

AGREEMENT FOR SERVICE #XXX-SXXXX
Incredible Years

THIS AGREEMENT is made and entered 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, Inc., a California non-profit public benefit corporation qualified as a tax exempt organization under Title 26 Code of Federal Regulations Section 1.501 (c) (3) commonly referred to as Section 501 (c) (3) of the Internal Revenue Code of 1986, whose principal place of business is 6765 Green Valley Road, Placerville, CA 95667 and whose Agent for Service of Process is George Nielsen, 730 Main Street, Placerville, CA 95667, (hereinafter referred to as "Contractor").

R E C I T A L S

WHEREAS, County has determined that it is necessary to obtain a contractor to provide the Incredible Years program; 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, pursuant to the approved Fiscal Year 2012-13 Mental Health Services Act Plan Update, Incredible Years was approved as a Prevention and Early Intervention project; and

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

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

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

ARTICLE I

Scope of Services: Contractor agrees to furnish services in support of the County Health and Human Services Agency Mental Health Division (“HHSA/MHD”) Incredible Years project funded through the Youth and Children's Services Program of the Fiscal Year 2012-13 Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) Program.

The Incredible Years program offers weekly parenting-skills classes to promote emotional and social capability, and reduce and treat behavioral and emotional problems in children ages two to twelve. The duration of each program may vary from 12 to 18 weekly group sessions (collectively referred to as a “class”). As described by the Substance Abuse and Mental Health Services Administration’s (“SAMHSA”) National Registry of Evidence-based programs and Practices (“NREPP”), Incredible Years focuses “on strengthening parent-child interactions and relationships, reducing harsh discipline, and fostering parents' ability to promote children's social, emotional, and language development. In the programs for parents of preschoolers and school-age children, participants also learn how to promote school readiness skills; in addition, these parents are encouraged to partner with teachers and become involved in their children's school experiences to promote children's academic, social skills, and emotional self-regulation and to reduce conduct problems. Each program includes protocols for use as a prevention program or as a treatment program for children with conduct problems and attention-deficit/hyperactivity disorder.”

- A. Service Delivery: Contractor will provide services in accordance with the Incredible Years program model. Contractor may provide Incredible Years classes in English or Spanish, depending upon demand. Contractor shall provide incredible Years classes, materials, meals, and supplies at no charge to participants.

Each Incredible Years class will include approximately ten to twenty adult participants. Contractor shall provide childcare for children age three to thirteen on-site during each class, as needed. A meal will be served to participating parents and their children after each weekly session.

The Contractor will administer an assessment to class participants to determine client outcomes. Contractor bears sole responsibility for obtaining the authorization for and cost of use of all assessment and survey tools. Contractor will implement satisfaction surveys (Youth Satisfaction Questionnaire [YSQ] and Client Satisfaction Questionnaire [CSQ-8], as appropriate) and analyze and report outcomes. Contractor shall provide ongoing monitoring and evaluation of the program services.

Contractor shall provide the Incredible Years program in a minimum of six community-based classes per calendar year, with one class to be held in each El Dorado County local community region (e.g., West County, North County, South County, Mid-County, South Lake Tahoe area, Placerville area) based on demand. The Incredible Years class schedule will be mutually agreed upon in writing by Contractor and HHSA/MHD. In the event a class is unable to be scheduled in a local community region due to lack of demand, Contractor may request in writing from HHSA/MHD approval to offer two classes in another local community region during the same calendar year. Contractor may not schedule a second

class in the same community region in the same calendar year until receiving written approval from HHSA/MHD. Contractor shall arrange for appropriate sized rooms at each site as determined by the number of attendees. Contractor agrees to provide Incredible Years classes to between 60 and 120 parents during the term of this Agreement, however participation is not limited to a maximum of 120 parents.

- B. Outreach: Contractor shall perform outreach to all areas of El Dorado County to raise awareness of the availability of the Incredible Years program. Contractor shall screen parents in advance of the classes to determine whether they are appropriate candidates for participation in Incredible Years.
- C. Incredible Years Policies, Procedures and Forms: Contractor shall provide to HHSA/MHD within 30-days of the execution of this Agreement with copies of its policies, procedures and forms related to the Incredible Years program, which must include, at a minimum, policies/procedures related to the following:
1. Method of service provision.
 2. Contractor, Contractor's staff and any subcontractors and/or consultants retained by the Contractor support in spirit and practice the MHSA General Standards: (1) community collaboration; (2) cultural competence; (3) client driven services; (4) family driven services; (5) wellness, recovery, and resilience focused; and (6) integrated service experiences for clients and their families.¹
 3. Services and activities provided under this Agreement will support the required Prevention and Early Intervention elements of outreach, access/linkage and stigma reduction.
 4. Contractor, Contractor's staff and any subcontractors and/or consultants retained by the Contractor will adhere to the El Dorado County MHSA policies regarding the MHSA principles and provide services in a culturally and linguistically competent manner.
- D. Personnel, Supplies and Equipment: Incredible Years classes shall be provided by certified Incredible Years facilitators. Contractor shall ensure that credentialed mental health professionals provide ongoing supervision of Incredible Years facilitators. Contractor shall furnish all class materials, meals, supplies and equipment required to provide Incredible Years classes.

Contractor will provide HHSA/MHD within 15-days of the execution of this Agreement verification that those employees performing services under this Agreement have met the credential requirements, are qualified to perform the duties and functions required to fulfill the contract obligations, and have verified staff are not on State and/or Federal exclusion lists. Contractor shall keep records of all employee licenses/credentials for a minimum of five (5) years.

Pursuant to Exhibit A marked, "El Dorado County Mental Health Department Adherence to Code of Conduct, Confidentiality Statement, and Privacy of Protected Health Information (PHI) in all Mental Health Services Act (MHSA) Programs," Exhibit B marked, "El Dorado

¹ California Code of Regulations, Title 9. Rehabilitative and Developmental Services, Division 1. Department of Mental Health, Chapter 14. Mental Health Services Act, Section 3320, General Standards.

County Mental Health Department Code of Conduct,” and Exhibit C marked “Mental Health Department Confidentiality/Privacy of Protected Health Information (PHI),” incorporated herein and made by reference a part hereof, Contractor will provide HHS/MHD within 15-days of the execution of this Agreement verification that those employees performing services under this Agreement have met the credential requirements, are qualified to perform the duties and functions required to fulfill the contract obligations, and have verified staff are not on State and/or Federal exclusion lists. Contractor shall keep records of all employee licenses/credentials for a minimum of five (5) years.

Contractor’s IY program administrator, IY Supervisors, and IY Aides shall sign the “Certification” page contained in Exhibit B and the “Employee Acknowledgement of Confidentiality Statement” and “Declaration of Notice of Confidentiality” pages contained in Exhibit D marked “El Dorado County Mental Health Department Declaration of Notice of Confidentiality Statement,” incorporated herein and made by reference a part hereof and provide a copy of all signed documents to the following address within 15-days of the execution of this Agreement:

Health and Human Services Agency
Attention Contracts Unit
3057 Briw Road, Suite A
Placerville, CA 95667

Contractor shall maintain, at Contractor’s sole cost, access to bilingual interpreters, if needed, to provide Incredible Years classes.

