

1 **CONTRACT NUMBER:** 03510-13
 2 **DEPARTMENT:** Health and Human Services Agency, Mental Health Division
 3 **COMPANY:** County of El Dorado, Health and Human Services Agency
 4 **TYPE OF AGREEMENT:** Inpatient Services

5
 6 **THIS AGREEMENT** is made and entered into by and between the County of Solano, a political
 7 subdivision of the State of California, (hereinafter referred to as "SOLANO"), and County of El Dorado,
 8 Health and Human Services Agency, located at 3057 Briw Road, Placerville, CA 95667, a political
 9 subdivision of the State of California, (hereinafter referred to as "COUNTY").

10 **WHEREAS**, COUNTY, through its Mental Health Division, operates a Psychiatric Health Facility,
 11 (PHF) located at 935-B Spring Street, Placerville, CA 95667; and

12 **WHEREAS**, SOLANO, through its Health and Social Services, Mental Health Program, has need
 13 for additional mental health facilities and psychiatric services for the treatment of their consumers; and

14 **WHEREAS**, COUNTY, upon availability, can provide such facilities and psychiatric services as
 15 needed by SOLANO.

16 **WHEREAS**, the parties desire to set forth the terms and conditions under which the services
 17 shall be furnished.

18 **WHEREAS**, Administrator: The COUNTY officer or employee with responsibility for administering
 19 this **AGREEMENT** is Cheree Haffner, Manager of Mental Health Programs, or successor.

20 **NOW, THEREFORE**, in consideration of their mutual covenants and promises, the parties agree
 21 as follows:

22 **1. RESPONSIBILITIES OF COUNTY**

- 23 a. COUNTY shall make beds available at COUNTY's Psychiatric Health Facility (PHF) to
 24 SOLANO beneficiaries for the treatment of adults based upon availability and upon
 25 approval by COUNTY's Director of Mental Health, or designee.
- 26 b. COUNTY shall admit SOLANO consumers through COUNTY's Emergency Services or
 27 PHF staff.
- 28 c. COUNTY's Utilization Review (UR) staff will monitor SOLANO consumers at COUNTY's
 PHF on an ongoing basis to determine medical necessity.

- 1 d. COUNTY, when available, may provide consumers, as clinically indicated, with all
2 required and related psychiatric medical services including, but not limited to, laboratory
3 service, radiology service, electroencephalogram's (E.E.G.s), electrocardiogram's (E.K.G.s)
4 and pharmacy service. COUNTY shall provide these services in accordance with the
5 COUNTY Mental Health Medication Monitoring Screening Criteria Manual without any
6 other prior authorization process.
- 7 e. COUNTY when available may provide consumers, as clinically indicated, with other
8 psychiatric medical services, including, but not limited to, laboratory service, radiology
9 service, E.E.G.s, E.K.G.s and pharmacy service. Such services may be provided
10 through independent contractors, but if so done, COUNTY shall remain responsible for
11 the monitoring of such subcontractors and their work..
- 12 f. Where special medical, surgical or other additional services are deemed appropriate, the
13 authorization of SOLANO shall be obtained. SOLANO shall provide reimbursement for
14 all authorized special services not covered by another payer source. Notification shall be
15 given to SOLANO when reasonably possible if consumers are moved off the psychiatric
16 ward or are the subject of, or have committed any unusual incidents.
- 17 g. Facility: COUNTY shall maintain a facility, which will provide an environment conducive to
18 the treatment of SOLANO consumers. This facility shall include, but not be limited to,
19 adequate room, patient bed space, and individual storage for patient use, telephone
20 service, and patient access to the Patient's Rights Advocate, family members and
21 visitors. Monolingual patients shall have access to bilingual staff services. The
22 consumers will receive face-to-face contact daily with a psychiatrist. COUNTY's
23 psychiatrist will document medical necessity daily.
- 24 h. Protection of Rights: COUNTY agrees to protect the rights of SOLANO consumers
25 admitted for services in compliance with State and Federal law, including, but not limited
26 to, Welfare and Institutions (W & I) Code Section 5325, especially with regard to
27 administration of psychotropic medication and use of seclusion. When necessary,
28 SOLANO shall obtain appropriate court orders.

- 1 i. Admission for Services: The decision to admit SOLANO consumers referred by
 2 designated SOLANO staff for treatment is at the sole discretion of COUNTY. Prior to
 3 admission into COUNTY'S PHF, SOLANO'S representative shall sign and immediately
 4 return to COUNTY a "Service and Payment Authorization Form" indicating that SOLANO
 5 is responsible for all costs associated with the placement of the consumer in COUNTY'S
 6 PHF. Prior to admission into COUNTY's PHF, SOLANO consumers shall first be cleared
 7 for admission by a physician supplied by SOLANO. Once SOLANO consumers are
 8 admitted by COUNTY into the PHF, COUNTY shall provide SOLANO consumers twenty-
 9 four (24) hour hospitalization for seventy-two (72) hour involuntary evaluation and
 10 treatment pursuant to W & I Code Section 5150 et seq., and any further period of
 11 involuntary treatment as required after consultation between the parties. Treatment
 12 services provided by COUNTY shall include intake, assessment, counseling, activities,
 13 room and board, security, and such medical care as is directly incidental to the provision
 14 of psychiatric services (e.g., pharmacy services and medications and laboratory services
 15 necessary for the prescription and administration of medications). SOLANO shall use its
 16 best efforts to provide COUNTY with such patient information as is reasonably necessary
 17 to aid COUNTY in providing treatment to SOLANO consumers.
- 18 j. COUNTY shall if reasonably possible provide prior notification to SOLANO liaison of any
 19 early discharge, especially if a consumer leaves prior to the full 72-hour stay.

