

# ORIGINAL

## AGREEMENT FOR SERVICES #3827 Health Disparities Program – Latino Outreach

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**THIS AGREEMENT** is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as “County”) and New Morning Youth and Family Services, 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;

### RECITALS

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to provide a Health Disparities Program under the Prevention and Early Intervention (PEI) component of the Mental Health Services Act (MHSA) Plan; and

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

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, State (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 El Dorado County Charter, Section 210(b)(6) and/or Government Code section 31000;

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

## ARTICLE I.

### Scope of Services:

El Dorado County's MHSA Plan addresses specific goals for priority populations. The services provided under MHSA are consumer and family driven, recovery-oriented, accessible, culturally competent, and they offer integrated services experiences for consumers and their families.

PEI services are designed to be of short-term duration, usually six-months or less, and are intended to prevent serious mental illness/emotional disturbance by promoting mental health, reducing mental health risk factors, and by intervening to address mental health problems in the early stages of the illness. Some individuals may require services for a longer defined period of time. PEI services include components of outreach, access and linkage to services, and stigma and discrimination reduction. Individuals in need of indefinite mental health services or direct mental health services in excess of one year, adults with a severe mental illness as defined by Welfare and Institutions Code Section 5600.3(b), and children with severe emotional disturbance as defined by Welfare and Institutions Code Section 5600.3(a) must be referred by Contractor to County Health and Human Services Agency, Behavioral Health Division ("HHS/BHD") for assessment.

Latino children, adults, older adults and families will be eligible for services under this program. The Latino Outreach project is designed to engage Latinos in a program that addresses isolation, language barriers, and cultural traditions in the acknowledgement and treatment of mental illness in the Latino adult population and peer and family problems in the youth population resulting from the unmet mental health needs. The project provides services that are culturally competent and linguistically appropriate.

The short-term goals for this program are to increase mental health services utilized by the Latino community, thereby decreasing the isolation and peer and family problems that result from unmet mental needs. The long-term goals for this program include reducing the stigma and discrimination associated with mental illness, achievement of integration of prevention programs already offered in the community, and reduction in suicide, incarcerations, and school failure or dropouts. Contractor will comply with the PEI regulations, effective July 1, 2018, or as may be replaced or amended hereafter. Said regulations are available at [www.edcgov.us](http://www.edcgov.us)<sup>1</sup>, Health and Human Services, Contractor Resources, incorporated by reference as if incorporated herein.

A. MHSA General Standards: Contractor must adhere to and demonstrate compliance, as applicable, with MHSA General Standards for:

1. Community Collaboration: "Community Collaboration" means a process by which clients and/or families receiving services, other community members, agencies, organizations, and businesses work together to share information and resources in order to fulfill a shared vision and goals, in compliance with client confidentiality requirements.
2. Cultural Competence: "Cultural Competence" means the provision of services in a manner that incorporates the diverse belief systems concerning mental illness, health, healing, and wellness that exist among different racial/ethnic, cultural, and linguistic groups.

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<sup>1</sup> <https://www.edcgov.us/hhsaforcontractors>  
(DDP)

3. Client Driven Services: “Client Driven” means that the client has the primary decision-making role in identifying his/her needs, preferences and strengths and a shared decision-making role in determining the services and supports that are most effective and helpful for him/her. Client driven programs/services use clients’ input as the main factor for planning, policies, procedures, service delivery, evaluation and the definition and determination of outcomes.
4. Family Driven Services: “Family Driven” means that families of children and youth with serious emotional disturbance have a primary decision-making role in care of their own children, including the identification of needs, preferences, and strengths, and a shared decision-making role in determining the services and supports that would be most effective and helpful for their children. Family driven programs/services use the input of families as the main factor for planning, policies, procedures, service delivery, evaluation and the definition and determination of outcomes.
5. Wellness, Recovery, Resilience Focused: “Wellness, Recovery, and Resilience Focused” includes the provision of services in a manner that focuses on the consumer’s wellness, increasing resiliency, and promoting recovery utilizing hope, personal empowerment, respect, social connections, self-responsibility, and self-determination.
6. Integrated Service Experience: “Integrated Service Experience” means the client, and when appropriate, the client’s family, accesses a full range of services provided by multiple agencies, programs, and funding sources in a comprehensive and coordinated manner.

