cancel the insured's coverage without prior written notice to County, and;
  - 2) The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, 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 in 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 protection of the County.

## **ARTICLE XVIII**

**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 XIX**

**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 XX**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of GC 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 contract 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 Article XIII "Default, Termination and Cancellation."

The Contractor shall comply with the conflict of interest safeguards described in 42 CFR part 438.58 and the prohibitions described in Section 1902(a)(4)(C) of the Public Health Service Act. (42 CFR Section 438.3(f)(2).)

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. (GC Section 1090, 1091; 42 CFR Section 438.3(f)(2).)

#### **ARTICLE XXI**

**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 XXII**

**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 XXIII**

**Taxpayer Identification Number (Form W-9):** All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

#### **ARTICLE XXIV**

**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 El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

#### **ARTICLE XXV**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Jamie Samboceti, Deputy Director, Health and Human Services Agency, or successor.

#### **ARTICLE XXVI**

**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.

#### **ARTICLE XXVII**

**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 XXVIII**

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

#### **ARTICLE XXIX**

**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.

**ARTICLE XXX**

**Additional Terms and Conditions:**

- A. Contractor acknowledges and agrees that this Agreement is intended to implement the following programs and agreements:
- Agreement 17-94520 by and between the County of El Dorado and California Department of Health Care Services (known as the Performance Agreement), available at [https://www.edcgov.us/Government/hhsa/Pages/hhsa\\_contractor\\_resources.aspx](https://www.edcgov.us/Government/hhsa/Pages/hhsa_contractor_resources.aspx);
  - Agreement 17-94580 by and between the County of El Dorado and California Department of Health Care Services (known as the Mental Health Plan or MHP), available at [https://www.edcgov.us/Government/hhsa/Pages/hhsa\\_contractor\\_resources.aspx](https://www.edcgov.us/Government/hhsa/Pages/hhsa_contractor_resources.aspx);
  - Proposition 63, otherwise known as the Mental Health Services Act, was passed by California voters on November 2004, and is available at [http://www.dhcs.ca.gov/services/mh/Pages/MH\\_Prop63.aspx](http://www.dhcs.ca.gov/services/mh/Pages/MH_Prop63.aspx);
  - MHSA Plan, and any Annual Updates, for the County of El Dorado that are currently in effect during the term of this Agreement, available at [https://www.edcgov.us/government/mentalhealth/mhsa/pages/mhsa\\_plans.aspx](https://www.edcgov.us/government/mentalhealth/mhsa/pages/mhsa_plans.aspx)

Contractor certifies that they have read and understand the four documents identified above, and shall comply with their provisions, including any updates hereto, during the term of this Agreement.

David Ashley, Executive Director  
\_\_\_\_\_  
Contractor  
11/14/18  
\_\_\_\_\_  
Date

- B. **Accreditation Status:**
- 1) The Contractor shall inform the County whether it has been accredited by a private independent accrediting entity.
  - 2) 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:
    - a) Its accreditation status, survey type, and level (as applicable);
    - b) Accreditation results, including recommended actions or improvements, corrective action plans, and summaries of findings; and
    - c) The expiration date of the accreditation.
- C. **Advance Directives:** Contractor shall comply with County policies and procedures on advance directives. For Clients age eighteen (18) and older, Contractor shall provide adult Clients with the written information on advance directives and 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. Contractor shall educate its staff concerning the County and Contractor's policies and procedures on advance directives. Any written materials prepared by the Contractor 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.
- D. **Air or Water Pollution Requirements:** Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions:
- 1) Government contractors agree to comply with all applicable standards, orders, or

requirements issued under Section 306 of the Clean Air Act (42 United States Code [USC] 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

- 2) 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 USC 7401 et seq.), as amended.
- 3) 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.

E. **Americans With Disabilities Act:** Contractor agrees to ensure that services provided and 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 USC Section 794(d)), and regulations implementing that Act as set forth in Part 1194 of Title 36 of the CFR. 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 GC Section 11135 codifies Section 508 of the Act requiring accessibility of electronic and information technology.

F. **Child Support Compliance Act:** For any Agreement in excess of \$100,000, the Contractor acknowledges in accordance with PCC 7110, that:

- 1) The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- 2) The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 3) Contractor agrees to furnish to Contract Administrator within thirty (30) calendar days of the award of this Agreement:
  - a) In the case of an individual Contractor, his/her name, date of birth, social security number and address of residence.
  - b) In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of ten percent (10%) or more in the contracting entity.
  - c) A signed "Child Support Compliance Act Certification", attached hereto as Exhibit D, incorporated by reference and made a part hereof, signifying that Contractor has fully complied with all applicable federal and State reporting requirements regarding its employees.
  - d) A certification that Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply. Contractor is responsible to be knowledgeable

of all current federal and State Regulations regarding Child Support Enforcement. Failure of Contractor to timely submit the data and/or certifications required under this section, or to comply with all federal and State reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of notice from County shall constitute grounds for termination of this Agreement in accordance with Article XIII "Default, Termination and Cancellation."

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

**G. Client Liability for Payment:**

- 1) The Contractor or an affiliate, vendor, contractor, or subcontractor of the 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 (CCR, Title 9, Section 1810.365 (a)).
- 2) The Contractor or an affiliate, vendor, contractor, or sub-subcontractor of the Contractor shall not hold Clients liable for debts in the event that the Contractor becomes insolvent; for costs of covered services for which the County does not pay the Contractor; for costs of covered services for which the County or the Contractor does not pay the Contractor's network providers; for costs of covered services provided under a contract, referral or other arrangement rather than from the Contractor; or for payment of subsequent screening and treatment needed to diagnose the specific condition of or stabilize a beneficiary. (42 CFR Section 438.106 and CCR Title 9, Section 1810.365(c).)
- 3) The Contractor shall ensure any subcontractors and providers do not bill Clients for covered services, any amount greater than would be owed if the Contractor provided the services directly (42 CFR Section 483.106(c)).

**H. Confidentiality:**

1) 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 County 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 County without prior written

authorization from the County Contract Administrator, or successor, 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 County, this provision may be supplemented by additional terms and conditions covering PHI, PI, personal identifiable information (PII), or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions are outlined in County's Business Associate Agreement (BAA), attached hereto as Exhibit E, incorporated herein and made by reference a part hereof.

2) HIPAA Compliance:

- a) As a condition of Contractor performing services for the County of El Dorado, Contractor agrees to fully comply with all terms and conditions of Exhibit E.
- b) Confidentiality Requirements relating to HIPAA: The Contractor shall comply with applicable laws and regulations, including but not limited to Sections 14100.2 and 5328 et seq. of the WIC, Section 431.300 et seq. of Title 42, CFR, and HIPAA including but not limited to Section 1320 d et seq. of Title 42, USC and its implementing regulations (including but not limited to Title 45, CFR, parts 160, 162 and 164) regarding the confidentiality and security of IIHI.
- c) Contractor agrees to comply with all confidentiality requirements in the Privacy and Information Security Provisions of the MHP Agreement between DHCS and County, included in Exhibit F to that Agreement, incorporated by reference as if attached hereto.

I. **Conflict Resolution:** Should a dispute arise between the Contractor and the County relating to services provided under this Agreement:

- 1) County Contract Administrator and Contractor shall first informally discuss the problem. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the HHS Assistant Director for Behavioral Health. The Assistant Director shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Assistant Director shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Assistant Director's decision, the Contractor may appeal to the final level.
- 2) When appealing to the final level, the Contractor must prepare an appeal indicating the reasons for disagreement with Assistant Director'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 Assistant Director's decision. The appeal shall be addressed to the HHS Director within ten (10) working days from receipt of the Assistant Director's decision. The HHS Director, or his/her designee, shall meet with the Contractor to review the issues raised. A written decision signed by the HHS Director shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- 3) Unless otherwise stipulated in writing by County, all dispute, grievance and/or appeal correspondence shall be directed to the Contract Administrator.
- 4) Contractor shall continue with the responsibilities under this Agreement during any dispute.



