

**AGREEMENT FOR SERVICES #4330
AMENDMENT II**

This Second Amendment to that Agreement for Services #4330 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 Telecare Corporation, Inc., a California corporation, duly qualified to conduct business in the State of California, whose principal place of business is 1080 Marina Village Parkway, Suite 100, Alameda, California 94501 (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, Contractor has been engaged by County to operate the El Dorado County Psychiatric Health Facility (PHF), pursuant to Agreement for Services #4330, dated December 17, 2019, and Amendment I to Agreement for Services #4330, dated March 7, 2022, incorporated herein and made by reference a part hereof;

WHEREAS, effective July 1, 2023, in accordance with the California Advancing and Innovating Medi-Cal (CalAIM) Act which transitioned Specialty Mental Health Services (inclusive of residential treatment services), Drug Medi-Cal, and Drug Medi-Cal Organized Delivery System (DMC-ODS) programs from a cost-based reimbursement system to a fee-for-service reimbursement system, California Department of Health Care Services (DHCS) published guidance under Behavioral Health Information Notice (BHIN) No. 23-023, notifying counties of the elimination of cost reporting and cost settlement requirements for counties and county contracted providers/contractors;

WHEREAS, the parties hereto desire to amend the Agreement to increase the not-to-exceed compensation amount of the Agreement by \$4,728,120, which includes the addition of Incentive Payment opportunities, and to include a revised Maximum Obligation table for the extended term of the Agreement, and also updating ARTICLE III, Compensation and Maximum Obligation, B. Invoices/Payment, 3., to remove the Cost Report language referenced, and updating D. Cost Report, and removing E. Cost Settlement language from the Agreement, to comply with the DHCS published BHIN No. 23-023, hereby amending **ARTICLE III, Compensation and Maximum Obligation**;

WHEREAS, the parties hereto desire to amend the Agreement to update the Conflict of Interest language, amending **ARTICLE XIII, Conflict of Interest**, and adding **Exhibit H**, marked "California Levine Act Statement" incorporated herein and made by reference a part hereof;

WHEREAS, the parties hereto have mutually agreed to language revisions related to the County Contract Administrator, hereby amending **ARTICLE VI, Contract Administrator**, and **ARTICLE XXII, Indemnity**;

WHEREAS, the parties hereto desire to amend the Agreement to add **ARTICLE XXXVII, Electronic Signatures**, to include updated contract provisions; and

WHEREAS, unless otherwise specified herein, the following terms and conditions shall be effective July 1, 2023 of this Amendment II to that Agreement #4330.

NOW THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Contractor mutually agree to amend the terms of the Agreement in this Second Amendment to Agreement #4330 on the following terms and conditions:

- 1) **ARTICLE III, Compensation and Maximum Obligation**, of the Agreement is amended in its entirety to read as follows:

ARTICLE III

Compensation and Maximum Obligation:

- A. For purposes of this Agreement, a fiscal year shall be defined as July 1 to June 30. The maximum obligation for services, deliverables, and Incentive Payments paid under this Agreement shall not exceed as follows:

Base Compensation for the Psychiatric Health Facility Operations	Annual Base Compensation	Annual Maximum Obligation (inclusive of incentive payments outlined below)
January 1, 2020 through June 30, 2020 (This is the remaining amount based on \$2,391,553 paid on prior contract.)	\$2,344,375	\$2,344,375
Fiscal Year 2020/21	\$4,830,647	\$4,830,647
Fiscal Year 2021/22	\$4,927,259	\$4,927,259
Fiscal Year 2022/23	\$5,025,805	\$5,025,805
Fiscal Year 2023/24	\$5,600,000	\$7,100,000
Fiscal Year 2024/25	\$5,600,000	\$7,100,000
July 1, 2025 through December 31, 2025	\$2,800,000	\$3,550,000
Maximum Services Obligation:	\$31,128,086	\$34,878,086
Obligation For Operations Incentive Payments: Monthly incentive payments are contingent on Contractor's reported census data including list of Client names submitted to HHSA Utilization Review Department, consistent with ARTICLE I, Scope of Agreement, K. Administrative Obligations to County, 3. County Audits, Utilization Review, and Compliance, (as defined in a. through h in this Section) of the Agreement.		
Census Rate		Maximum Monthly Incentive Payments
Average of 9.6 – 10.3 Medi-Cal-Billable Daily Bed Days for the month		\$25,000
Average of 10.4 – 11.1 Medi-Cal-Billable Daily Bed Days for the month		\$50,000
Average of 11.2 – 11.9 Medi-Cal-Billable Daily Bed Days for the month		\$75,000
Average of 12.0 – 12.7 Medi-Cal-Billable Daily Bed Days for the month		\$100,000
Average of 12.8 or greater Medi-Cal-Billable Daily Bed Days for the month		\$125,000
Maximum Obligation For Operations Incentive Payments		\$3,750,000

Total Maximum Contractual Obligation: The Maximum Contractual Obligation shall not exceed \$34,878,086, inclusive of all costs and expenses for the term of the Agreement and including maximum Operation Incentive payments upon receipt of deliverables.