20 **2. RESPONSIBILITIES OF SOLANO**

- 21 a. SOLANO shall make requests for admission by phone to COUNTY's PHF designated
 22 staff at (530) 621-6213 and fax referral packages to (530) 295-2594.
- 23 b. SOLANO shall be responsible for its consumers' initial medical screening and clearance
 24 prior to admission at COUNTY's PHF. Each consumer's screening and clearance must
 25 be charted within twenty-four (24) hours of admission. SOLANO shall be responsible for
 26 any costs associated with its consumers screening and clearance.
- 27 c. After obtaining admitting privileges to COUNTY's PHF, SOLANO physicians, at their
 28 option, shall serve as the attending physicians at COUNTY's PHF when providing care
 for their consumers, including performing charting services.

d. SOLANO, or its designee, shall provide all required consumer transportation to and from COUNTY's PHF for those consumers who are SOLANO residents.

e. SOLANO liaison shall make available to SOLANO consumers, a SOLANO Patients Rights Advocate upon request.

3. JOINT RESPONSIBILITIES

The decision to discharge SOLANO consumers from COUNTY's PHF shall be by COUNTY providers after efforts to consult with the SOLANO liaison. The SOLANO liaison may participate in discharge planning at their discretion and as indicated.

A Discharge Summary for SOLANO consumers of inpatient psychiatric services shall be provided to SOLANO staff. This data shall consist of the following: (1) completed discharge form, (2) patient history, (3) physical exam results, and (4) any laboratory work performed. The discharge summary shall be provided to SOLANO no later than fourteen (14) working days after the date the SOLANO consumer is discharged from COUNTY's facility. COUNTY shall also provide SOLANO additional records and data, including, but not limited to, treatment costs data, as may be required by SOLANO for the preparation of the patient for post-hospitalization placement and/or preparation of required reports. COUNTY shall permit licensed, registered, and/or waived qualified SOLANO staff to document in COUNTY's records pertinent data necessary for the SOLANO consumers' care and funding within the provisions and limitations of HIPAA. All such documentation shall clearly show the entries were made by SOLANO staff. Record access for SOLANO staff shall be limited to records of SOLANO consumers.

4. TERM

The term of this Agreement shall on the 1st day of January, 2013 and continue until the 30th day of June 2015, unless sooner terminated in accordance with Sections entitled, "TERMINATION FOR CONVENIENCE" or "TERMINATION FOR CAUSE" as set forth elsewhere in this Agreement.

5. RATES

COUNTY rates for services provided pursuant to the terms and conditions of this Agreement are as follows:

Psychiatric Health Facility (PHF) Rate per Consumer (Acute and Non-Acute)

COUNTY shall bill SOLANO the difference between COUNTY'S Published PHF Charge of **\$650.00 per day** and any reimbursements received from the State Medi-Cal billing

1 process or any other payer sources. COUNTY shall include an explanation of benefit
2 received from other payer sources with bill.

3 Administrative Overhead Charge (15%) per Consumer (Acute and Non-Acute)

4 COUNTY shall bill SOLANO 15% of COUNTY'S Published PHF Charge.

5 The rate structure utilized to negotiate the contract is inclusive of all services defined as
6 psychiatric inpatient services in Title 9, Chapter 11, and that the rate structure does not include non-
7 hospital based physician or psychological services. The total amount of services per the above rates shall
8 not exceed the **Total Contract Amount of \$250,000.00**.

9 **6. COMPENSATION**

10 SOLANO agrees to pay COUNTY and COUNTY agrees to receive payment for services provided to
11 SOLANO consumers authorized for treatment under this Agreement.

12 a. In the event that SOLANO has reimbursed COUNTY for services and then verifies to
13 COUNTY that a non-Medi-Cal eligible consumer has current or retroactive Medi-Cal
14 eligibility that pays for inpatient hospital services and the verification is within the
15 allowable Medi-Cal billable timeframe, COUNTY shall credit SOLANO on the next
16 month's invoice the amount subsequently reimbursed to COUNTY from the State Medi-
17 Cal billing process for that consumer.

18 b. COUNTY shall bill SOLANO for all acute and non-acute days incurred at COUNTY'S
19 current Published PHF rate plus the Administrative Overhead Charge, as set forth in
20 Section 5, "Rates".

21 c. Bed day shall be defined as use of a COUNTY PHF inpatient psychiatric bed at 12:00
22 midnight. Day of discharge shall not be billed. However, a bed day may be billed if the
23 beneficiary is admitted and discharged during the same day provided that such
24 admission and discharge is not within 24 hours of prior discharge. This per diem rate is
25 considered to be payment in full, subject to third party liability and patient share of costs
26 for psychiatric inpatient hospital services to a beneficiary.