- J. **Covenant Against Contingent Fees:** 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, County 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.
- K. **Cultural Competence:**
- 1) The Contractor shall participate in the County and 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.
  - 2) Contractor shall comply with the provisions of the County's current Cultural Competence Plan.
- L. **Domestic Partners:** For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with PCC Section I0295.3.
- M. **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:
- 1) 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.
  - 2) Establish a Drug-Free Awareness Program to inform employees about:
    - a) The dangers of drug abuse in the workplace;
    - b) The person's or organization's policy of maintaining a drug-free workplace;
    - c) Any available counseling, rehabilitation and employee assistance programs; and,
    - d) Penalties that may be imposed upon employees for drug abuse violations.
  - 3) Every employee who provides services under the terms of this Agreement will:
    - a) Receive a copy of Contractor's drug-free workplace policy statement; and,
    - b) Agree to abide by the terms of the Contractor's statement as a condition of employment under the terms of the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement in accordance with Article XIII "Default, Termination, or Cancellation" or both, and Contractor may be ineligible for award of any future County agreements if the County 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. (GC Section 8350 et seq.)

- N. **Equal Opportunity Requirements:**
- 1) Federal:
    - 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 USC 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 USC 4212) and of the FEO 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 FEO 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 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 in accordance with Article XIII "Default, Termination, and Cancellation," and the Contractor may be declared ineligible for further federal and State contracts in accordance with procedures authorized in FEO No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in FEO 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," 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 1 through 5 herein above in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to FEO 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," or Section 503 of the Rehabilitation Act of 1973 or (38 USC 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) State:
- a) The Contractor will comply with the California Fair Employment and Housing Act, Title 2, Division 3, Part 2.8, Chapter 6, Sections 12940 through 12952, and the California Labor Code.
- O. **Gender Identity:** For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with PCC Section 10295.35.
- P. **Human Subjects Use Requirements:** 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 USC Section 263a (Clinical Laboratory Improvement Amendments (CLIA)) and the regulations thereunder.
- Q. **International Classification of Diseases and Related Health Problems (ICD-10):**
- 1) The Contractor shall use the criteria sets in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) as the clinical tool to make diagnostic determinations

- 2) Once a DSM-5 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).
- 3) The Contractor shall use the ICD-10 diagnosis code(s) to submit a claim for SMHS to receive reimbursement of Federal Financial Participation (FFP) in accordance with the covered diagnoses for reimbursement of outpatient and inpatient Medi-Cal SMHS listed in MHSUDS Information Notice 17-004E.
- 4) The lists of covered ICD-10 diagnosis codes in MHSUDS Information Notice 17-004E are subject to change and the Department may update them during the term of this contract. Changes to the lists of covered ICD-10 covered diagnoses do not require an amendment to this contract and the Department may implement these changes via Mental Health and Substance Use Disorder Services Information Notices.
- 5) In determining whether a service is covered under this contract based on the diagnosis of the beneficiary, the Contractor shall not exclude a beneficiary solely on the ground that the provider making the diagnosis has used the International Classification of Diseases (ICD) diagnosis system rather than the system contained in the Diagnostic and Statistical Manual (DSM) of the American Psychiatric Association.

R. **Lobbying Prohibition:** United States Code Title 31, Section 1352 prohibits the use of any federal funds for lobbying activities. Contractor shall not use any funds paid from this agreement for any lobbying activities as defined in said code. Any lobbying activities performed by the Contractor that are funded through other, non-federal sources must be accurately tracked and properly allocated to ensure compliance with this provision.

S. **Miscellaneous Provisions:**

- 1) Disclaimer: The State makes no warranty or representation that compliance by the Contractor with this Agreement, HIPAA or the HIPAA regulations shall be adequate or satisfactory for the Contractor's own purposes or that any information in the Contractor's possession or control, or transmitted or received by the Contractor is, or will be, secure from unauthorized use or disclosure. The Contractor is solely responsible for all decisions made by the Contractor regarding the safeguarding of PHI, PI, and PII.
- 2) Assistance in Litigation or Administrative Proceedings: The Contractor shall make itself, and use its best efforts to make any subcontractors, employees or agents assisting the Contractor in the performance of its obligation under this Agreement, available to the County or State at no cost to the County or State to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the County and/or State, their directors, officers or employees for claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy based upon actions or inactions of the Contractor and/or its subcontractor, employee, or agent, except where the Contractor or its subcontractor, employee or agent is named adverse party.
- 3) Interpretation: The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, HIPAA regulations, and any other applicable federal, State or local laws. The parties agree that any ambiguity in the terms and conditions of this Agreement 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.
- 4) Regulatory References: A reference in the terms and conditions of this

Agreement to a section in the HIPAA regulations means the section as in effect or as amended.

- 5) Survival: The respective rights and obligations of the Contractor under herein this Agreement shall survive the termination or expiration of this Agreement.
- 6) Fulfillment of Obligation: No covenant, condition, duty, obligation, or undertaking continued or made a part of this Agreement 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 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.
- 7) 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.
- 8) Signatures: This Agreement is of no force and effect until signed by both of the parties hereto. The Contractor shall not commence performance prior to the beginning of this Agreement or upon final approval.
- 9) Administrative Manual: Contractor shall maintain a current administrative manual which includes: personnel policies and procedures, general operating procedures, service delivery policies, any required State or federal notices, and procedures for reporting unusual occurrences relating to health and safety issues.

**T. Nondiscrimination:**

- 1) Consistent with the requirements of applicable federal law, such as 42 CFR part 438.3(d)(3) and (4), and State law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of Clients, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, gender identify, religion, marital status, national origin, age, sexual orientation, or mental or physical handicap or disability.
- 2) 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 federal 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.
- 3) Notwithstanding other provisions of this section, the Contractor may require a determination of medical necessity pursuant to CCR Title 9, Sections 1830.205 and/or 1830.210, prior to providing covered services to a beneficiary.
- 4) Contractor's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to GC Section 12990 and Title 2, CCR Section 8103.

**U. 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.

**V. Physician Incentive Plans:** Contractor agrees to comply with obligations for Physician Incentive Plans, if applicable based on the services provided under this Agreement.

- W. **Priority Hiring Considerations:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under WIC Section 11200 in accordance with PCC Section 10353.
- X. **Program Integrity:** To the extent that the Contractor is delegated responsibility for coverage of services and the result of supplying that information:
- 1) The Contractor shall implement and maintain a compliance program designed to detect and prevent fraud, waste, and abuse that must include:
    - a) 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, State and County requirements.
    - b) 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 Contractor's Executive Director, or equivalent.
    - c) 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.
    - d) Effective lines of communication between the CO and the organization's employees.
    - e) Enforcement of standards through well-publicized disciplinary guidelines.
    - f) The establishment and implementation of procedures and a system 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 CFR Section 438.608(a), (a)(1).)
  - 2) **Fraud Reporting Requirements:**
    - a) Contractor shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste and abuse that include prompt reporting to the County and DHCS (42 CFR Section 455.(a)(1) on the following:
      - 1) Any potential fraud, waste, or abuse (42 CFR Section 438.608(a),(a)(7));
      - 2) All overpayments identified or recovered, specifying the overpayments due to potential fraud (42 CFR Section 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 resident or the death of the beneficiary (42 CFR Section 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 County (42 CFR Section 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, and of any subcontractor 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 CFR Section 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 CFR Section 438.608(a), (a)(8).)

3) Disclosures:

- a) Disclosure of five percent (5%) or More Ownership Interest:
  - 1) Contractor shall submit the disclosures outlined below regarding Contractor's ownership and control. Any person who has or obtains an interest of five percent (5%) or more of any mortgage, deed of trust, note or other obligation secured by Contractor, and that interest equals at least five percent (5%) of Contractor's property or assets, then the Contractor will make the following disclosures:
    - 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. The Contractor shall provide any such disclosure upon execution of this contract, upon its extension or renewal, and within thirty-five (35) days after any change in Contractor ownership or upon request of the County.
  - 2) The Contractor shall ensure that its subcontractors, if any, 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 thirty-five (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 CFR Regulations part 455.104. 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 five percent (5%) 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 managed care entity has a five percent (5%) 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, Contractor shall provide the County 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 CFR part 455.104.
- b) Disclosures Related to Business Transactions – Contractor must submit disclosures and updated disclosures to the Department or HHS including information regarding certain business transactions within thirty-five (35) days, upon request. The following information must be disclosed:
  - 1) 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
  - 2) 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.
  - 3) Contractor must obligate Network Providers to submit the same disclosures regarding network providers as noted under subsection b.1. and b.2. within thirty-five (35) days upon request.
- c) Disclosures Related to Persons Convicted of Crimes:
  - 1) Contractor shall submit the following disclosures to the County regarding the Contractor's management:
    - i. 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 CFR Section 455.106(a)(1),(2).)
    - ii. 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 CFR Section 455.106(a)(1), (2).) For this purpose, the word "agent" has the meaning described in 42 CFR 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.