- E. Meetings: Contractor will participate in community strengthening coalition meetings (comprised of County agencies and providers, such as hospitals and health care providers, Health and Human Services Agency, including Mental Health, Public Health, and Women, Infants and Children (WIC) program, other community-based providers of mental health services, and education) normally held monthly, quarterly cultural competency meetings scheduled by HHS/MHD, and periodic service collaboration meetings as requested by the County. These meetings are for the purposes of collaboration, service integration, quality improvement, and to review the Contractor’s activities under this Agreement. HHS/MHD or Contractor may request additional meetings.
- F. PEI Program Requirements: Contractor must adhere to and demonstrate compliance with MHSA requirements that PEI programs provide:
 1. Outreach to families, employers, primary care health care providers, and others to recognize the early signs of potentially severe and disabling mental illnesses.
 2. Access and linkage to medically necessary care provided by county mental health programs for children with severe mental illness, as defined in Welfare and Institutions Code Section 5600.3, and for adults and seniors with severe mental illness, as defined in Welfare and Institutions Code Section 5600.3, as early in the onset of these conditions as practicable.
 3. Reduction in stigma associated with either being diagnosed with a mental illness or seeking mental health services.

4. Reduction in discrimination against people with mental illness.

- G. **Reporting:** Contractor shall collect and provide data as required and in a format approved by HHSA/MHD to document the services provided and demonstrate the outcomes of IY. Contractor must maintain the ability to, and utilize, transmission of data electronically and securely via high-speed internet. Reports must include, but are not limited to, the following:
1. **Monthly:** Within thirty (30) days after the end of each month, Contractor shall submit to HHSA/MHD client demographics, services performed, and service locations in a monthly service delivery reports. These reports shall be submitted with the monthly invoice.
 2. **After Completion of Each Class:** Within thirty (30) days after the completion of each class, Contractor shall submit to HHSA/MHD unduplicated totals of the number of participants per class, client demographics, services performed, and service locations. Outcomes for the class are to be reported.
 3. **Fiscal Year Reports:** Within thirty (30) days of the termination of this Agreement, Contractor shall submit to HHSA/MHD the information identified in Exhibit E marked "MHSA Year-End Progress Report," incorporated herein and made by reference a part hereof.
 4. Client demographic data is necessary for outcome measurement documentation and reporting to the State, and includes at a minimum:
 - i. Client name or unique identifier;
 - ii. Age or date of birth;
 - iii. Gender;
 - iv. City of residence;
 - v. Primary language;
 - vi. Race;
 - vii. Ethnicity;
 - viii. Family economic status (extremely low income, very low income, low income, moderate income, high income);
 - ix. Other Status of child and parents/guardians (including but not limited to LGBTQ, Blind/Vision Impaired, Deaf/Hard of Hearing, Veteran, Homeless, Disabled); and
 - x. Health insurance status (e.g., Private, Medi-Cal, uninsured).

Contractor will be notified in writing of any additional reporting requirements identified to meet County, State and/or federal reporting needs.

ARTICLE II

Term: Upon execution through June 30, 2016, unless earlier terminated pursuant to the provisions contained herein.

ARTICLE III

Compensation for Services:

- A. Contractor shall submit monthly invoices no later than thirty (30) days following the end of a "service month" except in those instances where Contractor obtains written approval from County Health and Human services Agency Director or Director's designee granting an

extension of the time to complete billing for services or expenses. For billing purposes, a “service month:” shall be defined as a calendar month during which Contractor provides services in accordance with the Article titled “Scope of Services.” Each invoice shall be accompanied by a monthly service delivery reports as supportive documentation.

- B. 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.
- C. Rates: For the purposes of this Agreement, the hourly rate paid to Contractor shall be all inclusive (e.g., compensation, administrative overhead, mileage, Incredible Years licensing and class materials, cost of meals for parents and children after each Incredible Years session, cost of class supplies and facilities, office supplies, communication, fees, insurance, postage, printing and duplication).

Category	Hourly Rate
Incredible Years Facilitator (during provision of Incredible Years sessions only)	\$120.00
Incredible Years Childcare Provider (during provision of Incredible Years sessions only)	\$25.00

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

Mail invoices to:	Mail remittance to:
Health and Human Services Agency – Finance Unit 3057 Briw Road Placerville, CA 95667	New Morning Youth and Family Services 6765 Green Valley Road Placerville, CA 95667

- E. Not to Exceed: Compensation for services provided under this Agreement shall not exceed \$50,000 for both the services and the term of this Agreement. In no event shall County be obligated to pay Contractor for any amount above the Not-to-Exceed amount of this Agreement.

ARTICLE IV

Mandated Reporter Requirements: California law requires that certain persons are mandated to report suspected child abuse, suspected dependent adult abuse, and suspected domestic violence. Contractor acknowledges and agrees to comply with the following State-required mandated reporter regulations as they apply to the services being rendered by Contractor:

- A. California Penal Code Sections 11160-11163, which covers suspected domestic violence; and
- B. California Penal Code, Article 2.5 (commencing with Section 11164) of Chapter 2 of Title I of Part 4 , also known as the Child Abuse and Neglect Reporting Act; and
- C. Welfare and Institutions Code Section 15630, which covers suspected dependent adult abuse.

Failure to comply with these reporting requirements may lead to a fine of up to \$1,000 and/or up to six months in jail. A person who makes a report in accordance with these mandates shall not incur civil or criminal liability as a result of any report required or authorized by the above regulations.

ARTICLE V

Special Terms and Conditions: By signing this Agreement, Contractor acknowledges that, as a sub-recipient of Federal and State funding, Contractor is obligated to adhere to all terms and conditions defined in the Agreement in effect at the time services are provided between County and California Department of Health Care Services, “Mental Health Services Act (MHSA) Agreement.” Such terms and conditions are available at www.edcgov.us,² Health and Human Services, Contractor Resources, “Mental Health Services Act (MHSA) Agreement,” in its Exhibits B and C thereto, incorporated by reference as if incorporated herein.

ARTICLE VI

Audits: From time to time, the County or State may inspect the facilities, systems, books, and records of the Contractor to monitor compliance with this Agreement. The Contractor shall promptly remedy any violation of any provision of this Agreement and shall certify the same to the County or State in writing. The fact that the County or State 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 or State’s failure to detect or detection, but 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 State’s enforcement rights under this Agreement.

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

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

ARTICLE VII

Certifications / Assurances:

- A. In the event any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have full force and effect and shall not be affected hereby.
- B. Contractor acknowledges that this Agreement meets the requirements for the distribution of Mental Health Act Services funding in a Performance Contract as required in Chapter 2 of the Welfare & Institutions Code (WIC) beginning with Section 5650 and agrees to comply with the provisions in Section 5650 through 5667.

² <http://www.edcgov.us/HHSAForContractors/>

ARTICLE VIII

Confidentiality Requirements: Acknowledging the Contractor’s continuing obligation to follow existing legal mandates regarding protection and/or release of information maintained by the County, the following Confidentiality Requirements apply:

A. General Requirements:

The Contractor shall not disclose data or documents or disseminate the contents of the final or any preliminary report without express permission of the Contract Administrator.

Permission to disclose information or documents on one occasion or at public hearings held by the County or State Departments of Mental Health relating to the same shall not authorize the Contractor to further disclose such information or documents on any other occasions.

The Contractor shall not comment publicly to the press or any other media regarding the data or documents generated, collected, or produced in connection with this Agreement, or the County or State Departments of Mental Health staff, the Contractor’s own personnel involved in the performance of this Agreement, at a public hearing, or in response to the questions from a legislative committee.