27 d. If it is determined that a SOLANO client is in need of special one-to-one supervision
28 services, COUNTY shall obtain prior authorization from SOLANO. When COUNTY
provides one-to-one supervision services, SOLANO shall reimburse COUNTY at the

1 actual hourly salary rate of the COUNTY staff providing the service. COUNTY shall
2 invoice SOLANO for this service and rate.

3 e. Payment by SOLANO shall be monthly in arrears for services provided by COUNTY
4 during the preceding month. Payment by SOLANO shall be within forty-five (45) days of
5 receipt of COUNTY's invoices.

6 f. **County Medical Services Program (CMSP) (for CMSP Counties only)**

7 The following procedures will only be applicable if there is an agreement in place
8 between COUNTY and the CMSP Third Party Administrator.

- 9 1. For SOLANO consumers enrolled in the County Medical Services Program
10 (CMSP) and admitted to COUNTY'S PHF, COUNTY shall bill the CMSP Third
11 Party Administrator per CMSP guidelines and at the CMSP reimbursable per
12 diem rate.
- 13 2. COUNTY shall bill SOLANO and SOLANO shall be responsible for the difference
14 between CMSP's reimbursable per diem rate and COUNTY'S billable rates as
15 set forth in Section 5 of this agreement
- 16 3. SOLANO shall also be responsible for reimbursing COUNTY for any ancillary
17 services provided, such as physical examinations, guard services and/or
18 reimbursement for destruction of property as set forth elsewhere in this
19 Agreement.
- 20 4. If, for any reason, CMSP denies reimbursement of the claim submitted by
21 COUNTY for services provided to SOLANO consumers, SOLANO shall be
22 responsible for reimbursing COUNTY the total amount due for services provided.
- 23 5. If SOLANO authorizes an inpatient stay in excess of the limited number of
24 inpatient days reimbursable by the CMSP third party administrator then SOLANO
25 shall be responsible for reimbursing COUNTY the total amount due for services
26 not reimbursed by the CMSP.
- 27 6. SOLANO shall be solely responsible for negotiation of appeals with CMSP for
28 denial of claims.

1 **7. INVOICING**

2 COUNTY Fiscal Services shall invoice SOLANO monthly, addressed to the following:

3 **Solano County**
4 **Health & Social Services**
5 **Contracts Bureau, MS: 5-220**
6 **275 Beck Avenue**
7 **Fairfield, CA 94533**

8 **8. NOTICES**

9 All notices, requests, demands or other communications under this Agreement shall be in writing.

10 Notice shall be sufficiently given for all purposes as follows:

- 11 A. Personal Delivery. When personally delivered to the recipient, notice is effective upon
12 delivery.
- 13 B. First Class Mail. When mailed first class to the last address of the recipient known to the
14 party giving notice, notice is effective three mail delivery days after deposit in a United
15 States Postal Service office or mailbox.
- 16 C. Certified Mail. When mailed by certified mail, return receipt requested, notice is effective
17 upon receipt, if delivery is confirmed by return receipt.
- 18 D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or
19 charged to the sender's account, notice is effective on delivery, if delivery is confirmed by
20 the delivery service.
- 21 E. Electronic Transmission. When sent by facsimile transmission or by internet connection
22 to the last noticed facsimile or internet location provided by the recipient to the party
23 giving notice, notice is effective upon receipt, provided that a duplicate copy of the notice
24 is promptly given by first class mail or certified mail or by overnight delivery to the
25 receiving party. Any notice given by electronic transmission shall be deemed received on
26 the next business day if received after 5:00 P.M. (recipient's time) or on a non-business
27 day.

28 Information for notice to the parties to this Agreement at the time of endorsement of this Agreement is as follows:

COUNTY

SOLANO COUNTY

County of El Dorado
Health and Human Services Agency
935-B Spring Street
Placerville, CA 95667
(530) 621-6210
Fax (530) 295-2594

Solano County Health and Social Services
Contracts Bureau (MS: 5-220)
275 Beck Ave
Fairfield, CA 94533
(707) 784-8535
Fax (707) 421-4888

Any party may change its address or electronic addresses by giving the other party notice of the change in any manner permitted by this Agreement.

9. CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING

The services and compensation received by COUNTY and SOLANO pursuant to this Agreement is based on the continued receipt of local, state and/or federal funding for this purpose. In the event that funding is terminated, in whole or in part, for any reason, this Agreement and all obligations of the parties arising from this Agreement shall be immediately discharged. COUNTY agrees to inform SOLANO and SOLANO shall inform COUNTY no later than ten (10) calendar days after receiving notification that funding will be terminated and provide the final date for which funding will be available. Under these circumstances, all billing or other claims for compensation or reimbursement by COUNTY arising out of performance of this Agreement must be submitted to SOLANO prior to the final date for which funding is available. SOLANO will be liable for payment for services rendered prior to the final dates of funding.

10. MUTUAL TERMINATION FOR CONVENIENCE

This Agreement, notwithstanding anything set forth to the contrary in it, may be terminated at any time without cause or legal excuse by providing thirty calendar (30) days' notice of such termination.