Y. **Prohibited Use of State Funds for Software:** 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.

Z. **Provider Beneficiary Communications**

- 1) The Contractor shall not prohibit nor otherwise restrict, a licensed, waived, or registered professional, as defined in CCR, Title 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:
  - a) The beneficiary's health status, medical care, or treatment options, including any alternative treatment that may be self-administered;
  - b) Information the beneficiary needs in order to decide among all relevant treatment options;
  - c) The risks, benefits, and consequences of receiving treatment or not receiving treatment; and
  - d) The beneficiary's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions. (42 CFR Section 438.102(a)(1).)

AA. **Provider Notifications:** The Contractor shall inform providers and subcontractors, at the time they enter into a contract, about:

- 1) Beneficiary grievance, appeal, and fair hearing procedures and timeframes as specified in 42 CFR 438.400 through 42 CFR 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 fair hearing after the County has made a determination on a beneficiary's appeal, which is adverse to the beneficiary.
- 5) The beneficiary's right to request continuation of benefits that the County or Contractor seeks to reduce or terminate during an appeal or State fair 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 fair hearing is pending if the final decision is adverse to the beneficiary.

BB. **Record Keeping, Record Retention:**

- 1) Records and Documents: Records and documents include, but are not limited to, all physical and electronic records and documents originated or prepared pursuant to Contractor or subcontractor's performance under this contract, including books,

work papers, reports, financial records and documents of account, Client records, prescription files, subcontracts, any other documentation pertaining to covered services and other related services for beneficiaries, and other evidence, accounting procedures and practices, sufficient to properly reflect all services provided and direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses.

2) Record Retention:

- a) Contractor and any subcontractors shall maintain and retain all records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this contract, including beneficiary grievance and appeal records, and information and documentation specified in 42 CFR parts 438.604, 438.606, 438.608 and 438.610 for a period of no less than ten (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 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 Section 438.3(u)) (see also Section 438.3(h)).
- b) Contractor and any subcontractors shall agree to maintain and preserve all Client records for a minimum of ten (10) years from the date of discharge and in the case of minors, for at least one (1) year after the minor client's eighteenth (18th) birthday, but in no case less than ten (10) years from the date of discharge.
- c) Contractor and any subcontractors shall agree to maintain and preserve all financial records for a term of at least seven (7) years from the close of the County's fiscal year in which the contract was in effect, or any longer period as may be required by federal or State law.
- d) Contractor and any subcontractors shall agree to maintain and preserve all other records and documents, until seven (7) years after termination of this Agreement and final payment from DHCS to the County, to permit DHCS, County or any duly authorized representative to have access to, examine or audit any pertinent books, documents, papers, and records related to the subcontract and to allow interviews of any employees who might reasonably have information related to such records.
- e) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for the required retention period from the date of any resulting final settlement. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the required retention 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 retention period, whichever is later.

CC. **Smoke-Free Workplace Certification:**

- 1) Public Law 103-227, also known as the Pro-Children Act of 1994, 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 eighteen (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.

- 2) 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.
- 3) By signing this Agreement, Contractor certifies that it will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act of 1994.
- 4) Contractor further agrees that it will insert this certification into any subcontracts entered into that provide for children's services as described in the Pro-Children Act of 1994.

**DD. State and Federal Law Governing this Contract:** Contractor agrees to comply with all applicable federal and State laws, including but not limited to the statutes and regulations specifically referenced in the County's MHP agreement with DHCS, which are set forth below.

1) Federal Law:

- a) Title 42 USC, Chapter 102;
- b) 42 CFR, Chapter IV;
- c) 42 CFR part 438, Medicaid Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHPs);
- d) 42 CFR Section 455;
- e) Title VI of the Civil Rights Act of 1964;
- f) Title IX of the Education Amendments of 1972;
- g) Age Discrimination Act of 1975;
- h) Rehabilitation Act of 1973;
- i) Americans with Disabilities Act;
- j) Section 1557 of the Patient Protection and Affordable Care Act;
- k) Deficit Reduction Act of 2005;
- l) Balanced Budget Act of 1997;
- m) Provisions of the Copeland Anti-Kickback Act, 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;
- n) 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;
- o) Provisions of the Contract Work Hours and Safety Standards Act which require 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;

2) State Law:

- a) Division 5, WIC Sections 5000 through 5912;

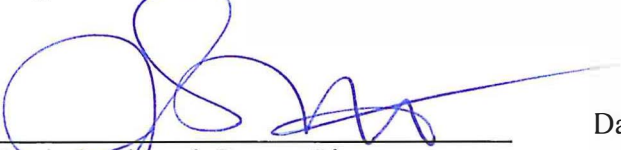
- b) WIC Sections 14680-14685.1;
  - c) WIC Sections 14700-14726;
  - d) Chapter 7, part 3, Division 9, WIC, Article 1.5;
  - e) CCR, Title 9, Section 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services;
  - f) CCR, Title 22, Sections 50951 and 50953; and
  - g) CCR, Title 22, Sections 51014.1 and 51014.2
- 3) State Regulations: Pursuant to WIC Section 14704, a regulation or order concerning Medi-Cal SMHS adopted by DHCS (formerly the State Department of Mental Health) pursuant to Division 5 (commencing with Section 5000), in effect during the term on this Agreement, 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.

EE. **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 constructed to be a modification of the terms of this contract.

**ARTICLE XXXI**

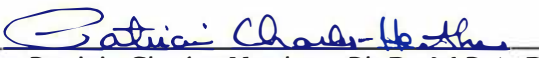
**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

**Requesting Contract Administrator Concurrence:**

By:  \_\_\_\_\_ Dated: 11/9/18

Jamie Samboceti, Deputy Director  
Health and Human Services Agency

**Requesting Department Head Concurrence:**


By:  \_\_\_\_\_ Dated: 11/8/18

Patricia Charles-Heathers, Ph.D., M.P.A, Director  
Health and Human Services Agency


IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: 12/4/2018

By:   
Chair  
Board of Supervisors  
"County"

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

By:   
Deputy Clerk

Dated: 12/4/2018

-- CONTRACTOR --

NEW MORNING YOUTH & FAMILY SERVICES  
A NON-PROFIT CALIFORNIA CORPORATION

By:   
David Ashby  
Executive Director  
"Contractor"

Dated: 11/14/18

lkk

**Exhibit A**  
**OUTPATIENT SPECIALTY MENTAL HEALTH SERVICES (SMHS)**  
**PROTOCOL**

**Health and Human Services Agency**  
**Behavioral Health**

Updates will be distributed as needed with the effective date of the update notated in the footer.

**DOCUMENTATION**

All documentation completed by a Contracted Provider must comply with Medicaid/Medi-Cal documentation requirements as established by federal and State laws, regulations and other requirements, as well as County policies and procedures related to documentation. See the El Dorado County Mental Health Plan (MHP), a copy of which is available at <http://www.edcgov.us/HHSAForContractors/> and Mental Health & Substance Use Disorder Services Information Notice 17-040, or as may be amended or replaced, for documentation and related requirements for Medi-Cal Specialty Mental Health Services (SMHS).

**NEW REQUESTS FOR SERVICES**

All new requests for SMHS are to be referred to El Dorado County Behavioral Health (BH). For non-Child Welfare Services Clients, the parent or legal guardian, or an organization or agency such as a school or primary care provider, is to phone and request mental health services:

**Western Slope Region (530) 621-6324**

**South Lake Tahoe Region (530) 573-7970**

**Determination of Medical Necessity**

Medi-Cal eligibility will be confirmed by the BH, and a triage screening assessment will be conducted by a County Mental Health Clinician unless delegated otherwise by BH (hereinafter also may be referred to and used interchangeably as "County".)