Services: Contractor agrees to furnish services in support of the HHSA/BHD Latino Outreach project funded through the Prevention Program of the Fiscal Year (FY) 2017-18 through FY 2019-20 MHSAs Three-Year Program and Expenditure Program and the subsequent MHSAs Annual Updates for FY 2018-19 and FY 2019-20.

- B. Promotora services include bilingual/bicultural Spanish-speaking outreach, engagement, screening, administration of outcome and satisfaction survey measures, service linkage, interpretation services, and peer/family support for Latino individuals and families. This strategy is intended to promote mental health and reduce the barriers to mental health services, thereby decreasing the mental health/health disparities experienced by the Latino population.
- C. Personnel, Supplies and Equipment: Contractor shall provide staff trained in the service models provided. Contractor shall furnish all supplies and equipment required to provide services. All forms, program documentation, brochures, and other program documents will be available in Spanish in a format approved by the County.

Within fifteen (15) days of the execution of the Agreement, Contractors will provide HHSA/BHD with verification that those employees performing services under this Agreement have met the above requirements, are qualified to perform the duties and functions required to fulfil the contract obligations, and have verified staff are not on the State and/or Federal exclusion list. Contractor shall keep records of all employees licenses/credentials for a minimum of five (5) years.

- D. Mental Health Services Act 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 effect at the time services are provided, as defined in the Agreement between County and California Department of Health Care Services, available at [www.edcgov.us](http://www.edcgov.us),<sup>2</sup> and the MHSA Plan available at [www.edcgov.us](http://www.edcgov.us)<sup>3</sup> Health and Human Services, Contractor Resources, “Mental Health Services Act (MHSA)”.
- E. Referrals for Services: Contractor shall make referrals for non-mental health services to meet the needs of the client. Contractor shall provide a written referral for services. Contractor shall follow-up with the client to verify services were pursued, identify any barriers to service that arrived, and help identify options to address service barriers. Contractor may make new referrals as may be needed to address further service needs or barriers to service.
- F. Service Locations: Services shall be provided by Contractor at Contractor’s primary office and/or satellite office location(s). Contractor is encouraged to provide services in local communities throughout the western slope of El Dorado County to the extent possible, at sites including but not limited to client’s home, other venues convenient for clients, community events, educational settings and/or faith-based organizations. The service delivery area is the western slope of the county, which includes the following areas of the County:
1. Northern (i.e., Georgetown Divide, Cool, and surrounding areas);
  2. Southern (i.e., Grizzly Flats, Somerset, Fairplay, and surrounding areas);
  3. Western (i.e., El Dorado Hills, Cameron Park, Rescue, Shingle Springs, and surrounding areas);
  4. Mid-county (i.e., Pollock Pines, Camino, and surrounding areas); and
  5. Placerville area (i.e., Placerville, Diamond Springs, and surrounding areas).
- G. 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 Behavioral Health, Public Health, and other community-based providers of mental health services, and education) normally held monthly, quarterly cultural competency meetings scheduled by HHSA/BHD, and periodic service collaboration meetings as requested by HHSA/BHD. These meetings are for the purposes of collaboration, service integration, quality improvement, and to review the Contractor’s activities under this Agreement. HHSA/BHD or Contractor may request additional meetings.

In addition, the Latino Outreach Western Slope services provided are to collaborate with community groups, including but not limited to:

1. County of El Dorado Community Health Center
2. Shingle Springs Tribal Health Program
3. Marshall Hospital Health Promotions Department Spanish Medical Interpretation and Translation program

<sup>2</sup> <https://www.edcgov.us/hhsaforcontractors>

<sup>3</sup> <https://www.edcgov.us/hhsaforcontractors>

(DDP)

4. Health and Human Services Agency, including Behavioral Health, Public Health, and the Women, Infants and Children (“WIC”) program
5. Community-based providers of mental health services
6. Education
7. Health care providers

H. Satisfaction Surveys and Outcome Measures:

1. Measurement 1: Customer satisfaction surveys
2. Measurement 2: Client outcome improvement measurements
3. Measurement 3: Increased engagement in traditional mental health services
4. Measurement 4: Number of Clients referred to County Behavioral Health and the type of treatment to which Clients were referred, if known
5. Measurement 5: Client self-report on the duration of untreated mental illness
6. Measurement 6: If known, average interval between referral and participation in treatment
7. Measurement 7: A description of the methods Contractor used to encourage Client access to services and follow-through on referrals

Contractor shall provide ongoing monitoring and evaluation of the program services. Contractor bears sole responsibility for obtaining the authorization for and cost of use of all survey, assessment and evaluation tools.