11. TERMINATION FOR CAUSE

If SOLANO materially defaults in the performance of or repeatedly fails to comply with any of its payment obligations under this Agreement, or otherwise breaches this Agreement (a "Default"), COUNTY may, in addition to any other remedies it may have, provide SOLANO with notice of Default in the manner set forth under Section, "NOTICES", specifying the provision(s) or term(s) of this Agreement that SOLANO has failed to comply with or breached. In the event of any proceeding by or against SOLANO, including but not limited to bankruptcy, insolvency, appointment of a receiver or trustee, or an assignment for the benefit of creditors, COUNTY may exercise at its election its right of termination under this Section.

1 **12. MODIFICATION OF THE AGREEMENT**

2 Notwithstanding any of the provisions of this Agreement, the parties may agree to amend this
3 Agreement. No alteration or variation of the terms of this Agreement shall be valid unless made in writing
4 and signed by the parties.. No oral understanding or agreement not incorporated shall be binding on any
5 of the parties.

6 **13. INSURANCE**

7 SOLANO and COUNTY each represent that its county is self-insured and that such self-
8 insurance includes professional liability for employees, contractors, and physicians and includes Workers
9 Compensation coverage as required by the California Labor Code.

10 **14. INDEMNIFICATION**

11 SOLANO shall have the contracted duty (hereinafter "the duty") to indemnify, defend and hold
12 harmless, COUNTY, its Board of Supervisors, officers, employees, agents and assigns from and against
13 any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, which shall
14 include but not be limited to expert fees and costs, and expenses of whatsoever kind or nature, at any
15 time arising out of or in any way connected with the performance of this Agreement. This duty shall
16 include but not be limited to claims for bodily injury, property damage, personal injury, contractual causes
17 or damages otherwise experienced to, of, or by any person including, but not limited to employees,
18 agents, officers, volunteers, and third parties. SOLANO's liability for indemnity under this Agreement
19 shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct, whether
20 active or passive, on the part of the SOLANO and SOLANO's employees, subcontractors, and agents.
21 The duty shall extend to any allegation or claim of liability except when the allegations or claims concern
22 actions that are the sole and legal result of the negligent or willful action or failure to act by COUNTY.
23 This duty shall arise at the first claim or allegation of liability against COUNTY. SOLANO will on request
24 and at its expense, defend any action suit or proceeding arising hereunder. This clause for
25 indemnification shall be interpreted to the broadest extent permitted by law.

26
27
28 **15. INDEPENDENT CONTRACTOR**

1 It is mutually agreed and understood that neither party nor its contractors, sub-contractors and
2 employees, if any, shall have any claim under this Agreement or otherwise against the other party for
3 vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury,
4 disability or illness, or loss of life or income, by whatever cause.

5 SOLANO shall ensure that all personnel used as contractors, sub-contractors and employees to
6 perform the services reserved for SOLANO, are aware that COUNTY is not responsible for any benefits
7 or coverage for their efforts.

8 **16. CONFIDENTIALITY**

9 SOLANO and COUNTY agree to protect the rights of consumers and shall comply with applicable
10 laws and regulations, including but not limited to California W & I Code section 5328; and 45 Code of
11 Federal Regulations, (C.F.R.) section 205.50; 42 C.F.R. part 2 and 45 C.F.R. parts 160 and 164 and to
12 the HITECH Act in 42 C.F.R., Chapter 156, regarding the confidentiality of patient information.

13 Neither party shall use identifying information for any purpose other than carrying out the
14 obligation under this Agreement.. Neither party shall disclose, except as otherwise specifically permitted
15 by this Agreement or authorized by the client/patient, any such identifying information to anyone other
16 than the State without prior written authorization from the State in accordance with federal and state laws.

17 For the purposes of the above paragraphs, identifying information will include, but not be limited
18 to: name, identifying number, symbol, or other identifying particular assigned the individual. SOLANO
19 and the COUNTY agree to comply with the provisions of Public Law 104-191, known as The Health
20 Insurance Portability and Accountability Act of 1996 (HIPAA), and the Business Associate Addendum,
21 attached to this Agreement and incorporated by this reference as if fully set forth. Any conflict between
22 the terms and conditions of this Agreement and the Business Associate Addendum incorporated are to be
23 read so that the more legally stringent terms and obligation(s) of the COUNTY and SOLANO shall control
24 and be given effect.

25 **17. COMPLIANCE AND INTEGRATED ETHICS**

26 COUNTY is committed to adhere to its adopted code of ethics to ensure that business is
27 conducted in an ethical and professional manner; and is consistent with the mission statement: "To
28 provide effective, accessible, and culturally competent Mental Health and Alcohol & Drug Services in
order to enhance the health welfare and quality of life in El Dorado County."

1 The COUNTY Mental Health Division's Compliance and Integrated Ethics Plan (CIEP) is
2 necessary to ensure compliance with federal, state, and local laws, rules, and regulations regarding
3 professional conduct and to ensure that the conduct of employees reflects the principles of the
4 Department to treat consumers, the general public, and other employees with integrity, honesty, courtesy,
5 fairness, and respect.