The purpose of the triage screening assessment is to establish medical necessity (eligibility) for SMHS and to establish the foundation upon which a treatment plan can be built.

Note: For families in which the parent/guardian is requesting services for multiple siblings, the County clinician will determine which minor(s) meets medical necessity, and open a treatment episode to that minor(s). It is expected that the Contracted Provider address broader family dysfunction with family therapy interventions.

## **Delegation of Determination of Medical Necessity to Contracted Provider**

At BH discretion, the initial assessment to establish medical necessity may be delegated to Contracted Provider. BH will provide a referral packet via fax to the Contracted Provider identified by the BH. The referral packet will contain the following documentation:

- Admission and CSI Data Sheet
- Summary of presenting problem/reason for request for SMHS
- Authorization for 180 mins of Assessment (331) to be completed within ten (10) business days (CA CANS AND CALOCUS and diagnosis will be completed during this assessment.)

Once the assessment, diagnosis, CA CANS and CALOCUS has been completed, the Contracted Provider will fax these documents to BH for further review and disposition using the attached fax cover sheet. BH will determine if the individual meets medical necessity criteria for SMHS based on the information provided. In the event the individual meets medical necessity criteria for SMHS, BH will generate an authorization for plan development and will continue the course described below.

If the individual is found to not meet medical necessity criteria for SMHS, BH will refer the individual to appropriate resources and provide the individual with a Notice of Action.

## **REFERRAL FOR SMHS**

If medical necessity is established, a referral packet will be faxed to a Contracted Provider identified by BH. The referral packet will contain the following documentation:

<b>Assessment Completed by BH</b>	<b>Assessment Completed by Contracted Provider</b>
1. Admission and Client and Services Information (CSI) Data Sheet	1. Authorization of 180 minutes of Plan Development (391)
2. Assessment	
3. Diagnosis	
4. CALOCUS	
5. Authorization of 60 minutes of Assessment (331)	
6. Authorization of 180 minutes of Plan Development (391)	

In response to receipt of the referral packet, the Contracted Provider is to follow timeliness requirements specified in Mental Health Substance Use Disorder Services (MHSUDS) Information Notice 18-011, or as may be amended or replaced, when setting appointments with the referred Client:

<b>Appointment Type</b>	<b>Criteria</b>
Psychiatric Appointments	Within 15 business days from request to appointment
Other Outpatient SMHS	Within 10 business days from request to appointment

Documentation in the chart must record all attempts at outreach to the family and the outcome of each attempt.

### **Consent to Treat**

No services, even Plan Development, can be billed until the Client and appropriately licensed Contracted Provider staff have signed a “consent for treatment”. All activities preceding the signed “consent for treatment” are to be documented in the chart and **NOT** invoiced to the County. [Note: it is fraudulent to back-date a “consent for treatment.”]

### **Treatment**

#### **Assessment**

At the first contact, the Contracted Provider’s clinician is to complete the intake process, including, but not limited to, the following documents, unless completed as specified under “Delegation of Determination of Medical Necessity to Contracted Provider” above:

- CA CANS 50
- CALOCUS
- Mental Status Exam
- Provide Client with the Notice of Privacy Practices, Guide to Medi-Cal, and Informed Consent, and obtain all necessary signatures verifying receipt of said notices and guides.

#### **Treatment Plan**

The clinician is to begin treatment planning with the family upon authorization for Plan Development (391).

The Treatment Plan shall be developed in coordination with the Client, parent/guardian, family, agency staff, and other natural and professional family supports as appropriate. In the case of a youth aged 18 and over and not subject to a Guardianship, Conservatorship or Ward of the Court, parent or legal guardian inclusion in treatment planning is not required and is at the discretion of the Client.

Contractor shall ensure that the parent/caregiver completes the PSC-35 as part of the treatment plan process.

The treatment plan shall:



1. address the mental health needs of the beneficiary as identified in the current assessment;
2. identify the goals and objectives;
3. identify the interventions to achieve stated goals and objectives;
4. identify the length, type, and duration of mental health services;
5. be based upon the beneficiary's response to the interventions; and
6. be updated when there are significant changes in the beneficiary's condition.

Additionally:

- Goals must be specific, observable, and/or specifically quantifiable, related to the Client's mental health needs, and related to the Client's functional impairments as a result of the mental health diagnosis.
- Interventions must propose the type(s) of intervention/modality; the description of the intervention; the frequency and duration of interventions; be focused on and address the identified functional impairments related to the mental health condition; and be consistent with the treatment plan goals and objectives. Interventions must be designed to reduce mental disability; restore, improve, or maintain functioning; be consistent with the goals of learning, development, independent living and enhanced self-sufficiency; and must meet medical necessity.
- The length, type, and duration of mental health services shall be based on medical necessity and level of impairment. The length of service shall be based on clinical need as determined by the case-carrying clinician in collaboration with the child/youth/family, but will not exceed the BH authorization.
- There shall be documentation in the treatment plan that a copy of the treatment plan was offered to the Client.
- There shall be documentation of the Client's participation in the development of, and agreement with the treatment plan as a progress note within the Client's medical record.
- The treatment plan shall be signed by the parent/guardian, or Client over 18-21 years of age, and Contractor, and submitted to BH within thirty (30) days of the Initial Authorization. Clients under the age of 17 may also sign the treatment plan and are encouraged to do so. Treatment plans must be signed by the appropriately licensed, registered or waived staff whom have the authority to do so within their scope of practice.

Contracted Provider shall fax a copy of the signed treatment plan and CA CANS 50 to BH using the attached fax cover sheet.

If the treatment plan is out of compliance, it will be faxed back to the Contracted Provider with documentation of needed changes. At the discretion of BH, authorization of SMHS may be held

until the treatment plan is corrected. Otherwise, BH will review the treatment plan and CA CANS 50, then authorize the appropriate array of SMHS.

The Contracted Provider is responsible for tracking the total minutes of services provided. If the treatment plan is completed and signed by the parent/guardian in less than the 180 minutes, the actual number of minutes utilized shall be claimed. If the treatment plan is completed and signed by the parent/guardian in more than 180 minutes, only a maximum of 180 minutes can be claimed.

BH has developed the Target Unit Volumes utilizing the recommended number of service minutes based upon the treatment plan and CALOCUS score as follows:

**Traditional Specialty Mental Health Services Recommended Service Minutes**

<b>CALOCUS Level</b>	<b>Score</b>	<b>Description</b>	<b>Recommended Minutes per 6 months</b>
1	10 – 13	Recovery Maintenance & Health Management	300
2	14 – 16	Outpatient Services	900
3	17 – 19	Intensive Outpatient Services	2,400
4	20 – 22	Intensive Outpatient Services	2,400
5	23 – 27	Intensive Outpatient Services	2,400

**Mental Health Services Act (MHSA) Full Service Partnership Services Recommended Service Minutes**

<b>CALOCUS Level</b>	<b>Score</b>	<b>Description</b>	<b>Recommended Minutes per 6 months</b>
4	20 – 22	Integrated Community-Based Services – Generally those enrolled in the Youth and Family Full Service Partnership program	3,600
5	23 – 27	Intensively Integrated Community-Based Services – Generally those enrolled in the Enhanced Foster Care Services	4,500

The full array of SMHS includes:

<b>Service Code</b>	<b>Description</b>
301	Case Management
311	Collateral
321	Family Therapy

331	Assessment
341	Individual Therapy
347	Rehabilitation Services
351	Group Therapy
361	Medication Support Services (used by MD, DO, FNP, PA, PT, or LVN only)
371	Crisis Intervention
381	Therapeutic Behavioral Services (TBS)
391	Plan Development (Development and updating of Client treatment plans, approval of plans and or monitoring of Client progress or lack of progress towards Client treatment plan goals.)

A full description of these service codes can be found in Attachment A.

## RE-AUTHORIZATION FOR CONTINUED SERVICES

At least two weeks prior to the expiration of authorized services, a chart can be presented to BH requesting re-authorization of continued services. In conjunction with the re-authorization process, BH will conduct an audit of the chart to confirm compliance with medical necessity, treatment planning, and progress note documentation. See Attachment B: "EDC BHD SMHS Utilization Chart Review Worksheet".