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

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

After any data or documents submitted has become a part of the public records of the County or State, the Contractor may, if it wishes to do so at its own expense and upon approval by the County Contract Administrator, publish or utilize the said data or documents but all such published items shall include the following legend:

LEGAL NOTICE: This report was prepared as an account of work sponsored by the County of El Dorado and State Department of Health Care Services, but does not necessarily represent the views of the County or Department or any of its employees except to the extent, if any, that it has formally been approved by the Department. For information regarding any such action, communicate directly with the County and State of California at:

COUNTY	STATE DEPARTMENT OF HEALTH CARE SERVICES
Health and Human Services Agency 3057 Briw Road, Suite A Placerville, CA 95667	P.O. Box 952050 Sacramento, CA 94252-2050

Neither said County nor State Department of Health Care Services / State of California, nor any officer or employee thereof, or the Contractor or any of its subcontractors makes any warranty, express or implied, or assumes any legal

liability whatsoever for the contents of this document, nor does any party represent that use of the data contained herein would not infringe upon privately owned rights without obtaining permission or authorization from any party who has any rights in connection with the data.

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

“Proprietary data” is such data as the Contractor has identified in a satisfactory manner as being under Contractor’s control prior to commencement of performance of this Agreement and which has been reasonably demonstrated as being of a proprietary force and effect at the time this Agreement is commenced.

“Generated data” is that data, which a Contractor has collected, collated, recorded, deduced, read out, or postulated for utilization in the performance of this Agreement. Any electronic data processing program, model, or software system developed or substantially modified by the Contractor in the performance of this Agreement at Contractor’s expense, together with complete documentation thereof, shall be treated in the same manner as generated data. “Generated data” shall be the property of the State unless and only to the extent that it is specifically provided otherwise herein.

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

The title to the Contractor’s proprietary data shall remain in the Contractor’s possession throughout the term of this Agreement and thereafter. As to generated data which is reserved to the County by express terms of this Agreement and as to any preexisting or proprietary data which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, the Contractor shall preserve the same in a form which may be introduced in evidence in a court of competent jurisdiction at the Contractor’s own expense for a period of not less than five (5) years after receipt by the County and State of the final report or termination of this Agreement and any and all amendments hereto, or for three (3) years after the conclusion or resolution of any and all audits or litigation relevant to this Agreement, whichever is later.

Prior to the expiration of such time and before changing the form of or destroying any such data, the Contractor shall notify the County and State of any such contemplated action; and the County or State may within thirty (30) days after said notification determine whether it desires said data to be further preserved and, if the State so elects, the expense of further preserving said data shall be paid for by the State. The Contractor agrees that the County and State shall have unrestricted

reasonable access to the same during said three (3) year period and throughout the time during which said data is preserved in accordance with this Agreement, and the Contractor agrees to use best efforts to furnish competent witnesses or to identify such competent witnesses to testify in any court of law regarding said data.

Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and each party shall notify the other of any changes in that designation. As of this date, the following are those individuals:

CONTRACTOR	COUNTY
New Morning Youth and Family Services, Inc. 6765 Green Valley Road Placerville, CA 95667	Information Security/Privacy Officer County of El Dorado 330 Fair Lane Placerville, CA 95667

B. Confidentiality Requirements relating to the Health Insurance Portability and Accountability Act (HIPAA)

The Contractor shall comply with applicable laws and regulations, including but not limited to Sections 14100.2 and 5328 et seq. of the Welfare and Institutions Code, Section 431.300 et seq. of Title 42, Code of Federal Regulations, and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to Section 1320 d et seq. of Title 42, United States Code and its implementing regulations (including but not limited to Title 45, CFR, Parts 160, 162 and 164) regarding the confidentiality and security of individually identifiable health information (IIHI).

Permitted Uses and Disclosure of IIHI by the Contractor.

1. *Permitted Uses and Disclosures.* Except as otherwise provided in this Agreement, the Contractor may use or disclose IIHI to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.
2. *Specific Uses and Disclosures Provisions.* Except as otherwise indicated in the Agreement, the Contractor may:
 - a. Use and disclose IIHI for the proper management and administration of the Contract or to carry out the legal responsibilities of the Contractor, provided that such use and disclosures are permitted by law.
 - b. Use IIHI to provide data aggregation services to the County or State. Data aggregation means the combining of IIHI created or received by the Contractor for the purposes of this Agreement with IIHI received by the Contractor in its capacity as the Contractor of another HIPAA covered entity, to permit data analyses that relate to the health care operations of the County or State.

C. Responsibilities of the Contractor

The Contractor agrees to prevent use or disclosure of IIHI other than as provided for by this Agreement. The Contractor shall develop and maintain an information private and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor’s operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately

protect the confidentiality, integrity, and availability of the IIHI that it creates, receives maintains or transmits; and prevent the use or disclosure of IIHI other than as provided for by this Agreement. The Contractor shall provide the County or State with information concerning such safeguards as the County and State may reasonably request from time to time.

The Contractor shall restrict logical and physical access to confidential, personal (e.g. PHI) or sensitive data to authorized users only.

The Contractor shall implement appropriate authentication methods to ensure information system access to confidential, personal (e.g. IHI) or sensitive data is only granted to properly authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), the Contractor shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-68 and the SANS Institute Password Protection Policy.

The Contractor shall implement the following security controls on each server, workstation, or portable (e.g., laptop computer) computing device that processes or stores confidential, personal, or sensitive data:

1. Network-based firewall and/or personal firewall
2. Continuously updated anti-virus software
3. Patch-management process including installation of all operating system/software vendor security patches
4. Encrypt all confidential, personal, or sensitive data stored on portable electronic media (including but not limited to, CDs and thumb drives) and on portable computing devices (including, but not limited to, laptop computers and PDAs) with a solution that uses proven industry standard algorithms. The Contractor shall not transmit confidential, personal, or sensitive data via e-mail or other internet transport protocol over a public network unless, at minimum, a 128-bit encryption method (for example AES, 3DES, or RC4) is used to secure the data.

D. Mitigation of Harmful Effects

To mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of IIHI by the CONTRACTOR or its subcontractors in violation of the requirements of this Agreement.

1. *Agents and subcontractors of Contractor:* To ensure that any agent, including a subcontractor to which the Contractor provides IIHI received from the State, or created or received by the Contractor, for the purposes of this Agreement shall comply with the same restrictions and conditions that apply through this Agreement to the Contractor with respect to such information.
2. *Notification of Electronic Breach or Improper Disclosure:* During the term of this Agreement, the Contractor shall notify the State immediately upon discovery of any breach of Medi-Cal related IIHI and/or data, where the information and/or data is reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to the County or State Information Security Officer, within two (2) business days of discovery, at (530) 621-5565 OR (916) 651-6776. Contractor shall take prompt corrective action to cure any deficiencies and any action

pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to the State Information Security Officer, postmarked within thirty (30) working days of the discovery of the breach to “Information Security/Privacy Officer, County of El Dorado, 330 Fair Lane, Placerville, CA 95667.”