1. This Agreement shall be subject to any restrictions, limitations, and/or conditions imposed by County or state or federal funding sources that may in any way affect the fiscal provisions of, or funding for this Agreement. This Agreement is also contingent upon sufficient funds being made available by County, state, or federal funding sources for the term of the Agreement.
2. If the federal or state governments reduce financial participation in the Medi-Cal program, County agrees to meet with Contractor to discuss renegotiating the services required by this Agreement.
3. 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. Further, Contractor is responsible for managing their Maximum Annual Contractual Obligation by Program and Contractor holds the County harmless for Contractor over-spending of the Maximum Annual Contractual Obligation by Program.

B. Invoices / Payment: Operations Costs shall be invoiced and paid as outlined herein below:

1. County shall pay Contractor for the Base Compensation on a monthly basis in increments of one-twelfth (1/12) of the total twelve (12) month Base Compensation as adjusted for each respective fiscal year or as subsequently amended.
2. Incentive Payments: Report census in ARTICLE I, Scope of Agreement, K. Administrative Obligations to County, 3. County Audits, Utilization Review, and Compliance, (as defined in a. through h in this Section) of the Agreement will be used to validate the average Medi-Cal-billable daily bed days for the month applicable to incentive payments. Contract Administrator will notify the Contractor of the percentage of incentive payment met. Contractor shall submit an invoice for incentive payment thirty (30) days following said notification. County agrees to pay Contractor monthly in arrears and within forty-five (45) days following the County's receipt and approval of incentive payment invoice(s).
3. It is a requirement of this Agreement that Contractor shall submit an original invoice, similar in content and format with the following sample available at: https://www.edcgov.us/Government/hhsa/Pages/hhsa_contractor_resources.aspx and shall reference this Agreement number on their faces. Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces and on any enclosures or backup documentation which will only be required for item B.2, Incentive Payments. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices.

Invoices shall be sent as follows, or as otherwise directed in writing by County:

INVOICE ADDRESS:	REMITTANCE ADDRESS:
County of El Dorado Health and Human Services Agency Attn: Finance Unit 3057 Briw Road, Suite B Placerville, CA 95667-5321 bhinvoice@edcgov.us	Telecare Corporation, Inc. 1080 Marina Village Parkway, Suite 100 Alameda, CA 94501 Accounts Receivable

4. For services provided herein, including any deliverables that may be identified herein, Contractor shall submit invoices for services thirty (30) days following the end of a "service month." 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 Agreement." For all satisfactory 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 invoice(s) identifying services rendered, except as indicated in section D. below. County may withhold or delay any payment if Contractor fails to comply with any provision of this Agreement.
- i. **Supplemental Invoices:** For the purpose of this Agreement, supplemental invoices shall be defined as invoices submitted for additional services, previously disallowed services, inadvertently not submitted services rendered, or costs associated to the retroactive term of the Agreement, inclusive of Amendments to the Agreement, 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.
- a. Supplemental Invoices for services provided during the period July 1st through June 30th for each fiscal year of this Agreement and received by County after July 31st of the subsequent fiscal year, shall be neither accepted nor paid by the County. Requests for exceptions to pay an invoice received after July 31st of the subsequent year, must be submitted in writing, and must be approved by the Health and Human Services Agency's Chief Fiscal Officer.
- C. **Patient Charges and Third Party Billing:** In the event any billed services that are identified through a County, State, or federal audit as subject to recoupment, or otherwise disallowed, 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. Upon written approval by the HHSA Director, this reimbursement may be made via monthly installment payments for up to six (6) months.
- D. **Cost Report:** County is required to continue to collect Cost Reports from Contractor in compliance with DHCS cost reporting policies for services rendered prior to July 1, 2023. The Cost Report template is distributed by the State. Effective July 1, 2023, the effective date of this Amendment, in accordance with DHCS published guidance included in BHIN No. 23-023, Cost Reports and Cost Settlement requirements by Contractor to County shall be eliminated. The link to this BHIN is: <https://www.dhcs.ca.gov/Documents/BHIN-23-023-Elimination-of-Cost-Reporting-Requirements-for-Counties-and-Providers.pdf>.
- a. If DHCS provides a subsequently amended or superseded BHIN, or other communication to County as required by state or federal law, with new guidance that reenacts the submission of Cost Report and Cost Settlement reporting requirements by County contracted providers, County Contract Administrator will notify Contractor of this reporting requirement change via a written notice (inclusive of electronic communication), in accordance with the Article titled "Notice to Parties" included herein the Agreement.
- b. Following said Notice, if applicable, Contractor shall adhere to any revised Cost Reporting and Cost Settlement requirements enacted by the DHCS, or as required by

state or federal law, and shall follow the reporting timeframes set forth in any future BHINs, County, or DHCS notice.