Prior to submitting the request for reauthorization to BH, a Contracted Providers' supervising clinician must confirm that the request for reauthorization is clinically indicated and that a copy of the completed and signed treatment plan is in the Client's chart. The Contracted Provider must also confirm that the documentation complies with Medi-Cal documentation requirements.

If the six-months of authorized services have expired prior to the chart being submitted for re-authorization, all un-authorized services should be documented in the chart and **NOT** invoiced to BH. Continuity of care mandates that clinically necessary services continue to be provided while the lapse in authorization is addressed by the Contracted Provider.

The Contracted Provider is responsible for tracking the total minutes of services provided.

## REQUEST TO MOVE CLIENT TO HIGHER/LOWER LEVEL OF SERVICE PROGRAM

In the event that the Contracted Provider believes a higher/lower level of service program is needed, either within the six-month period or at the time of re-authorization, the Contracted Provider is to complete a new CALOCUS sheet, CA CANS 50, and a progress note explaining why the change is needed. These documents are to be faxed to BH using the attached fax cover sheet. BH makes the final determination to authorize a higher/lower level of service. Periodically, and minimally upon request for treatment reauthorization, BH shall review Client charts for appropriate levels of care.

The El Dorado County Children's System of Care is designed to retain Clients in services with the same Contracted Provider when their clinical needs are subject to an increase or a decrease in service intensity for SMHS. By allowing this flexibility within the program, children,

youth and their families are able to retain their relationship with their Contracted Provider and are not required to transfer to another outpatient program as their needs fluctuate or change.

## **NOTIFICATION OF INABILITY TO CONTINUE TO PROVIDE SPECIALTY MENTAL HEALTH SERVICES**

In the event a Contracted Provider is no longer able to provide the SMHS necessary to address a Client's treatment goals, the Contracted Provider shall immediately notify BH via fax with the following information:

1. Child/youth's name
2. Admit date
3. Total minutes of services provided to the child/youth since admit
4. Reason the Contracted Provider is no longer able to provide the necessary SMHS

BH will review the request and make the final determination to re-assign the child/youth to a different Contracted Provider.

## **NOTIFICATION OF INABILITY TO CONTINUE TO PROVIDE MEDICATION SERVICES**

Unless waived by County, Contracted Providers are to provide all psychiatry and medication support services for their Clients.

In the event a Contracted Provider is no longer able to provide psychiatry and medication support services, the Contracted Provider shall immediately notify BH via fax with the following information for each child impacted by this service change:

1. Child/youth's name
2. Admit date
3. Date when next psychiatric appointment is needed
4. Reason the Contracted Provider is no longer able to provide psychiatry and medication support services

BH will review the notification and proceed per the terms of the Agreement for Service.

## ADMINISTRATION OF THE CA CANS 50 AND CALOCUS

Contracted Providers are to conduct the CA CANS 50 and CALOCUS for each Client and provide the documentation to BH at the following intervals:

Interval	CA CANS 50	CALOCUS
Within the first 180 minutes authorized for Plan Development for new Clients	Yes	Completed by BH prior to referral unless delegated to contract Contracted Provider
Every 90 Days	Yes	No
Every 180 Days in conjunction with the request for re-authorization of services	Yes	Yes
Upon significant change in placement, services, or minor's overall functioning	Yes	Yes
At discharge of services	Yes	Yes

## ADMINISTRATION OF SERVICE VERIFICATION

All providers of SMHS are responsible for performing service verification as part of the ongoing Quality Assurance and Compliance program. Contractors will be provided with the required forms and procedures prior to execution of the Agreement for Services.

## ATTACHMENT "A"

### BILLABLE SERVICE CODE DEFINITIONS

CODE	DEFINITION
301	<p><b>CASE MANAGEMENT</b> services are activities provided <b>for or on behalf of</b> a client 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"> <li>• <b>Consultation:</b> <u>Inter</u>-agency and <u>intra</u>-agency <b>consultation/collaboration</b> regarding the client's care. This activity involves people in professional relationships with the client, e.g., Child Welfare Services worker, probation officer, teacher, mental health staff, pediatrician.</li> <li>• <b>Linkage:</b> Locating and securing for the client needed services and resources in the community. <b>Examples:</b> Linking a client/family with medical or dental care, with education or vocational training, parenting classes, etc. Linkage does <u>not</u> mean providing transportation to an appointment.</li> <li>• <b>Access:</b> Activities related to assisting a client to access mental health services.</li> <li>• <b>Placement:</b> Locating and securing appropriate living environment for the client (can include pre-placement visits, placement, and placement follow-up). Case management <b>placement</b> can also be billed while a client is in an acute psychiatric hospital, when the client is within 30-days of discharge, but only if the living environment at discharge from the hospital is in question or has yet to be determined.</li> <li>• <b>Assessment</b> (this is <u>different</u> from a clinical assessment). Examples of case management assessment (billed as 301) include             <ul style="list-style-type: none"> <li>○ For FSP clients there may be a need to do a daily case management assessment of client's ability to complete ADLs, take medication, function in the community.</li> <li>○ A client/family has not been seen for some time, you phone to assess overall wellbeing, and what barriers there may be to ongoing participation in mental health services.</li> </ul> </li> </ul>
311	<p><b>COLLATERAL</b> means a service activity to a significant support person in a beneficiary's life for the purpose of meeting the needs of the beneficiary in terms of achieving the goals of the beneficiary's client plan. Collateral may include but is not limited to consultation and training of the significant support person(s) to assist in better utilization of specialty mental health services by the beneficiary, 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.</p> <p>A "support person" is someone in a non-professional relationship with the client, e.g., parent, extended family member. <u>Family counseling</u> should be claimed under Mental Health Services as "Collateral" and the beneficiary may or may not be present.</p>

CODE	DEFINITION
321	<p><b>FAMILY (therapy or rehab) THERAPY</b> means a service activity that is a therapeutic intervention that focuses primarily on the client's symptom reduction as a means to improve functional impairments.</p> <p>Family therapy is not specifically defined services under Medi-Cal; however, these services may be provided, when medically necessary, and claimed as Therapy. Each beneficiary for which a family therapy claim will be submitted must be present at the therapy session. Progress notes for each therapy session must clearly document how the session focused primarily on reducing each beneficiary's symptoms as a means to improve his or her functional impairments or to prevent deterioration and to assist the beneficiary in meeting the goals of their client plan.</p> <p>Pursuant to Department of Health Care Services direction, when one clinician provides service to or on behalf of more than one beneficiary at the same time, the clinician's time must be prorated to each beneficiary, i.e., the billable time for this service is to be determined based upon the group therapy formula, which is:</p> $(\# \text{ of minutes} \times \# \text{ of staff}) \div (\# \text{ of clients present}) = \# \text{ of minutes claimed}$ <p>The "# of clients" is the number of children with an open outpatient SMHS case being served during the Family Therapy via an authorization from BH (although a child in the family may have Medi-Cal, they cannot be considered a "Client" unless they have an open SMHS case and the Contracted Provider has a current authorization for services from BH).</p>
331	<p><b>ASSESSMENT</b> is defined as 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.</p>
341	<p><b>INDIVIDUAL THERAPY</b> is 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>
347	<p><b>INDIVIDUAL REHABILITATION</b> is a service that engages the client in improving, maintaining, or restoring functional skills. These may include daily living skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system. Therapists and/or paraprofessional staff can provide rehabilitation services.</p>