3. *Employee Training and Discipline:* To train and use reasonable measures to ensure compliance with the requirements of this Agreement by employees who assist in the performance of functions or activities under this Agreement and use or disclose IIHI; and discipline such employees who intentionally violate any provisions of this Agreement, including by termination of employment.
4. *Audits, Inspection and Enforcement:* From time to time, subcontractor may inspect the facilities, systems, books, and records of the Contractor to monitor compliance with this Agreement. The Contractor shall promptly remedy any violation of any provision of this Agreement and shall certify the same to the Subcontractor Information Security Officer in writing. The fact that subcontractor 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.

E. Termination for Cause

Upon the County or State’s knowledge of a material breach of this Agreement by the Contractor, the County or State shall:

1. Provide an opportunity for the Contractor to cure the breach or end the violation and terminate this Agreement if the Contractor does not cure the breach or end the violation within the time specified by the County or State; or
2. Immediately terminate this Agreement if the Contractor has breached a material term of this Agreement and cure is not possible; or
3. If neither cure nor termination is feasible, the State Information Security Officer shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

F. Judicial or Administrative Proceedings

The County or State may terminate this Agreement, effective immediately, if (i) the Contractor is found liable in a civil matter or guilty in a criminal matter proceeding for a violation of the HIPAA Privacy or Security Rule or (ii) a finding or stipulation that the Contractor has violated a privacy or security standard or requirement of HIPAA, or other security or privacy laws is made in an administrative or civil proceeding in which the Contractor is a party.

G. Effect of Termination

Upon termination or expiration of this Agreement for any reason, the Contractor shall return or destroy all 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.

H. 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 IHHI.
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 State, its 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. *No Third-Party Beneficiaries:* Nothing expressed or implied in the terms and conditions of this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the County or the State, or the Contractor and their respective successors or assignees, any rights remedies, obligations or liabilities whatsoever.
4. *Interpretation:* The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable 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 applicable laws.
5. *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.
6. *Survival:* The respective rights and obligations of the Contractor under herein this Agreement shall survive the termination or expiration of this Agreement.
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.

ARTICLE IX

Conflict Resolution: Should a dispute arise between the Contractor and the County relating to services provided under this Agreement governed by the dispute resolution process set forth in California Code of Regulation (CCR) Title 9, Division 1, Chapter 14, §5845(d)(10), County and Contractor shall follow the California Department of Mental Health Issue Resolution Guidance

dated October 2011 available at http://www.dmh.ca.gov/Prop_63/MHSA/Issue_Resolution.asp and incorporated by reference herein

For any disputes other than those governed by the dispute resolution process set forth in California Code of Regulation (CCR) Title 9, Division 1, Chapter 14, §5845(d)(10), the Contractor and County shall follow the County of El Dorado MHSAs Issue Resolution Process available at:

http://www.edcgov.us/Government/MentalHealth/MHSA_Issue_Resolution_Process.aspx and incorporated by reference herein.

ARTICLE X

Disallowed Costs: The Contractor shall use funds provided under this Agreement only for the purposes specified in this Agreement and in the MHSAs Agreement available at <http://www.edcgov.us/HHSAsForContractors/>.

ARTICLE XI

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

The County or their designee shall have access to and right to examine, monitor, and audit all records, documents, conditions, and activities related to programs funded by this Agreement. For purposes of this section "access to" means that the Contractor shall at all times maintain a complete set of records and documents related to programs funded by this Agreement and shall make these records available to the State or County, or their respective designee in a central location.

ARTICLE XII

Release of Information: Contractor shall ensure that County Health and Human Services Agency is included as a receiving party on all Release of Information forms used in the performance of services under this Agreement.

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ARTICLE XIII

Standards of Conduct: The following standards apply to Contractor and, in the event County agrees in writing to Contractor subcontracting services under this Agreement, pursuant to the Article titled "Assignment and Delegation," Contractor shall ensure the following standards are included in any subcontract hereto:

- A. Every reasonable course of action shall be taken to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This Agreement shall be administered in an impartial manner, free from efforts to gain person, financial or political gain.
- B. Any executive or employee of the Contractor shall not solicit or accept money or any other consideration from a third person for the performance of an act reimbursed in whole or part by the County or the State. Supplies, materials, equipment, or services purchased with Agreement funds shall be used solely for purposes allowed under this Agreement. No member of the Contractor's Board will cast a vote on the provision of services by that member (or any organization which that member represents) or vote on any matter which would provide direct financial benefit to that member (or immediate family of the member) or any business or organization which the member directly represents.
- C. The County, by written notice to the Contractor, may terminate the right of the Contractor to proceed under this Agreement if it is found, after notice and hearing by the County or State, that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County or State with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or performing of such Agreement, provided that the existence of the fact upon which the County or State makes such findings that shall be an issue may be reviewed in any competent court.
- D. In the event this Agreement is terminated as provided in the paragraph above, the County or State shall be entitled:
 - 1. To pursue the same remedies against the Contractor as it could pursue in the event of the breach of the Agreement by the Contractor, and
 - 2. As a predetermined amount of liquidated damages in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount which shall be not less than three (3) times the cost incurred by the County or State in providing any such gratuities to any such officer or employee.
- E. The rights and remedies of the Contractor provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The Contractor warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement upon a contract or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of the Contractor, for the purpose of securing business. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, paying only for the values of the work actually returned or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

- F. Contractor, and any subcontractors and/or consultants retained by the Contractor with funds provided under this Agreement must comply with the provisions of California Government Code Section 19990, et seq.

ARTICLE XIV

Subcontracting: The Contractor certifies that:

- A. Any work or services specified in this Agreement which will be performed by other than the Contractor shall be evidenced by a written Agreement specifying the terms and conditions of such performance.
- B. 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.
- C. 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.
- D. Subcontractors shall comply with the Confidentiality requirements set forth in the Article titled "Confidentiality Requirements" of this Agreement.

ARTICLE XV

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 XVI

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 XVII

Assignment and Delegation: 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. Contractor identified the following entity in its Statement of Qualifications and Interest in response to the Request for Proposal #14-952-013 issued by the County, and the County consents to Contractor subcontracting, delegating or assigning services with this entity to provide the services specified in this Agreement: Tahoe Youth and Family Services.

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ARTICLE XVIII

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 workmanlike 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 XIX

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

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ARTICLE XX

Default, Termination, and Cancellation

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

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

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County shall 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.
- E. Transfer of Records: In the event that Contractor ceases operation, all files that are subject to audit shall be transferred to the County for proper storage of physical records and electronic data. Contractor shall notify County of impending closure as soon as such closure has been determined, and provide County with a complete list of records in its possession pertaining to County clients and operational costs under this Agreement. County shall promptly advise Contractor which records are to be transferred to the custody of County. Records not transferred to custody of County shall be properly destroyed by Contractor, and Contractor shall provide documentation of proper destruction of all such records to County.

ARTICLE XXI

Termination Process: The County may terminate this Agreement in whole or in part when it has determined that the Contractor has substantially violated a specific provision of the MHSA regulations or implementing State legislation. The County shall provide a termination notice in writing to the Contractor.

Upon Contractor's receipt of notice of termination from the County, and except as otherwise directed in the notice, Contractor shall:

- A. Stop work on the date specified in the notice;
- B. Place no further orders nor enter into any further subcontracts for materials, services or facilities except as necessary to complete work under the Agreement up to the effective date of termination;
- C. Terminate all orders and subcontracts;
- D. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss or expenditure associated with work terminated, including, but not limited to reasonable settlement of all outstanding liability and claims arising out of termination of orders and subcontracts;
- E. Deliver or make available to the State all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor under this Agreement, whether completed, partially completed, or in progress.