6 SOLANO is committed to adhering to its adopted code of ethics that applies to all of its employed
7 staff. These standards include compliance with state and federal regulations for safeguarding client
8 information. SOLANO has trained staff to enforce established ethical standards and has established
9 written policies and procedures that ensure organizational and individual compliance.

10 **18. CULTURAL COMPETENCY**

11 "Cultural Competence" means a set of congruent practice skills, behaviors, attitudes and policies
12 in a system, agency or among those persons providing services that enables that system, agency or
13 those persons providing services to work effectively in cross-cultural situations. SOLANO and COUNTY
14 shall use professional skills, behaviors, attitudes and policies in their systems that ensure the system, or
15 those being seen in the system, will work effectively in a cross cultural environment.

16 **19. FEDERALLY EXCLUDED INDIVIDUALS AND ENTITIES**

17 Employees of SOLANO or COUNTY who, because of convictions or because of current or past
18 failures to comply with federal program requirements, become designated as ineligible persons or are
19 identified for exclusion from involvement in federal programs, shall be removed from responsibility or
20 participation in or involvement with all aspects of this federally funded program, until such time as the
21 person or entity is no longer identified on the exclusion lists.

22 Both parties shall be responsible to perform ongoing exclusion reviews of current employees to
23 ensure that neither party hires or contracts with any individual or entity under sanction or exclusion by the
24 federal government. Both parties agree to provide written certification under penalty of perjury that no
25 current employee, subcontractor, entity or agent is on the list of Excluded Individuals and Entities of the
26 Office of the Inspector General (U.S. Department of Health and Human Services) or the General Services
27 Administration's Excluded Parties Listing System (42 USC 1320). Failure to comply shall lead to contract
28 termination.

20. QUALITY OF SERVICE

1 SOLANO and COUNTY shall perform these services with care, skill, and diligence, in accordance
2 with the applicable professional standards currently recognized by each profession. SOLANO and
3 COUNTY shall comply with all applicable federal, state, and local laws, ordinances, codes, and
4 regulations in performing its services.

5 **21. APPLICABLE LAW; VENUE**

6 All parties agree that this Agreement and all documents issued or executed pursuant to it and the
7 rights and obligations of the parties under it are subject to and governed by the laws of the State of
8 California in all respects as to interpretation, effect and performance. No interpretation of any provision of
9 this Agreement shall be binding upon COUNTY unless agreed in writing by COUNTY and counsel for
10 COUNTY.

11 Notwithstanding any other provisions of this Agreement, any dispute concerning any question of
12 fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall
13 be tried in El Dorado County, unless the parties agree otherwise or are otherwise required by law.

14 SOLANO and COUNTY shall adhere to Title XIX of the Social Security Act and conform to all
15 applicable Federal and State statutes and regulations

16 **22. ENTIRE AGREEMENT**

17 This Agreement and any additional or supplementary document or documents incorporated by
18 specific reference contain all the terms and conditions agreed upon by the parties, and no other contracts,
19 oral or otherwise, regarding the subject matter of this Agreement or any part of it shall have any validity
20 or bind any of the parties.

21 **23. COUNTY NOT OBLIGATED TO THIRD PARTIES**

22 COUNTY shall not be obligated or liable hereunder to any party other than SOLANO.
23 SOLANO shall not be obligated or liable hereunder to any party other than COUNTY.

24 **24. STANDARDS OF PRACTICE**

25 Standards of practice of COUNTY and SOLANO shall be determined by the professional
26 standards for the employees and officers of COUNTY and SOLANO in their trade or field of expertise and
27 all applicable provisions of law and other rules and regulations of any and all governmental authorities
28 relating to provision of services as defined in this Agreement.

25. COMPLIANCE WITH STATE LAWS AND REGULATIONS

1 SOLANO and COUNTY agree to comply with all State laws and regulations that pertain to health
2 and safety, labor, minimum wage, fair employment practice, equal opportunity, and all other matters
3 applicable to SOLANO and COUNTY, their sub-grantees, contractors or subcontractors, and their work.

4 **26. PERSONNEL**

5 SOLANO and COUNTY each represents it has, or will secure at its own expense, all personnel
6 required in performing the services under this Agreement. All of the services required hereunder will be
7 performed by the assigned party or under its supervision, and all personnel engaged in the work shall be
8 qualified to perform such services.

9 **27. NOTIFICATION TO MENTAL HEALTH STAFF**

10 COUNTY shall notify SOLANO of all unusual or actual incidents (i.e., suspected abuse, injuries,
11 and deaths) affecting SOLANO clients within twenty-four hour (24) of occurrence and provide SOLANO
12 with a copy of all investigation reports concerning incidents and the disposition of, or corrective action
13 taken to resolve the complaint. SOLANO shall provide client case history as appropriate for disposition.

14 **28. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES**

15 SOLANO and COUNTY shall comply with all applicable federal, state, and local anti-
16 discrimination laws, regulations, and ordinances and shall not unlawfully discriminate, deny family care
17 leave, harass, or allow harassment against any employee, applicant for employment, employee or agent
18 of SOLANO or COUNTY, or recipient of services contemplated to be provided or provided under this
19 Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national
20 origin, ethnic group identification, gender, sexual orientation, age (over 40), medical condition (including
21 HIV and AIDS), or physical or mental disability. Each party shall ensure that the evaluation and treatment
22 of its employees and applicants for employment, and recipients of services are free from such
23 discrimination and harassment.