CODE	DEFINITION
351	<p><b><u>GROUP (therapy or rehabilitation):</u></b></p> <p><b>Group Therapy</b> is a therapeutic intervention delivered to a group of clients that focuses primarily on symptom reduction as a means to decrease functional impairments. Group therapy can only be delivered and billed for by a clinician for whom therapy is within their scope of practice.</p> <p><b>Group Rehabilitation</b> is 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, interpersonal skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system.</p>
361	<p><b>MEDICATION SUPPORT SERVICES</b> are service activities 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; 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. Medication Support Services shall be provided only by Psychiatrists (or Physicians who have training and/or experience in psychiatry), Registered Nurse, Certified Nurse Specialist, Nurse Practitioner, Licensed Vocational Nurse, Licensed Psychiatric Technician, Physician Assistant, or Pharmacist.</p>
371	<p><b>CRISIS INTERVENTION</b> is 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 delivered by Contracted Providers who do not meet the crisis stabilization contact, site, and staffing requirements. Crisis intervention does not include assessment for a WIC Section 5150 Involuntary Hold.</p>
381	<p><b>THERAPEUTIC BEHAVIORAL SERVICES (TBS)</b> is an intensive, individualized, one-to-one behavioral mental health service. TBS is never a primary therapeutic intervention; it is always used in conjunction with a primary SMHS. TBS is designed to help children/youth and their parents/caregivers manage these behaviors utilizing short-term, measurable goals based on the child's and family's needs. TBS requires a separate authorization from the County prior to providing TBS services. TBS may only be authorized for a maximum of thirty (30) days. TBS is available only to Clients under the age of 21.</p>
391	<p><b>PLAN DEVELOPMENT</b> is a service activity consisting of development and updating of client treatment plans, approval of client treatment plans and/or monitoring of a client's progress. Client treatment plans must contain the information identified in the <i>Outpatient SMHS Protocol</i>.</p>



CODE	DEFINITION
308	<p><b>INTENSIVE CARE COORDINATION (ICC)</b> is an intensive form of Targeted Case Management (TCM) that facilitates assessment of, care planning for, and coordination of services for children and youth. ICC includes urgent services for beneficiaries with intensive needs. While the key service components of ICC are similar to TCM, a difference between ICC and the more traditional TCM is that ICC is intended for children and youth who:</p> <ul style="list-style-type: none"> <li>• Are involved in multiple child serving systems;</li> <li>• Have more intensive needs; and/or</li> <li>• Whose treatment requires cross-agency collaboration.</li> </ul> <p>ICC is available only to Clients under the age of 21.</p>
348	<p><b>INTENSIVE HOME BASED SERVICES (IHBS)</b> are individualized, strength-based interventions designed to ameliorate mental health conditions that interfere with a child's or youth's functioning. These interventions are aimed at: helping the child/youth build skills for successful functioning in the home and community, as well as improving the family's ability to help the child/youth successfully function in the home and in the community. IHBS is available only to Clients under the age of 21.</p>
	<p><b>CHART REVIEW</b>, pursuant to Department of Health Care Services Information Notice 17-040, is a reimbursable service when performed as a part of the following services:</p> <ul style="list-style-type: none"> <li>• Mental Health Services (assessment, plan development, collateral)</li> <li>• Targeted Case Management</li> <li>• Medication Support Services</li> <li>• Crisis Intervention</li> </ul>

**These BILLABLE SERVICE DEFINITIONS will help to structure the progress note. Any activity NOT captured in one of these DEFINITIONS is, by definition, NOT BILLABLE.**

Examples of progress notes that are to be documented in the medical record (chart), that are NOT BILLABLE:

- Clinician's efforts at outreach to the client and family
  - went to the classroom and client was absent from school that day;
  - left a voicemail message asking that the mother contact office about scheduling a family session;
  - spoke with the father and scheduled an appointment (scheduling an appointment is not a billable activity).
- Services that are solely clerical in nature (e.g., faxing, filling out applications, leaving messages).
- Client "no-shows" for appointments or services.
- Services when the primary focus of the intervention does not address the functional impairment(s) that is a result of the included mental health diagnosis or when the intervention is not included on the Client's Treatment Plan or is provided more frequently than identified on the Treatment Plan without adequate justification.

## FAX COVER SHEET

**To:** El Dorado County Health & Human Services Agency, Behavioral Health  
**QA/UR Unit**  
Fax #: (530) 303-1526  
Phone: (530) 621-6324

**From:** Organization: \_\_\_\_\_  
Staff Name: \_\_\_\_\_  
Staff Phone Number: \_\_\_\_\_

**# of pages** (including this cover sheet): \_\_\_\_\_

**Regarding:** [ ✓ all that apply]

- Request for authorization of services for new client. The treatment plan and CA CANS 50 are attached.
- Request for re-authorization of services for client. The treatment plan, CALOCUS, and CA CANS 50 are attached.
- Request to move client to a higher/lower level of service program. The CALOCUS, CA CANS 50 and Memo are attached.
- Notification of inability to continue to provide services. The child/youth's name, admit date, total minutes of service provided since admit, and reason for notification are attached.
- Notification of inability to continue to provide medication services. The child/youth's name, admit date, date the next psychiatric appointment is needed, and reason for notification are attached.
- 90-Day CA CANS 50
- Discharge Summary/Report, including the CALOCUS and CA CANS 50.
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**\*PLEASE NOTE\***

This transmission contains confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, any disclosure, distribution, copying or unauthorized use of this confidential information is prohibited, and may subject you to criminal and/or civil penalties. If you received this transmission in error, please immediately notify the sender by telephone, and destroy all transmitted documents.

Thank You

ATTACHMENT "B"

CALIFORNIA CHILD AND ADOLESCENT NEEDS AND STRENGTHS – 50				California CANS
Child's Name:		DOB:	Gender:	Race/Ethnicity:
Caregiver(s):	Form Status: <input type="checkbox"/> Initial <input type="checkbox"/> Reassessment <input type="checkbox"/> Discharge		Case Name:	
			Case Number:	
Assessor:		Date of Assessment (dd/mm/yyyy)		

CHILD BEHAVIORAL/EMOTIONAL NEEDS				
0=no evidence	1=history or suspicion; monitor			
2=interferes with functioning; action needed	3=disabling, dangerous; immediate or intensive action needed			
	0	1	2	3
1. Psychosis (Thought Disorder)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Impulsivity/Hyperactivity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Depression	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Anxiety	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Oppositional	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Anger Control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Substance Use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Adjustment to Trauma	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

LIFE DOMAIN FUNCTIONING				
0=no evidence	1=history or suspicion; monitor			
2=interferes with functioning; action needed	3=disabling, dangerous; immediate or intensive action needed			
	0	1	2	3
10. Family Functioning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Living Situation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Social Functioning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Developmental/Intellectual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Decision-Making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. School Behavior	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. School Achievement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. School Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Medical/Physical	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Sexual Development	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Sleep	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RISK BEHAVIORS				
0=no evidence	1=history or suspicion; monitor			
2=interferes with functioning; action needed	3=disabling, dangerous; immediate or intensive action needed			
	0	1	2	3
21. Suicide Risk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Non-Suicidal Self-Injurious Behavior	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23. Other Self-Harm (Recklessness)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24. Danger to Others	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25. Sexual Aggression	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26. Delinquent Behavior	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Runaway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Intentional Misbehavior	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CULTURAL FACTORS				
0=no evidence	1=history or suspicion; monitor			
2=interferes with functioning; action needed	3=disabling, dangerous; immediate or intensive action needed			
	0	1	2	3
29. Language	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30. Traditions and Rituals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31. Cultural Stress	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

STRENGTHS DOMAIN				
0=Centerpiece strength	1=Useful strength			
2=Identified strength	3=No evidence			
	0	1	2	3
32. Family Strengths	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33. Interpersonal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Educational Setting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35. Talents/Interests	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36. Spiritual/Religious	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37. Cultural Identity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38. Community Life	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39. Natural Supports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40. Resiliency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CAREGIVER RESOURCES AND NEEDS				
A. Caregiver Name:				
0=no evidence	1=history or suspicion; monitor			
2=interferes with functioning; action needed	3=disabling, dangerous; immediate or intensive action needed			
	0	1	2	3
41a. Supervision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42a. Involvement with Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43a. Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44a. Social Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45a. Residential Stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
46a. Medical/Physical	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47a. Mental Health	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48a. Substance Use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49a. Developmental	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
50a. Safety	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Youth has no known caregiver. Skip Caregiver Resources and Needs Domain.

**BRIGHT FUTURES  TOOL FOR PROFESSIONALS**

# Pediatric Symptom Checklist (PSC)

Emotional and physical health go together in children. Because parents are often the first to notice a problem with their child's behavior, emotions, or learning, you may help your child get the best care possible by answering these questions. Please indicate which statement best describes your child.