In the event of termination, an equitable adjustment in the funds provided by this Agreement shall be made. Such adjustment shall include reasonable compensation for all services rendered, materials, supplies, and expenses incurred pursuant to this Agreement prior to the effective date of termination.

In the event an adjustment is made as specified above, the Contractor shall promptly return to the County all unexpended distributions advanced pursuant to this Agreement.

Notices to the Contractor shall be addressed in accordance with the Article titled "Notice to Parties."

ARTICLE XXII

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

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

With a copy to:

COUNTY OF EL DORADO
CHIEF ADMINISTRATIVE OFFICE
PROCUREMENT AND CONTRACTS DIVISION
360 FAIR LANE
PLACERVILLE, CA 95667

ATTN: TERRI DALY, PURCHASING AGENT

Or to such other location as the County directs.

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.

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

ARTICLE XXIII

HIPAA Compliance: By signing this Agreement, Contractor agrees to comply with Exhibit G marked "Business Associate Agreement," attached hereto and incorporated by reference herein.

ARTICLE XXIV

Indemnity: The Contractor shall defend, indemnify, and hold the County, its Officers, employees, agents, and representatives 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 XXV

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

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- B. Have not within a three year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the above Paragraph 2;
- D. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
- E. Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under Federal regulations or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
- F. Shall include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions.

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

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

ARTICLE XXVI

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.

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ARTICLE XXVII

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 XXVIII

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 XXIX

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

ARTICLE XXX

Litigation: The County, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the County or State of California or its officers or employees for which the Contractor must provide indemnification under this Agreement. The failure of the County to give such notice, information, authorization, or assistance shall not relieve the Contractor of its indemnification obligations. The Contractor shall immediately notify the County of any claim or action against it which affects, or may affect, this Agreement, the terms and conditions hereunder, or the County or State of California, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of the County and State.

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ARTICLE XXXI

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 XXXII

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 XXXIII

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 XXXIV

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

ARTICLE XXXV

Administrator: The County Officer or employee with responsibility for administering this Agreement is Ren Scammon, Program Manager I, or successor.

ARTICLE XXXVI

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 XXXVII

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 XXXVIII

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

ARTICLE XXXIX

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 XL

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: _____
Ren Scammon, Program Manager I
Mental Health Services Act (MHSA)
Health and Human Services Agency

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By: _____ Dated: _____
Don Ashton, M.P.A., Interim Director
Health and Human Services Agency

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Services #XXX-SXXXX on the dates indicated below.

-- COUNTY OF EL DORADO --

By: _____ Dated: _____
Terri Daly, Purchasing Agent
Chief Administrative Office
"County"

- - CONTRACTOR - -

**NEW MORNING YOUTH AND FAMILY SERVICES, INC.
A CALIFORNIA CORPORATION**


By: _____ Dated: _____
David Ashby, Executive Director
"Contractor"

dao

EXHIBIT A

EL DORADO COUNTY MENTAL HEALTH DEPARTMENT

POLICY/PROCEDURE

SUBJECT: Adherence to Code of Conduct, Confidentiality Statement, and Privacy of Protected Health Information (PHI) in all Mental Health Services Act (MHSA) Programs	POLICY NUMBER: III-C-2-004
APPROVED BY:  Barry Wasserman, LCSW, Interim Director	DATE: 9/12/06

Background:

In November 2004, California voters passed Proposition 63, the Mental Health Services Act (MHSA), to expand funding for a comprehensive, community-based mental health system for seriously emotionally disturbed youth and seriously mentally ill adults. A central feature to the “transformation” of the public mental health service delivery system is community collaboration.

To this end, as a result of community planning, the El Dorado County Mental Health Department has three MHSA programs that involve community provider contracts.

This policy and procedure is intended to outline three key compliance expectations for the contract providers: the Code of Conduct, Confidentiality Statement and Privacy of Protected Health Information (PHI).

Policy:

All mental health services providers on contract with the El Dorado County Mental Health Department (EDCMH) are required to sign and comply with the Code of Conduct and Confidentiality Statement requirements as a condition of their contract. Further, use and compliance with the EDCMH HIPPA compliant release forms is required, as well. This standard is consistent with the expectations and requirements of all EDMHC employees.

Procedures

Upon award of the contract, the Administrator of the agency must read and sign on behalf of the Agency the Code of Conduct and Confidentiality Statement (see attached). Prior to the

implementation of service delivery, all MHPA contract provider staff must sign these forms, as well. Further, training in the Compliance Program and use of the release forms will be provided EDCMH and must be attended by all MHPA contract provider staff. Annual training on the Compliance Program is mandatory, as well.


The EDCMH release form will serve as a model for use by contract providers in order to ensure HIPPA compliance. Before service implementation, contract providers will be asked to submit a copy of their HIPPA compliant release of information form to the EDCMH contracts office for review and approval.

Reference

EDCMH Policy and Procedure II-A-0-004 (Code of Conduct), III-A-1-001 (Declaration of Notice of Confidentiality) and III-A-1-002 (Privacy of Protected Health Information).

EXHIBIT B
EL DORADO COUNTY
MENTAL HEALTH DEPARTMENT

POLICY/PROCEDURE

SUBJECT: Code of Conduct	POLICY NUMBER: II-A-0-004
APPROVED BY:  Barry Wasserman, LCSW, Interim Director	DATE: 5/1/06

El Dorado County Department of Mental Health (“EDCDMH”) maintains high ethical standards and is committed to complying with all applicable statutes, regulations, and guidelines. EDCDMH and each of its employees and contractors shall follow this Code of Conduct.

PURPOSE

The purpose of the EDCDMH Code of Conduct is to ensure that all EDCDMH employees and contractors are committed to conducting their activities ethically and in compliance with all applicable state and federal statutes, regulations, and guidelines applicable to Federal Health Care programs, and with all EDCDMH Policies and procedures. This Code of Conduct also serves to demonstrate EDCDMH’s dedications to providing quality care to its patients, and to submitting accurate claims for reimbursement to all payers.

CODE OF CONDUCT – GENERAL STATEMENT

- The Code of Conduct is intended to provide EDCDMH employees and contractors with general guidelines to enable them to conduct the business of EDCDMH in an ethical and legal manner;
- Every EDCDMH employee and contractor is expected to uphold the Code of Conduct;
- Failure to comply with the Code of Conduct, or failure to report reasonable suspected issues of non-compliance, may subject the EDCDMH employee or contractor to disciplinary action, up to or including termination of employment or contracted status. In addition, such conduct may place the individual, or EDCDMH, at substantial risk in terms of its relationship with various payers. In extreme cases, there is also the risk of action by a governmental entity up to and including an investigation, criminal prosecution, and/or exclusion form participation in the Federal Health Care Programs.