- I. Reporting: Contractor shall collect and provide data as required, including the information identified in the PEI regulations to the extent it is available, and in a format approved by HHSA/BHD to document the services provided and demonstrate the outcomes of the Latino Outreach project. Contractor must maintain the ability to, and utilize, transmission of data electronically and securely via high speed internet. Further, County will notify Contractor in writing of any reporting requirement or reporting component changes and County reserves the right to modify any reporting requirements or components during the term of the Agreement. Contractor will provide the requested reports within thirty (30) days of notification of any additional reporting.

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/BHD documentation of services performed with the monthly invoice.
2. Quarterly: Within thirty (30) days after the end of each quarter, Contractor shall submit to HHSA/BHD Exhibit A, marked, “MHSA PEI Demographics,” incorporated herein and made a reference a part hereof. This report documents quarterly unduplicated totals of the number of clients served, client demographics, services performed, and service locations. Outcomes for the quarter are to be reported. The quarters shall be defined as January through March, April through June, July through September, and October through December.

3. Fiscal Year Reports: Within thirty (30) days of the end of each fiscal year, defined as ending June 30 of each calendar year, during the term of this Agreement and within thirty (30) days of the termination of this Agreement, Contractor shall submit to HHS/BHD unduplicated totals of the number of clients served, client demographics, services performed, and service locations. Outcomes for the fiscal year are to be reported. This report shall include, at a minimum, the information identified in Exhibit B marked "MHSA Year-End Progress Report," incorporated herein and made by reference a part hereof.
4. Demographics: Client demographic data is necessary for outcome measurement documentation and reporting to the State, Contractor is required to report quarterly on the demographics identified in Exhibit A, marked "MHSA PEI Demographics," incorporated herein and made by reference a part herein

Reports shall be sent via secure FileZilla upload, as otherwise directed in writing by County:

**Reports not sent via secure FileZilla  
upload, shall be mailed to:**

County of El Dorado  
Health and Human Services Agency  
ATTN: MHSA Team  
768 Pleasant Valley Road, Suite 201  
Diamond Springs, CA 95619

**ARTICLE II.**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall cover the period of July 1, 2019 through June 30, 2023, unless terminated earlier pursuant to the provisions contained here in this Agreement under the Articles titled "Default, Termination and Cancellation" or "Fiscal Considerations."

**ARTICLE III.**

- A. **Compensation for Services:** Contractor shall submit monthly invoices no later than thirty (30) days following the end of a "service month" except in those instances where Contractor obtains written approval from County Health and Human Services Agency Director or Director's designee granting an extension of the time to complete billing for services or expenses. For billing purposes, a "service month" shall be defined as a calendar month during which Contractor provides services in accordance with the Article titled "Scope of Services."
- B. **Rates:** For the purposes of this Agreement, the hourly rate paid to Contractor shall be all inclusive (e.g., compensation, benefits, administrative overhead, office supplies, mileage, travel, training, communication, fees, insurance, postage, printing, duplication, and clinical support and supervision services.)

Rates shall be as follows:

<b>Category</b>	<b>Hourly Rate</b>
Promotora	\$27.25
Therapist (Therapy/Supervision)	\$90.00

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

<b>Mail invoices to:</b>	<b>Mail remittance to:</b>
Health and Human Services Agency 3057 Briw Road, Suite B Placerville, CA 95667 Attn: Fiscal Unit	New Morning Youth and Family Services, Inc. 6765 Green Valley Road Placerville, CA 95667 Attn: Accounts Receivable

Supplemental Invoices: For the purposes of this Agreement, supplemental invoices shall be defined as invoices submitted for additional services rendered during a month for which a prior invoice has already been submitted to County. Supplemental invoices should include the standard invoice format with a description of services rendered and a detailed explanation why the invoice was not submitted in the approved timeframe.

1. For the period **July 1<sup>st</sup> through April 30<sup>th</sup>** of this Agreement: Supplemental invoices for additional services as defined in the Article titled, “Scope of Services” received after the second Monday in May, shall be neither accepted nor paid by the County.
2. For the period **May 1<sup>st</sup> through June 30<sup>th</sup>** of this Agreement: Any supplemental invoices for additional services as defined in the Article titled “Scope of Services” received after the second Monday in July, shall be neither accepted nor paid by the County.