Please mark under the heading that best describes your child:

		Never	Sometimes	Often
1. Complains of aches and pains	1	_____	_____	_____
2. Spends more time alone	2	_____	_____	_____
3. Tires easily, has little energy	3	_____	_____	_____
4. Fidgety, unable to sit still	4	_____	_____	_____
5. Has trouble with teacher	5	_____	_____	_____
6. Less interested in school	6	_____	_____	_____
7. Acts as if driven by a motor	7	_____	_____	_____
8. Daydreams too much	8	_____	_____	_____
9. Distracted easily	9	_____	_____	_____
10. Is afraid of new situations	10	_____	_____	_____
11. Feels sad, unhappy	11	_____	_____	_____
12. Is irritable, angry	12	_____	_____	_____
13. Feels hopeless	13	_____	_____	_____
14. Has trouble concentrating	14	_____	_____	_____
15. Less interested in friends	15	_____	_____	_____
16. Fights with other children	16	_____	_____	_____
17. Absent from school	17	_____	_____	_____
18. School grades dropping	18	_____	_____	_____
19. Is down on him or herself	19	_____	_____	_____
20. Visits the doctor with doctor finding nothing wrong	20	_____	_____	_____
21. Has trouble sleeping	21	_____	_____	_____
22. Worries a lot	22	_____	_____	_____
23. Wants to be with you more than before	23	_____	_____	_____
24. Feels he or she is bad	24	_____	_____	_____
25. Takes unnecessary risks	25	_____	_____	_____
26. Gets hurt frequently	26	_____	_____	_____
27. Seems to be having less fun	27	_____	_____	_____
28. Acts younger than children his or her age	28	_____	_____	_____
29. Does not listen to rules	29	_____	_____	_____
30. Does not show feelings	30	_____	_____	_____
31. Does not understand other people's feelings	31	_____	_____	_____
32. Teases others	32	_____	_____	_____
33. Blames others for his or her troubles	33	_____	_____	_____
34. Takes things that do not belong to him or her	34	_____	_____	_____
35. Refuses to share	35	_____	_____	_____

Total score \_\_\_\_\_

Does your child have any emotional or behavioral problems for which she or he needs help? ( ) N ( ) Y

Are there any services that you would like your child to receive for these problems? ( ) N ( ) Y

If yes, what services? \_\_\_\_\_

EXHIBIT B

LANGUAGE ASSISTANCE

**English**

ATTENTION: If you speak another language, language assistance services, free of charge, are available to you. Call \_\_\_\_\_ (TTY: \_\_\_\_\_).

ATTENTION: Auxiliary aids and services, including but not limited to large print documents and alternative formats, are available to you free of charge upon request. Call \_\_\_\_\_ (TTY: \_\_\_\_\_).

**Español (Spanish)**

ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al \_\_\_\_\_ (TTY: \_\_\_\_\_).

**Tiếng Việt (Vietnamese)**

CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số \_\_\_\_\_ (TTY: \_\_\_\_\_).

**Tagalog (Tagalog – Filipino)**

PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad. Tumawag sa \_\_\_\_\_ (TTY: \_\_\_\_\_).

**한국어 (Korean)**

주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. (TTY: \_\_\_\_\_) 번으로 전화해 주십시오.

**繁體中文 (Chinese)**

注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電 \_\_\_\_\_ (TTY: \_\_\_\_\_)。

**Հայերեն (Armenian)**

Ուշադրություն: Եթե խոսում եք հայերեն, ապա ձեզ անվճար կարող են տրամադրվել լեզվական աջակցություններ: Ժամային ծախսեր: Զանգահարեք \_\_\_\_\_ (TTY: \_\_\_\_\_)։

**Русский (Russian)**

ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните \_\_\_\_\_ (TTY: \_\_\_\_\_).

**فارسی (Farsi)**

توجه: اگر به زبان فارسی گفتگو می کنید، تسهیلات زبانی بصورت رایگان برای شما فراهم می باشد. با ( TTY: ) تماس بگیرید.

**日本語 (Japanese)**

注意事項：日本語を話される場合、無料の言語支援をご利用いただけます。  
( TTY: ) まで、お電話にてご連絡ください。

**Hmoob (Hmong)**

LUS CEEV: Yog tias koj hais lus Hmoob, cov kev pab txog lus, muaj kev pab dawb rau koj. Hu rau ( TTY: ).

**ਪੰਜਾਬੀ (Punjabi)**

ਧਿਆਨ ਦਿਓ: ਜੇ ਤੁਸੀਂ ਪੰਜਾਬੀ ਬੋਲਦੇ ਹੋ, ਤਾਂ ਭਾਸ਼ਾ ਵਿੱਚ ਸਹਾਇਤਾ ਸੇਵਾ ਤੁਹਾਡੇ ਲਈ ਮੁਫਤ ਉਪਲਬਧ ਹੈ।  
( TTY: ) 'ਤੇ ਕਾਲ ਕਰੋ।

**آرەبى (Arabic)**

ملحوظة: إذا كنت تتحدث اذكر اللغة، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان. اتصل برقم  
(رقم هاتف الصم والبكم: )

**हिंदी (Hindi)**

ध्यान दें: यदि आप हिंदी बोलते हैं तो आपके लिए मुफ्त में भाषा सहायता सेवाएं उपलब्ध हैं।  
( TTY: ) पर कॉल करें।

**ภาษาไทย (Thai)**

เรียน: ถ้าคุณพูดภาษาไทยคุณสามารถใช้บริการช่วยเหลือทางภาษาได้ฟรี โทร  
( TTY: ).

**ខ្មែរ (Cambodian)**

ប្រយ័ត្ន: អ្នកដែលនិយាយភាសាខ្មែរ, សេវាជំនួយមនុស្សភាសា រោងមិនគិតថ្លៃ  
គឺអាចមានសំណុំអ្នកមិនស្តាប់ ( TTY: )។

**ພາສາລາວ (Lao)**

ໂປດລຸກ: ຖ້າວ່າ ທ່ານເວົ້າພາສາ ລາວ, ການບໍລິການຊ່ວຍເຫຼືອດ້ານພາສາ,  
ໂດຍບໍ່ເສັຽຄ່າ, ແມ່ນມີພ້ອມໃຫ້ທ່ານ. ໂທ ( TTY: ).

EDC Behavioral Health Division Outcome Measures **EXHIBIT C**

<b>Domain</b>	<b>Performance Indicator</b>	<b>Frequency of Collection</b>	<b>Standard</b>
<b>Outcomes</b>			
	Reduction in days incarcerated	Monthly	
	Reduction in days psychiatrically hospitalized	Monthly	
	Reduction of school absenteeism	Monthly	
	Number of individuals stepping into a lower level of care by program	Monthly	
	Number of individuals graduating to community resources	Monthly	
<b>Utilization</b>			
	Number served by program	Monthly	
	Case load by provider	Monthly	
	Medi-Cal Billing percent	Monthly	Above 65%
	Number of days mental health services appointments were offered within initial request for appointment	Monthly	Within 5 days to first contact; within 14 days to first appointment
	Average length of participation/stay by program	Quarterly	
<b>Applicability</b>			
	CALOCUS	Every 6 months	
	CANS	Quarterly	
	Number of visits by client and minutes by client	Monthly	
<b>Satisfaction</b>			
	Consumer Perception Survey Results	2X per year (May/November)	

---

---

**CHILD SUPPORT COMPLIANCE ACT CERTIFICATION**

---

---

Agency shall comply with applicable federal and state laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of part 5 of Division 9 of the Family Code: and

- A. Agency, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Employee Registry maintained by the California Employment Development Department (EDD).
- B. Failure to comply with the above requirements may result in suspension of payments under the agreement or termination of the agreement or both, and the agency may be ineligible for award of future subgrants with the County, if the County determines that any of the following has occurred:
  - 1. the false certification; or
  - 2. violation of the certification by failing to carry out the requirements as noted above.

---

---

**Organization**

---

**Name & Title of Authorized Representative**

---

**Signature**

**Date**

---

---



## **Exhibit E**

### **HIPAA Business Associate Agreement**

This Business Associate Agreement is made part of the base contract (“Underlying Agreement”) to which it is attached, as of the date of commencement of the term of the Underlying Agreement (the “Effective Date”).