CODE OF CONDUCT

All EDCDMH employees and contractors:

- Shall perform their duties in good faith and to the best of their ability;

- Shall comply with all statutes, regulations, and guidelines applicable to Federal Health Care program, and with EDCDMH's own Policies and Procedures;
- Shall refrain from any illegal conduct. When an employee or contractor is uncertain of the meaning or application of a statute, regulation, or policy, or the legality of a certain practice or activity, he or she shall seek guidance from his or her immediate supervisor or the designated Compliance Officer;
- Shall not obtain any improper personal benefit by virtue of their employment or contractual relationship with EDCDMH;
- Shall notify the Compliance Officer immediately upon the receipt (at work or at home) of any inquiry, subpoena, or other agency or government request for information regarding EDCDMH;
- Shall not destroy or alter EDCDMH information or documents in anticipation of, or in response to, a request for documents by any applicable government agency or from a court of competent jurisdictions;
- Shall not engage in any practice intended to unlawfully obtain favorable treatment or business from any entity, physician, patient, resident, vendor, or any other person or entity in a position to provide such treatment or business;
- Shall not accept any gift of more than nominal value or any hospitality or entertainment, which because of its source or value, might influence the employee's or contractor's independent judgment in transactions involving EDCDMH;
- Shall disclose to the Compliance Officer any official position or ownership interest that they (or a member of their immediate family) has with EDCDMH's vendors or contractors;
- Shall not participate in any false billing of patients, government entities, or any other party;
- Shall not participate in preparation of any false cost report or other type of report submitted to the government;
- Shall not pay or arrange for EDCDMH to pay any person or entity for the referral of patients to EDCDMH, and shall not accept any payment or arrange for EDCDMH to accept any payment for referrals from EDCDMH;
- Shall not use confidential EDCDMH information for their own personal benefit or for the benefit of any other person or entity, while employed at or under contract to EDCDMH, or at any time thereafter;
- Shall not disclose confidential medical information pertaining to EDCDMH's patients without the express written consent of the patient or pursuant to court order and in accordance with the applicable law and EDCDMH applicable Policies and Procedures;

- Shall promptly report to the Compliance Officer any and all violations or reasonably suspected violations of the Code of conduct by other employees or contractors;
- Shall promptly report to the Compliance Officer any and all violations or reasonably suspected violations of any statute, regulations, or guideline applicable to Federal Health Care programs or violations of EDCDMH's own Policies and Procedures by other employees or contractors;
- Shall have the right to use the Confidential Disclosure Program without fear of retaliation with respect to disclosures; and with EDCDMH commitment to maintain confidentiality, as appropriate; and
- Shall not engage in or tolerate retaliation against any employee(s) or contractor(s) who report suspected wrongdoing.

CERTIFICATION

I, _____ by
 signing this Certification acknowledge that:

1. I have received a copy of the attached Code of Conduct Policy.
2. I have read the attached copy of the Code of Conduct Policy.
3. I agree to comply with the attached copy of the Code of Conduct Policy.

Signed _____

Date _____

Please return this signed-off original Certification to the El Dorado County Mental Health Compliance Officer.

Thank you.


Distribution:

Original – El Dorado County Personnel File
 Copy - Person Signing this Certification

EXHIBIT C

MENTAL HEALTH DEPARTMENT

POLICY/PROCEDURE

SUBJECT: Confidentiality/Privacy of Protected Health Information (PHI)	POLICY NUMBER: III-A-1-002
APPROVED BY:  Signed by: Barry Wasserman, LCSW, Interim Director	DATE: <u>7/5/05</u>

BACKGROUND:

El Dorado County Mental Health complies with California's stringent confidentiality requirements. In 1996, by passing the Health Insurance Portability and Accountability Act (HIPPA), Congress also recognized the importance of protecting the privacy of health information. Many Federal regulations, published in the Privacy Rule cited above, are already in place in California. Where Federal Law provides for additional protections and clients' rights, it preempts California law. Where California law is more restrictive, it is the defining law if it can be applied and not conflict with HIPPA.

POLICY:

Client health information is confidential and will be available only to authorized staff for allowable uses. Unless otherwise allowed or mandated by law, access to confidential material without specific authorization by the client or the client's representative is permitted only for direct client care, for uses related to payment, and for certain approved administration functions known collectively as "operations".

In most circumstances, responsibility for disclosure and documentation of disclosure of protected health information resides with the clinical team or the specific clinician treating the client, rather than with administrative staff.

Protecting the privacy of client health information is the responsibility of every individual working within El Dorado County Mental Health Services, including trainees, volunteers and independent contractors. A breach of confidentiality may result in sanctions up to and including termination of employment or contract.

PURPOSE:

To reaffirm the basic right of the client to privacy of medical information, to define relevant terms, and to describe allowable and mandatory disclosures of protected health information.

DEFINITIONS

Authorization – When PHI is disclosed for reasons other than treatment, payment and health care operations, or as permitted or required by law, HIPAA and state law requires specific “authorization” by the patient for each disclosure. We are accustomed to referring to this “authorization” as “Consent to Exchange Information”. Generally, internal “use” does not require authorization, while external “disclosure” does.

Client Representative – The parent or legal guardian of a minor client, the guardian or conservator of an adult client, or the personal representative of a deceased client.

Minimum Necessary – Only the amount of information necessary to accomplish the intended purpose of the use, disclosure, or request. The Minimum Necessary Rule does not apply to releasing medical information for treatment purposes, or to releases for which there are authorizations.

PHI – Protected Health Information – Information relating to a person’s health, the care received and payment for services, including demographic information.

TPO – Refers to treatment, payment and operations within the health care system.

1. Responsibilities and Restrictions

- A. All staff, trainees, volunteers and independent contractors shall sign the El Dorado County Mental Health Services Declaration of Notice of Confidentiality (Attachment A). Such Notice is maintained in personnel or contract files.
- B. Protected health information (PHI) obtained either during assigned duties or incidentally shall not be released to any person or institution except in accordance with El Dorado County and/or Mental Health Policy.
- C. Even when PHI is released in full compliance with all conditions described in this policy, it is critical that only the minimum necessary information to accomplish the purpose of the request be released. NOTE: minimum necessary does not refer to information released to another provider of medical care concerning treatment, or to releases for which there are client/client representative authorizations.
- D. No employee, trainee, volunteer or independent contractor shall seek access to or read confidential files of any client for whom they do not have direct treatment responsibility, or for any other reason not allowed by policy.
- E. When a therapeutic team treats a client, all members of that team shall have access to the mental health record as needed.
- F. Discussion or consultation concerning a client’s PHI shall be conducted in a location and manner such that the risk of being overheard by uninvolved staff or other clients is minimal.
- G. Individuals not directly involved in the client’s care shall not be present in a consultation or case review except with the client’s permission or as allowed by policy and/or law.

2. Allowed uses/disclosures of Protected Health Information

A. Treatment, Payment, Operations (TPO)

- Treatment – PHI may be disclosed without authorization to professional persons who are directly involved in the client’s medical care. Examples of such disclosures include referrals for treatment, for discharge planning, during shared treatment by a psychiatrist and another therapist, and to medical providers. Disclosures may be made to Conservatorship Investigation staff in the course of a conservatorship investigation.
 - Payment – information may be sent to an insurer or health plan to facilitate preauthorization or payment for services.
 - Health Care Operations – this broadly encompasses quality improvement, peer review, other training purposes, staff supervision, internal assessment of services, using identified PHI for statistical or evaluation purposes, etc., in accordance with federal and California law.
- B. Upon receipt of a properly executed authorization by the client or the client’s representative (See Attachment B, Authorization for Use or Disclosure of Protected Health Information).
- C. To the protection and advocacy agency designated by State Department of Mental Health to fulfill the requirements of the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986.
- D. To prevent a serious threat to the health and safety of the client or the health and safety of the public or another person.