- D. Compensation for services provided under this Agreement is as follows:

<b>Term</b>	<b>Not-to-Exceed</b>
July 1, 2019 through June 30, 2020	\$96,000
July 1, 2020 through June 30, 2021	\$96,000
July 1, 2021 through June 30, 2022	\$96,000
July 1, 2022 through June 30, 2023	\$96,000
<b>Total Not-to-Exceed for the term of this Agreement</b>	<b>\$384,000</b>

During the term of this Agreement, the maximum amount expended for the Therapist (Therapy/Supervision) category may not exceed \$11,700 during each fiscal year. All remaining funds, and all unutilized Therapist (Therapy/Supervision) category funds, may be utilized for Promotora services.

In no event shall County be obligated to pay Contractor for any amount in excess of the not-to-exceed amount of this Agreement.

**ARTICLE IV.**

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

**ARTICLE V.**

**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 VI.**

**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 VII.**

**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.

**ARTICLE VIII.**

**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 IX.**

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

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

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

**ARTICLE X.**

**Audit by California State Auditor:** Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

**ARTICLE XI.**

**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 will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

## **ARTICLE XII.**

**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 B  
Placerville, CA 95667  
ATTN: Contracts Unit

or to such other location as the County directs.

with a carbon copy to

COUNTY OF EL DORADO  
Chief Administrative Office  
Procurement and Contracts Division  
2850 Fairlane Ct., Bldg. C (Upstairs)  
Placerville, CA 95667  
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

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

or to such other location as the Contractor directs.

#### **ARTICLE XIII.**

**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 XIV.**

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

#### **ARTICLE XV.**

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

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.

- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without prior written notice to County, and;
  - 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.

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

#### **ARTICLE XVI.**

**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 XVII.**

**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 XVIII.**

**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 will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation".

## **ARTICLE XIX.**

### **Nondiscrimination:**

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

## **ARTICLE XX.**

**HIPAA Compliance:** As a condition of Contractor performing services for the County of El Dorado, Contractor shall execute that Business Associate Agreement which is attached hereto as Exhibit "C", which is incorporated herein for all intents and purposes.

## **ARTICLE XXI.**

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

**ARTICLE XXII.**

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

**ARTICLE XXIII.**

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

**ARTICLE XXIV.**

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

**ARTICLE XXV.**

**Licenses:** Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

**ARTICLE XXVI.**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Jamie Samboceti, Deputy Director, HHSA Adult System of Care, or successor.

**ARTICLE XXVII.**

**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 XXVIII.**

**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 XXIX.**

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

**ARTICLE XXX.**

**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.

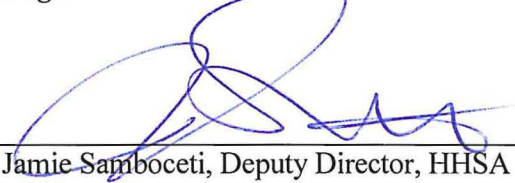
**ARTICLE XXXI.**

**Counterparts:** This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

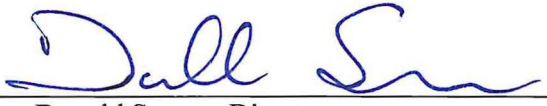
**ARTICLE XXXII.**

**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: 5/2/17  
Jamie Samboceti, Deputy Director, HHSA Adult System of Care  
Health and Human Services Agency

**Requesting Department Head Concurrence:**

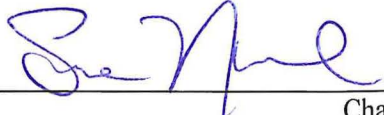
By:  Dated: 5-6-18  
Donald Semon, Director  
Health and Human Services Agency



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

-- COUNTY OF EL DORADO --

Dated: 6-4-19

By:   
Chair  
Board of Supervisors  
"County"

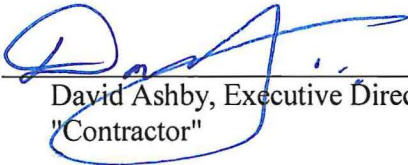
ATTEST:  
James S. Mitrisin  
Clerk of the Board of Supervisors

By:   
Deputy Clerk

Dated: 6-4-19

-- CONTRACTOR --

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

By:   
David Ashby, Executive Director  
"Contractor"