- 2) **ARTICLE VI, Contract Administrator**, of the Agreement is amended in its entirety to read as follows:

ARTICLE VI

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Christianne Kernes, Deputy Director, Health and Human Services Agency, Behavioral Health Division, or successor. In the instance where the named Contract Administrator no longer holds this title with County and a successor is pending, or HHSA has to temporarily delegate this authority, HHSA Director shall designate a representative to temporarily act as the primary Contract Administrator of this agreement and shall provide the Contractor with the name, address, email, and telephone number for this designee via notification in accordance with the article titled "Notice to Parties" herein.

- 3) **ARTICLE XIII, Conflict of Interest**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XIII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Contractor and performing work for County and who are considered to be a Consultant within the meaning of Title 2, California Code of Regulations, Section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are Consultants within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Contractor covenants that during the term of this Agreement neither it, or any officer or employee of the Contractor, has or shall acquire any interest, directly or indirectly, in any of the following:

- A. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
- B. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
- C. Any officer or employee of County that are involved in this Agreement.

If Contractor becomes aware of a conflict of interest related to this Agreement, Contractor shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice as detailed in the Article titled "Default, Termination and Cancellation."

Pursuant to Government Code section 84308 (SB 1439, the Levine Act), Contractor shall complete and sign the attached **Exhibit H**, marked "California Levine Act Statement," incorporated herein and made by reference a part hereof, regarding campaign contributions by Contractor, if any, to any officer of County.

- 4) **ARTICLE XXII, Indemnity**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XXII

Indemnity: To the fullest extent permitted by law, Contractor shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses 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 acts or omissions of Contractor or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the sole negligence or willful acts 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.

The insurance obligations of Contractor are separate, independent obligations under the Agreement, and the provisions of this defense and indemnity are not intended to modify nor should they be construed as modifying or in any way limiting the insurance obligations set forth in the Agreement.

Nothing herein shall be construed to seek indemnity in excess of that permitted by Civil Code section 2782, et seq. In the event any portion of this Article is found invalid, the Parties agree that this Article shall survive and be interpreted consistent with the provisions of Civil Code section 2782, et seq.

- 5) **ARTICLE XXXVII, Electronic Signatures**, is hereby added to read as follows:

ARTICLE XXXVII

Electronic Signatures: Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

Except as herein amended, all other parts and sections of that Agreement #4330 shall remain unchanged and in full force and effect.

Requesting Contract Administrator Concurrence:

By: Christianne Kernes
Christianne Kernes (Dec 13, 2023 15:11 PST)
Christianne Kernes, LMFT
Deputy Director, Behavioral Health Division
Health and Human Services Agency

Dated: 12/13/2023

Requesting Department Head Concurrence:

By: Olivia Byron-Cooper
Olivia Byron-Cooper (Dec 13, 2023 15:12 PST)
Olivia Byron-Cooper, MPH
Director
Health and Human Services Agency

Dated: 12/13/2023

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement for Services #4330 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: Wendy Thomas

Board of Supervisors
"County"

Dated: 1/23/24

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: Kyra Schaeffer
Deputy Clerk

Dated: 1/23/24

- - TELECARE CORPORATION, INC. - -

By: Anita D. Barnas
Anita D Barnas (Jan 2, 2024 14:15 PST)
Anita Barnas, SVP
Chief Program Operations Officer
"Contractor"

Dated: 01/02/2024

By: Trisha Niemuth
Trisha Niemuth (Jan 4, 2024 13:59 MST)
Trisha Niemuth
Senior Vice President and Chief Financial Officer
"Contractor"

Dated: 01/04/2024

Telecare Corporation, Inc.
Exhibit H
California Levine Act Statement

California Government Code section 84308, commonly referred to as the "Levine Act," prohibits any officer of El Dorado County from participating in any action related to a contract if he or she receives any political contributions totaling more than two hundred and fifty dollars (\$250) within the previous twelve (12) months, and for twelve (12) months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. An officer of El Dorado County includes the Board of Supervisors, and any elected official (collectively "Officer"). It is the Contractor's/Consultant's responsibility to confirm the appropriate "officer" and name the individual(s) in their disclosure.

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to an Officer of the County of El Dorado in the twelve months preceding the date of the submission of your proposals or the anticipated date of any Officer action related to this contract?

☐ YES ☒ NO

If yes, please identify the person(s) by name:

If no, please type N/A.

N/A

Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to an Officer of the County of El Dorado in the twelve months following any Officer action related to this contract?

☐ YES ☒ NO

If yes, please identify the person(s) by name:

If no, please type N/A.

N/A

Answering YES to either of the two questions above does not preclude the County of El Dorado from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Officer(s) from participating in any actions related to this contract.

01/02/2024

Date

Telecare

Type or write name of company

Anita D. Barnas
Anita D. Barnas (Jan 2, 2024 14:15 PST)

Signature of authorized individual

Anita D Barnas

Type or write name of authorized individual