3. Mandatory Disclosures of Protected Health Information

A. To report victims of abuse or neglect.

B. To the courts (e.g., to the Juvenile Judge), as necessary for the administration of justice, in accordance with federal and California law.

C. Health Oversight Activities – As authorized by law, disclosure of PHI may be made to state and/or federal auditors, inspectors, staff of licensing agencies, and staff/members of certain state legislative committees (upon presentation of appropriate credentials).

4. Disclosures of PHI to Family Members of Adult Clients

A. In the outpatient setting, no disclosures of PHI may be made to the adult client’s family without client authorization (an acute inpatient setting has mandatory notification requirements, unless the client specifically requests that family be denied this information).

B. When a family member requests information, the client shall be notified of this interest and asked to decide whether or not to authorize such a release of PHI.

5. Disclosures of PHI to Parents/Guardians of Minors:

A. In the following circumstances disclosure of PHI of minors to parents/guardians is not permitted:

1. When the minor could have or did consent to treatment and therefore controls access to the record;

2. When the professional treating the minor believes that disclosure would interfere with the therapeutic relationship OR have a detrimental effect on the physical safety and/or psychological well-being of the minor.
- B. Staff must be certain that the authorization to release PHI or a request to review the minor's chart is made by an individual with legal authority to do so.

AUTHORIZATION FOR USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

Health information and records obtained during the course of treatment of:

Consumer _____ **DOB** _____

This authorizes the following entities/individuals to use, disclose, and exchange information described below with each other:

- _____
- _____
- _____
- _____
- _____
- _____

for the purpose of:

Collaboration and provision of comprehensive services, Other _____

Information that may be exchanged includes the following and covers

All time periods Information from _____ to _____.

Client initials below:

a. _____ All health information pertaining to my medical history, mental or physical condition and treatment received AND/OR

b. _____ Only the following records or types of health/mental health information: _____ Lab Tests, _____ Discharge Summary, _____ Individual Treatment Plan, _____ Results of Psych/Voc Testing _____ Medical Neurological Assessment, _____ Course of treatment, _____ Status in program.

c. _____ I specifically authorize the release of the following information:

_____ HIV Test Results, _____ Mental Health Treatment, and _____ Drug & Alcohol Treatment
_____ General physical/mental health, _____ Goals, _____ Medication, School Records _____
_____ How to support my progress, _____ Hospitalization, _____ Other _____

RESTRICTIONS

In most cases, California law prohibits the Recipient from making further disclosure of my protected health information unless the Recipient obtains authorization from me or unless such disclosure is specifically required or permitted by law. However, if I permit disclosure of confidential information to someone who is not covered by State or Federal law, for example, to a family member, that person might redisclose it to someone else.

MY RIGHTS

- I may refuse to sign this Authorization. My refusal will not affect my ability to obtain treatment. This facility shall not condition treatment or payment based on this authorization.
- This Authorization shall expire one year from the date signed, unless consent is withdrawn in writing or indicated otherwise here: _____.
- I may revoke this authorization at any time. My revocation should be in writing, signed by me or someone on my behalf, (or clearly noted in my chart by staff) and submitted to EDCMH, 344 Placerville Dr, Placerville, CA 95667. My revocation will take effect upon receipt, except to the extent that others have acted in reliance upon this Authorization.

I authorize the release of information indicated.

I understand that I am entitled to a copy of this authorization.

(Instructions: Obtain signature of consumer or parent/guardian/conservator.)

Signature: _____ Date: _____
(parent/consumer/legal guardian/conservator-please circle one)

Signature of Professional* _____ Date: _____

*Professional for this authorization refers only to a physician, licensed psychologist, social worker with a master's degree in social work, marriage and family therapist, who approves this authorization for use or disclosure of protected health information when signed by the consumer.

FOR THE RECIPIENT OF THE INFORMATION:

If any of the requested records contain information regarding alcohol or drug abuse treatment, it is protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further use or disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the use or release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse consumer.

Health Information Released by _____
(Clinician or Medical Records Technician):

Title:
Date Released:

Confidential Consumer Information

See Welfare & Institutions Code, Section 5328 and HIPAA Privacy Rule CFR Section 164.508 and 42 CFR Part 2.

Health information and records obtained during the course of treatment of:

Consumer _____ **DOB** _____

This authorizes the following entity:

- Psychiatric Health Facility, 935-B Spring St., Placerville, CA 95667
(530) 621-6210 Office Fax: (530) 622-2385 Admin. Fax: (530) 295-2594
- Western Slope Outpatient Clinic 344 Placerville Dr, Placerville, CA 95667
(530) 621-6290 Fax: (530) 622-1293
- So. Lake Tahoe Mental Health Clinic 981 Silver Dollar, Ste 2, SLT, CA 96150
(530) 573-3251 Fax #: (530) 544-7128
- Day Rehabilitation, 2808 Mallard Lane, Suite C, Placerville, CA 95667
(530) 621-6560 Fax #: (530) 295-2521
- Day Rehabilitation, 1120 3rd St, SLT, CA 96150
(530) 573-7800 Fax #: (530) 295-2521

to use, disclose and exchange information described below from, to and/or with the following:

Person/Entity/Name _____

Complete Address _____

Phone Number _____ Fax Number _____

for the purpose of Collaboration and provision of comprehensive services, Other _____

Information that may be exchanged includes the following and covers

All time periods Information from _____ to _____.

Client initials below:

a. _____ All health information pertaining to my medical history, mental or physical condition and treatment received AND/OR

b. _____ Only the following records or types of health/mental health information: _____ Lab Tests, _____ Discharge Summary, _____ Individual Treatment Plan, _____ Results of Psych/Voc Testing _____ Medical Neurological Assessment, _____ Course of treatment, _____ Status in program.

_____ I specifically authorize the release of the following information:

_____ HIV Test Results, _____ Mental Health Treatment, and _____ Drug & Alcohol Treatment

_____ General physical/mental health, _____ Goals, _____ Medication, School records _____

_____ How to support my progress, _____ Hospitalization, _____ Other _____

RESTRICTIONS

In most cases, California law prohibits the Recipient from making further disclosure of my protected health information unless the Recipient obtains authorization from me or unless such disclosure is specifically required or permitted by law. However, if I permit disclosure of confidential information to someone who is not covered by State or Federal law, for example, to a family member, that person might redisclose it to someone else.

MY RIGHTS

- I may refuse to sign this Authorization. My refusal will not affect my ability to obtain treatment. This facility shall not condition treatment or payment based on this authorization.
- This Authorization shall expire one year from the date signed, unless consent is withdrawn in writing or indicated otherwise here: _____
- I may revoke this authorization at any time. My revocation should be in writing, signed by me or someone on my behalf, (or clearly noted in my chart by staff) and submitted to EDCMH, 344 Placerville Dr, Placerville, CA 95667. My revocation will take effect upon receipt, except to the extent that others have acted in reliance upon this Authorization.

I authorize the release of information indicated.

I understand that I am entitled to a copy of this authorization.

(Instructions: Obtain signature of consumer or parent/guardian/conservator.)

Signature: _____ Date: _____

(parent/consumer/legal guardian/conservator-please circle one)

Signature of Professional* _____ Date: _____

*Professional for this authorization refers only to a physician, licensed psychologist, social worker with a master's degree in social work, marriage and family therapist, who approves this authorization for use or disclosure of protected health information when signed by the consumer.