24 Each party represents that it is in compliance with and agrees that it will continue to comply with
25 the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and
26 Housing Act (Government Code § 12900 et seq.), and ensure a workplace free of sexual harassment
27 pursuant to Government Code section 12950; and regulations and guidelines issued pursuant to them..

28 Each party agrees to compile data, maintain records and submit reports to permit effective
enforcement of all applicable antidiscrimination laws and this provision.

1 COUNTY shall include this nondiscrimination provision in all subcontracts related to this
2 Agreement and when applicable give notice of these obligations to labor organizations with which it has
3 Agreements.

4 Notwithstanding other provisions of the section, COUNTY and SOLANO shall require a
5 determination of medical necessity pursuant to Title 9, CCR, Section 1820.205, Section 1830.205, or
6 Section 1830.210, prior to providing covered services to a beneficiary.

7 **29. CAPTIONS**

8 The captions of each paragraph in this Agreement are inserted as a matter of convenience and
9 reference only, and in no way define, limit, or describe the scope or intent of this Agreement or in any way
10 affect it.

11 **30. SEVERABILITY**

12 If a court of competent jurisdiction holds any provision of this Agreement to be illegal,
13 unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the
14 remaining provisions, or portion of them, will not be affected.

15 **31. LICENSE AND PERMITS**

16 SOLANO and COUNTY shall possess and maintain all necessary licenses, permits, certificates
17 and credentials required by the laws of the United States, the State of California, County of El Dorado and
18 all other appropriate governmental agencies. Failure to maintain the licenses, permits, certificates, and
19 credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of
20 this Agreement by COUNTY.

21 **32. LICENSES**

22 SOLANO and COUNTY physicians shall have in effect and shall maintain appropriate licensure
23 during the term of this Agreement. All inpatient sub-contractors will maintain necessary licensing and
24 certification per W & I Code section 5778 (n).

25
26 **33. RECORDS**

27 Both parties agree to extend to the COUNTY's Director of Mental Health Department, and
28 SOLANO County Behavioral Health Director, or designees, and the State Department of Health Care

1 Services, or their designees, the right to review records, in regard to SOLANO consumers placed in
2 COUNTY's facilities, in order to ensure compliance with the terms and conditions of this Agreement.

3 Both parties shall maintain statistical records in the manner provided by the State Health and
4 Welfare Agency and shall make such records available to either party as required by the COUNTY's
5 Director, SOLANO County Behavioral Health Director, the State Department of Health Care Services, and
6 the California State Health and Welfare Agency.

7 Both parties shall grant to each other, the State of California, Auditor General, (if applicable) the
8 Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized
9 representatives access to any books, documents, papers and records of SOLANO and COUNTY which
10 are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts,
11 transactions, program compliance and evaluation of consumer complaints. SOLANO and COUNTY must
12 retain all such required records for five (5) years after SOLANO makes final payment and all other
13 pending matters are closed.

14 Clinical records of each consumer shall be the property of COUNTY's Mental Health Division and
15 shall be maintained for seven (7) years or until audit findings are resolved, whichever occurs later.

16 Review as provided by this section and by these parties or agencies shall otherwise conform to
17 all appropriate confidentiality statutes.

18 **34. REPORTS AND INFORMATION**

19 To the extent permitted by law, COUNTY shall furnish SOLANO reports as SOLANO may request
20 pertaining to the work or services undertaken pursuant to this Agreement. The costs and obligations
21 incurred or to be incurred in connection with them shall be borne by SOLANO.

22 **35. BREACH OF CONTRACT**

23 Upon breach of this Agreement by SOLANO the COUNTY shall have all remedies available both
24 in equity and/or law necessary to recover and satisfy SOLANO obligations.

25

26

27 **36. CONFLICT OF INTEREST**

28 Each party covenants that it presently has no interest and shall not acquire any interest, direct or
indirect, which would conflict in any manner or degree with the performance of this Agreement. Each

1 party shall make all reasonable efforts to ensure that no conflict of interest exists between its officers,
2 employees, or subcontractors, and the other party. Each party shall make all reasonable efforts to ensure
3 that no officer or employee, whose position in their county enables them to influence this Agreement,
4 shall have any direct or indirect financial interest resulting from this Agreement or shall have any
5 relationship to the other county or to an officer or employee of the other county, nor that any such person
6 will be employed by other than their original county of employment in the performance of this Agreement
7 without immediate divulgence of such fact to parties.

8 **37. DUPLICATE COUNTERPARTS**

9 This Agreement may be executed in duplicate counterparts, each of which shall be deemed a duplicate
10 original. The Agreement shall be deemed executed when it has been signed by both parties.