#### **RECITALS**

**WHEREAS**, County and Contractor (hereinafter referred to as Business Associate (“BA”)) entered into the Underlying Agreement pursuant to which BA provides services to County, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and Electronic Protected Health Information (“EPHI”) may be disclosed to BA for the purposes of carrying out its obligations under the Underlying Agreement; and

**WHEREAS**, the County and BA intend to protect the privacy and provide for the security of PHI and EPHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act, Pub. L. No. 104-191 of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH” Act), and regulation promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws as may be amended from time to time; and

**WHEREAS**, County is a Covered Entity, as defined in the Privacy Rule and Security Rule, including but not limited to 45 CFR Section 160.103 ; and

**WHEREAS**, BA, when a recipient of PHI from County, is a Business Associate as defined in the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 USC Section 17938 and 45 CFR Section 160.103; and

**WHEREAS**, “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.202(g);

**WHEREAS**, “Breach” shall have the meaning given to such term under the HITECH Act under 42 USC Section 17921; and

**WHEREAS**, “Unsecured PHI” shall have the meaning to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to 42 USC Section 17932(h).

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions. Unless otherwise provided in this Business Associate Agreement, capitalized terms shall have the same meanings as set forth in the Privacy Rule, as may be amended from time to time.

2. Scope of Use and Disclosure by BA of County Disclosed PHI

- A. BA shall not disclose PHI except for the purposes of performing BA's obligations under the Underlying Agreement. Further, BA shall not use PHI in any manner that would constitute a violation of the minimum necessary policies and procedures of the County, Privacy Rule, Security Rule, or the HITECH Act.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Business Associate Agreement or required by law, BA may:
  - (1) Use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
  - (2) disclose the PHI in its possession to a third party for the purpose of BA's proper management and administration or to fulfill any legal responsibilities of BA, or as required by law
  - (3) Disclose PHI as necessary for BA's operations only if:
    - (a) Prior to making a disclosure to a third party, BA will obtain written assurances from such third party including:
      - (i) To hold such PHI in confidence and use or further disclose it only for the purpose of which BA disclosed it to the third party, or as required by law; and,
      - (ii) The third party will immediately notify BA of any breaches of confidentiality of PHI to extent it has obtained knowledge of such breach.
  - (4) Aggregate the PHI and/or aggregate the PHI with that of other data for the purpose of providing County with data analyses related to the Underlying Agreement, or any other purpose, financial or otherwise, as requested by County.
  - (5) Not disclose PHI disclosed to BA by County not authorized by the Underlying Agreement or this Business Associate Agreement without patient authorization or de-identification of the PHI as authorized in writing by County.
  - (6) De-identify any and all PHI of County received by BA under this Business Associate Agreement provided that the de-identification conforms to the requirements of the Privacy Rule, 45 CFR and does not preclude timely payment and/or claims processing and receipt.
- C. BA agrees that it will neither use nor disclose PHI it receives from County, or from another business associate of County, except as permitted or required by this Business Associate Agreement, or as required by law, or as otherwise permitted by law.

3. Obligations of BA. In connection with its use of PHI disclosed by County to BA, BA agrees to:

- A. Implement appropriate administrative, technical, and physical safeguards as are necessary to prevent use or disclosure of PHI other than as permitted by the Agreement that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI in accordance with 45 CFR 164.308,164.310,164.312, and 164.504(e)(2). BA shall comply with the policies, procedures, and documentation requirements of the HIPAA Security Rule.

- B. Report to County within 24 hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
  - C. Report to County in writing of any access, use, or disclosure of PHI not permitted by the Underlying Agreement and this Business Associate Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than five (5) days. To the extent the Breach is solely a result of BA's failure to implement reasonable and appropriate safeguards as required by law, and not due in whole or part to the acts or omissions of the County, BA may be required to reimburse the County for notifications required under 45 CFR 164.404 and CFR 164.406.
  - D. BA shall not use or disclose PHI for fundraising or marketing purposes. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. BA shall not directly or indirectly receive remuneration in exchange of PHI, except with the prior written consent of the County and as permitted by the HITECH Act, 42 USC Section 17935(d)(2); however, this prohibition shall not affect payment by County to BA for services provided pursuant to the Agreement.
4. PHI Access, Amendment, and Disclosure Accounting. BA agrees to:
- A. Provide access, at the request of County, within five (5) days, to PHI in a Designated Record Set, to the County, or to an Individual as directed by the County. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 USC Section 17935(e).
  - B. Within ten (10) days of receipt of a request from County, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in BA's possession constitutes a Designated Record Set.
  - C. To assist the County in meeting its disclosure accounting under HIPAA:
    - (1) BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosure from Electronic Health Record for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At the minimum, the information collected shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed and; (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy

of the individual's authorization, or a copy of the written request for disclosure.

(2) Within in 30 days of notice by the County, BA agrees to provide to County information collected in accordance with this section to permit the County to respond to a request by an Individual for an accounting of disclosures of PHI.

D. Make available to the County, or to the Secretary of Health and Human Services (the "Secretary"), BA's internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining BA's compliance with the Privacy Rule, subject to any applicable legal restrictions. BA shall provide County a copy of any PHI that BA provides to the Secretary concurrently with providing such information to the Secretary.

5. Obligations of County.

A. County agrees that it will promptly notify BA in writing of any restrictions on the use and disclosure of PHI agreed to by County that may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.

B. County agrees that it will promptly notify BA in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.

C. County agrees that it will promptly notify BA in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect BA's use of disclosure of PHI.

D. County shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County, except as may be expressly permitted by the Privacy Rule.

E. County will obtain any authorizations necessary for the use or disclosure of PHI, so that BA can perform its obligations under this Business Associate Agreement and/or the Underlying Agreement.

6. Term and Termination.

A. Term. This Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement, as provided therein when all PHI provided by the County to BA, or created or received by BA on behalf of the County, is destroyed or returned to the County, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

B. Termination for Cause. Upon the County's knowledge of a material breach by the BA, the County shall either:

(1) Provide an opportunity for the BA to cure the breach or end the violation and terminate this Agreement if the BA does not cure the breach or end the violation within the time specified by the County.

(2) Immediately terminate this Agreement if the BA has breached a material term of this Agreement and cure is not possible; or

(3) If neither termination nor cures are feasible, the County shall report the violation to the Secretary.

- C. Effect of Termination.
- (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the BA shall, at the option of County, return or destroy all PHI that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI.
  - (2) In the event that the County determines that returning or destroying the PHI is infeasible, BA shall provide to the County notification of the conditions that make return or destruction infeasible, and BA shall extend the protections of this Agreement to such PHI to those purposes that make the return or destruction infeasible, for so long as the BA maintains such PHI. If County elects destruction of the PHI, BA shall certify in writing to County that such PHI has been destroyed.

7. Indemnity

- A. BA shall indemnify and hold harmless all Agencies, Districts, Special Districts and Departments of the County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (collectively "County") from any liability whatsoever, based or asserted upon any services of BA, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to BA's performance under this Business Associate Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever to the extent arising from the performance of BA, its officers, agents, employees, subcontractors, agents or representatives under this Business Associate Agreement. BA shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards against the County in any claim or action based upon such alleged acts or omissions.
- B. With respect to any action or claim subject to indemnification herein by BA, BA shall, at its sole cost, have the right to use counsel of its choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes BA's indemnification of County as set forth herein. BA's obligation to defend, indemnify and hold harmless County shall be subject to County having given BA written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at BA's expense, for the defense or settlement thereof. BA's obligation hereunder shall be satisfied when BA has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.
- C. The specified insurance limits required in the Underlying Agreement of this Business Associate Agreement shall in no way limit or circumscribe BA's obligations to indemnify and hold harmless the County herein from third party claims arising from the issues of this Business Associate Agreement.

- D. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code Section 2782. Such interpretation shall not relieve the BA from indemnifying the County to the fullest extent allowed by law.
- E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Business Associate Agreement, this indemnification shall only apply to the subject issues included within this Business Associate Agreement.
- 8. Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
- 9. Survival. The respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
- 10. Regulatory References. A reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- 11. Conflicts. Any ambiguity in this Business Associate Agreement and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.