FOR THE RECIPIENT OF THE INFORMATION:

If any of the requested records contain information regarding alcohol or drug abuse treatment, it is protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further use or disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the use or release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse consumer.

Health Information Released by _____

(Clinician or Medical Records Technician):


Title:

Date Released:

Confidential Consumer Information: See Welfare & Institutions Code, Section 5328 and HIPAA Privacy Rule CFR Section 164.508 and 42 CFR Part 2.

EXHIBIT D
EL DORADO COUNTY
MENTAL HEALTH DEPARTMENT

POLICY/PROCEDURE

SUBJECT: Declaration of Notice of Confidentiality Statement	POLICY NUMBER: III-A-1-001
APPROVED BY:  Signed by: Barry Wasserman, LCSW, Interim Director	DATE: <u>7/5/05</u>

POLICY

PURPOSE: To inform Mental Health Employees of legal restrictions regarding patient information and their obligation as employees to maintain confidentiality.

PROCEDURE

All employees employed by El Dorado County Mental Health should be aware of the legal restrictions on releasing client information and records. Upon employment with El Dorado County Mental Health, all paid employees and volunteers will sign a Confidentiality Statement which informs them of their obligations to maintain confidentiality and the possible legal penalties for knowingly and illegally releasing confidential information. See El Dorado County Mental Health's Confidentiality Statement for specific details.

Attachment: Confidentiality Statement

El Dorado County Health and Human Services Agency
Mental Health Division

Employee Acknowledgement of Confidentiality Statement

There are some important legal restrictions on the release of patient information and records. These restrictions are for the protection of the psychiatric patient and cover mental health service programs. Confidentiality covers all information on both inpatients and outpatients, including information on whether or not a person is a patient.

Access to records for El Dorado County Mental Health staff, interns, volunteers, contractors or their employees, etc., is limited to information necessary to perform specific clinical treatment or Utilization Review and Quality Assurance functions on a professional "need to know" basis.

The Lanterman-Petris-Short Act contained in the Welfare and Institutions Code states in part:

Section 5328:

"All information and records obtained in the course of providing services ... to either voluntary or involuntary recipients of services shall be confidential...".

The specific circumstances under which information and records may be released are spelled out in the sub-sections.

Section 5330 speaks to the enforcement of this law as follows:

"Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him in violation of the provision of this chapter, for the greater of the following amounts:

- (1) Ten Thousand (\$10,000) Dollars or:
- (2) Three (3) times the amount of actual damages, if any, sustained by the plaintiff... It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages."

In addition to the LPS law, a breach of confidentiality is a serious infraction of the County of El Dorado policy and may result in dismissal.

Pledge of Confidentiality: I certify by my signature that I will not give information about patients to unauthorized persons and to do so would be a serious violation of my responsibility.

Signature: _____

Position: _____

Date: _____



DECLARATION OF NOTICE OF CONFIDENTIALITY

As an employee, contractor, or associate of El Dorado County Mental Health, I agree to the following as evidenced by my signature affixed below:

I will not disclose or otherwise discuss El Dorado County Mental Health patients or clients, their conditions, treatments or status, even if they are known to me personally, with anyone, except to carry out my assigned duties associated with their proper care of treatment.

I will not release information to any one concerning the financial, medical, or social status of El Dorado County Mental Health's patients or clients which has not first been authorized according to written Mental Health policies, federal or state regulation, or otherwise properly ordered by legal authorities.

The Lanterman-Petris-Short Act contained in the Welfare and Institutions Code states in part: Section 5328: "All information and records obtained in the course of providing services...to either voluntary or involuntary recipients of services shall be confidential". The specific circumstances under which information and records may be released are spelled out in the sub-sections. Section 5330 speaks to the enforcement of this law as follows:

"Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him in violation of the provision of this chapter, for the greater of the following amounts: (1) Ten thousand (\$10,000) Dollars or: (2) Three (3) times the amount of actual damages, if any, sustained by the plaintiff... It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages."

In addition to the LPS law, a breach of confidentiality is a serious infraction of the County of El Dorado policy and may result in dismissal.

I will not, at any time or under any circumstances, disclose or share El Dorado County Mental Health's assigned computer system User Identification or password to anyone.

I will not tamper with any El Dorado County Mental Health's computer system to gain unauthorized access to the network or information contained there.

I will take all reasonable care to prevent the unauthorized use, disclosure or availability of confidential and/or proprietary information through unattended screen displays or by mishandling of system generated output, regardless of its form.

I acknowledge that El Dorado County Mental Health Services retains the right to monitor and/or review at any time and without cause, any access to Mental Health computer services for evidence of tampering or misuse, and may, at its sole discretion, suspend or terminate Mental Health Services computer privileges pending administrative review.

I agree to adhere to policies concerning Mental Health Service's computer services and understand that any misconduct and/or breaches of confidentiality expressly described herein may be grounds for immediate suspension to computer privileges. In addition, Mental Health Service's administrative actions, up to and including termination of employment or contract may result. Additionally, violation of an applicable civil or criminal statute by the disclosure of confidential material of information or other misuse of the computer system will be prosecuted to the fullest extent of the law.

This agreement constitutes the entire agreement with respect to any confidential and/or proprietary information and will supersede any prior agreement.

I have read and understanding the preceding statements.

Employee or Contractor Signature

Date Signed

Print Employee or Contractor
First Name, Middle Name, and Last Name

Supervisor Signature

Employee or Contractor Title

Location/Contract Agency

EXHIBIT E

Incredible Years MHSA Year-End Progress Report (Fiscal Year and Annual)

Program/Services Implementation – Prevention and Early Intervention (PEI)

Please provide the following information for this reporting period:

- 1) Briefly report on how implementation of Incredible Years progressed (e.g., whether implementation activities proceeded on target and as described in the County's MHSA Plan), and any major accomplishments and challenges.
- 2) Briefly report on how Incredible Years has improved the overall mental health of the participants, their families, and their communities by addressing the primary negative outcomes that are the focus of Incredible Years (school failure or dropout and removal of children from their homes). Please include other impacts, if any, resulting from Incredible Years on the other five negative outcomes addressed by PEI activities: (1) suicide; (2) incarceration; (3) unemployment; (4) prolonged suffering; and (5) homelessness.
- 3) Provide a brief narrative description of progress in providing Incredible Years services to unserved and underserved populations.
- 4) Provide a brief narrative description of how Incredible Years services are provided in a culturally and linguistically competent manner, including activities to reduce racial/ethnic disparities.
- 5) Provide a brief description of activities performed related to local and county-wide collaboration, outreach, access/linkages to medically necessary care, stigma reduction and discrimination reduction.
- 6) Identify whether Incredible Years participants were provided with further referrals for services at the conclusion of Incredible Years classes, and if so, what type of referrals were made (e.g., mentoring programs, recreational programs, individual counseling, group counseling, other classes).
- 7) Provide the outcomes of the assessments and customer satisfaction surveys.
- 8) Provide total Incredible Years expenditures and the type and dollar amount of leveraged resources and/or in-kind contributions.
- 9) Provide any additional relevant information.

EXHIBIT F

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”).

R E C I T A L S

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 know, 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.

EXHIBIT G

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”).

R E C I T A L S

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 know, 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.