11
12 COUNTY CONTRACT ADMINISTRATOR CONCURRENCE:

13
14 By Patricia Charles - Heather Date: 10/11/13

15
16 COUNTY DEPARTMENT HEAD CONCURRENCE:

17
18 Don Ashton Date: 10/14/13

19 Don Ashton, M.P.A. Interim Director
Health and Human Services Agency

20 COUNTY OF EL DORADO

21 A Political Subdivision of the
22 State of California

23
24 By _____
Ron Briggs, Chair, Board of Supervisors

25
26 Date _____

27 Attest: James S. Mitrisin
28 Clerk of the Board of Supervisors

COUNTY OF SOLANO

A Political Subdivision of the
State of California

By _____

Date _____

APPROVED AS TO LEGAL FORM:
SOLANO COUNTY COUNSEL

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By _____
Deputy

By _____
Dennis Bunting

Date _____

Date _____

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HIPAA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability Accountability Act (hereafter referred to as "HIPAA") Business Associate Addendum supplements and is made a part of the parties underlying Agreement (Contract No.) by and between Merced County and the other contracting party (referred to hereafter as "Business Associate").

Business Associate shall comply with, and assist the County in complying with, the privacy and security requirements of HIPAA, codified at Title 42 USC 1320d et. seq., and its implementing regulations, including but not limited to Title 45 CFR, Parts 160 and 164, as amended from time to time, hereinafter collectively referred to as the "Privacy Rule" or "Security Rule" as appropriate. Terms used but not otherwise defined in this Addendum shall have the same meaning as those terms that are used in the Privacy Rule and Security Rule.

1. Use and Disclosure of Protected Health Information:
 - a. Except as otherwise provided in this Addendum, Business Associate may use or disclose HIPAA protected health information (hereafter referred to as "PHI") or electronic protected health information (hereinafter referred to as "EPI") to perform functions, activities or services for or on behalf of the County, as specified in this Addendum, provided that such use or disclosure would not violate the Privacy Rule or Security Rule if done by the County or the minimum necessary policies and procedures of the County component.
 - b. Except as otherwise limited in this Addendum, Business Associate may use and disclose PHI/EPI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that such disclosures are required by law or Business Associate obtains reasonable assurances from the person or entity to whom the information is disclosed that such PHI/EPI will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person or entity, and that such person or entity notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - c. Except as otherwise limited by this Addendum, Business Associate may access PHI/EPI to provide data aggregation services related to the health care operation of the County without disclosure of confidential information of individuals.
2. Safeguard of PHI/EPI:
 - a. Business Associate shall use reasonable and appropriate safeguards to prevent the use or disclosure of PHI/EPI not provided for by this Addendum, the Privacy Rule, or the Security Rule.
 - b. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPI that it creates, receives, maintains, or transmits on behalf of the County health care component as required by the HIPAA Security Rule.

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3. Unauthorized Use or Disclosure of PHI/EPHI:

Business Associate shall report to the County health care component any use or disclosure of PHI/EPHI not provided for by this Addendum, the Privacy Rule or the Security Rule.
4. Mitigation of Disallowed Uses and Disclosures:

Business Associate shall mitigate, to the extent practicable, any harmful effects that are known to the Business Associate of a use or disclosure of PHI/EPHI by the Business Associate in violation of the requirements of this Addendum, the Privacy Rule or the Security Rule.
5. Agents and Subcontractors of the Business Associate:

Business Associate shall ensure that any agent, including but not limited to a subcontractor, to which the Business Associate provides PHI/EPHI either created or received by the Business Associate from or on behalf of the County health care component, shall comply with the same restrictions and conditions of this Addendum, the Privacy Rule, and the Security Rule.
6. Access to PHI/EPHI:

Business Associate shall provide access to any PHI/EPHI maintained by the Business Associate on behalf of the County health care component at the request of, and in a time and manner reasonably designated by the County health care component. The Business Associate shall also provide access to PHI/EPHI in accordance with the terms of the contractual Agreement hereunder in order for the County component to meet the requirements of the Privacy Rule and 45 CFR 164.524.
7. Amendment(s) to PHI and Addendum:
 - a. Business Associate shall make any amendment(s) to PHI/EPHI that the County health care component directs or at the request of the County, and in a time and manner designated by the County component in accordance with the Privacy Rule and 45 CFR 164.526.
 - b. Notwithstanding any provision to the contrary in the parties Agreement or this Addendum, the County health care component may amend this Addendum by providing ten (10) day prior written notice to Business Associate in order to maintain compliance with the Privacy Rule. Such amendment(s) shall be binding on the Business Associate at the end of the ten (10) day period and shall not require the further consent of the Business Associate. Business Associate may elect to discontinue the parties Agreement within the ten (10) day period, but the Business Associate's duties hereunder to maintain the security and privacy of PHI shall survive such discontinuance or termination. County component and Business Associate may otherwise amend this Addendum by mutual written consent.
8. Documentation of Uses and Disclosures:

Business Associate shall document all disclosures of PHI/EPHI and information related to such disclosures in a manner as would be required for the County health care component to respond to a request by an individual for an accounting of disclosures of PHI/EPHI in accordance with the Privacy Rule and 45 CFR 164.528.

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9. Accounting of Disclosures:

Business Associate shall provide to the County health care component, in the time and manner reasonably designated by the County component, information collected in accordance with 45 CFR 164.528 and the Privacy Rule, to permit the County to respond to a request by an individual for an accounting of disclosures of PHI/EPHI pursuant to the Privacy Rule and 45 CFR 164.528.

10. Records Available to the County and the Secretary of HHS:

Business Associate shall make its internal practices and records related to the use, disclosure, and privacy protection of PHI/EPHI received from the County health care component, or created or received by the Business Associate on behalf of the County component, available to the County or to the Secretary of the Health and Human Services ("HHS") for purposes of the Secretary of HHS in determining the County's compliance with the Privacy Rule and Security Rule in the time and manner reasonably designated by the County or the Secretary of HHS.

11. Federal Health Care Exclusion:

Business Associate shall provide to the County health care component written certification that no employee, subcontractor or agent of the Business Associate is on the list of Federal Health Care Excluded Individuals/Entities.

12. Transfer or Destruction of Information on Contract Termination:

Prior to or at the time of termination, for any reason, of the parties contractual Agreement with this Addendum, Business Associate with agreement of COUNTY shall elect to comply with one of the following procedures.

a. Business Associate shall transfer or return to the County health care component all PHI/EPHI records and information that were either received from the County component or were created or received by the Business Associate on behalf of the County component. No copies of PHI/EPHI arising from this agreement may be kept. This provision applies to relative PHI/EPHI in the possession of employees, subcontractors or agents of the Business Associate. The PHI/EPHI and any related information created or received from or on behalf of the County component are and shall remain the property of the County. Business Associate agrees that it acquires no title in or rights to the information, including any de-identified information.

b. Business Associate shall destroy all PHI/EPHI received from the County health care component, or created or received by the Business Associate on behalf of the County component. This provision shall apply to PHI/EPHI in possession of subcontractors or agents of the Business Associate. Business Associate, its employees, agents or subcontractors shall retain no copies of PHI/EPHI records or information.

c. In the event that the Business Associate determines that neither transferring nor destroying such PHI/EPHI records or information is legally feasible, Business Associate shall provide the County health care component notification of the conditions that make transfer or destruction infeasible. Upon mutual agreement of the parties that transfer or destruction of the PHI/EPHI is not feasible, Business Associate shall extend the protections of this Addendum to such PHI/EPHI and limit as required by the Privacy Rule or Security Rule any further use or disclosures of such PHI/EPHI for so long as Business Associate, its successors, employees, agents or subcontractors, maintains such PHI/EPHI. Business Associate's obligation to maintain the security and privacy of such PHI/EPHI shall survive the termination of the parties Agreement and this Addendum.

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13. Material Breach and Termination:

Notwithstanding any other provision in the parties contractual Agreement hereunder, and this Addendum, if the County health care component becomes aware of a pattern of activity(s) that violates this Addendum, the Privacy Rule or the Security Rule by the Business Associate, its employees, agents or subcontractors, and reasonable steps to cure the violation(s) within thirty (30) days from the mailing of the written notice by the County to cure the violation(s) is unsuccessful, then the County will terminate the parties Agreement and this Addendum, or if not feasible; report the violation(s) to the Secretary of the Health and Human Services. COUNTY at any time may exercise all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of PHI/EPHI by the Business Associate, by any Business Associate employees, agents or subcontractors, or by any third party who has received PHI/EPHI from the Business Associate.

14. Indemnification and Hold Harmless:

Business Associate shall defend, indemnify and hold harmless the County and its respective employees and agents from and against any and all losses, costs, claims, damages, penalties, fines, liabilities, legal actions, judgments and expenses of every kind, including but not limited to reasonable attorney's fees, asserted or imposed against the County, or its employees or agents, arising out of the acts or omissions of Business Associate or any of its employees, agents or subcontractors related to the performance or non performance of this Addendum and compliance with the Privacy Rule and Security Rule.

15. Interpretation:

Any ambiguity in this Addendum shall be resolved to permit the County to comply with the Privacy Rule and Security Rule. There shall be no legal construction of this Addendum, its provisions or language against its drafter. If any provision of this Addendum is deemed by the court of proper jurisdiction to be illegal or unenforceable by law, all other remaining provisions and the parties intent under this Addendum are to be given full legal effect so as to further the protections of the private medical information under the Privacy Rule and Security Rule.

16. HITECH Act requirements in Chapter 156 of Title 42 of the United States Code apply to all Business Associate agreements and all Personal Health Information transfers, handling, storage and protection. Specific requirements for notification and for publication concerning improperly released information are in effect as of February 17, 2010. A business associate receiving any personal health information now has specific responsibilities for correct handling and for notice of any breach of security concerning personal health information.

Business Associate is responsible for compliance with the provisions of the HITECH Act which is presently Chapter 156 of Title 42 of the United States Code. Chapter 156 includes sections 17921 through 17953. Business Associate is now subject to the confidentiality requirements imposed upon covered entities and shall be responsible for the safe and secure handling of Personal Health Information (PHI) and specifically for secure protection of electronic and recorded records of PHI. Notice by the Business Associate to individuals whose records may have been compromised by a breach of security is required. Notice shall be by first class mail where possible, appropriate posting of information concerning the breach when contact cannot be made and, when involving 500 or more individuals, direct reporting to the Department of Health and Human Services.