Dated: 5/1/19

**EXHIBIT A - MHSA PEI DEMOGRAPHICS**

<b>DATE</b> _____	<b>REPORTING PERIOD</b> <i>(please circle)</i>	<b>Qtr 1 (Jul-Sept)</b>	<b>Qtr 2 (Oct-Dec)</b>
		<b>Qtr 3 (Apr-Jun)</b>	<b>Qtr 4 (Jan-Mar)</b>
<b>PROGRAM NAME</b> _____	<b>Fiscal YEAR</b> _____		
<b>Total Number of Individuals Served</b> _____			

*For programs serving children or youth under 18 years of age, the demographic information required for this section shall be collected and reported only to the extent permissible by California Education Code, Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act of 1996 (HIPAA), California Information Practices Act, and other applicable state and federal privacy laws. Information that cannot be obtained directly from the minor may be obtained from the minor's parent, legal guardian, or other authorized source.*

<b>DEMOGRAPHIC DATA</b>	<b>TOTALS</b>
<b><u>GENDER - Assigned sex at birth</u></b>	
Male	
Female	
Declined to Answer	
<b><u>GENDER - Current gender identity</u></b>	
<i>*Collection of this information from a minor younger than 12 years of age is not required.</i>	
Male	
Female	
Transgender	
Genderqueer	
Questioning or unsure of gender identity	
Another gender identity	
Declined to answer	
<b><u>AGE GROUP</u></b>	
Children/Youth (ages 0-15)	
Transitional Age Youth (TAY) (ages 16-25)	
Adult (ages 26-59)	
Older Adult (ages 60+)	
Declined to answer	
<b><u>ETHNICITY - Hispanic or Latino</u></b>	
Caribbean	
Central American	
Mexican/Mexican-American/Chicano	
South American	
Puerto Rican	
Other	
Declined to answer	

EXHIBIT A - MHSA PEI DEMOGRAPHICS

DEMOGRAPHIC DATA	TOTALS
<b><u>ETHNICITY - Non-Hispanic or Non-Latino</u></b>	
African Asian Indian/South Asia Cambodian Chinese Eastern European European Filipino Japanese Korean Middle Eastern Vietnamese Other More than one ethnicity Declined to answer	
<b><u>RACE</u></b>	
American Indian or Alaska Native Asian Black or African American Native Hawaiian or other Pacific Islander White Other More than one race Declined to answer	
<b><u>SEXUAL ORIENTATION</u></b>	
<i>*Collection of this information from a minor younger than 12 years of age is not required.</i>	
Gay or Lesbian Heterosexual or Straight Bisexual Questioning or unsure of sexual orientation Queer Another sexual orientation Declined to answer	
<b><u>VETERAN STATUS</u></b>	
<i>*Collection of this information from a minor younger than 12 years of age is not required.</i>	
Yes No	
<b><u>DISABILITY</u></b>	
Difficulty seeing Difficulty hearing or having speech understood	

**EXHIBIT A - MHSA PEI DEMOGRAPHICS**

<b>DEMOGRAPHIC DATA</b>	<b>TOTALS</b>
Mental (i.e. learning disability, developmental disability, dementia) Physical/Mobility domain Chronic health condition Other Declined to answer None	
<u><b>PRIMARY THRESHOLD LANGUAGE</b></u> Arabic Armenian Cambodian Cantonese English Farsi Hmong Korean Mandarin Other Chinese Russian Spanish Tagalog Vietnamese Declined to answer	
<u><b>CITY/TOWN OF RESIDENCE</b></u> <u>North County</u> Coloma Cool Garden Valley Georgetown Greenwood Lotus Kelsey Pilot Hill Other  <u>Mid County</u> Camino Cedar Grove Echo Lake Kyburz Pacific House Pollock Pines	

EXHIBIT A - MHSA PEI DEMOGRAPHICS

DEMOGRAPHIC DATA	TOTALS
<b><u>CITY/TOWN OF RESIDENCE (Cont'd)</u></b>	
<u>Mid County Cont'd</u>	
Riverton	
Other	
<u>South County</u>	
Fair Play	
Grizzly Flats	
Mt. Aukum	
Somerset	
Other	
<u>West County</u>	
Cameron Park	
El Dorado Hills	
Shingle Springs	
Rescue	
Other	
<u>Placerville Area</u>	
Diamond Springs	
El Dorado	
Pleasant Valley	
Placerville	
Other	
<u>Tahoe Basin</u>	
Meyers	
South Lake Tahoe	
Tahoma	
Other	
<b><u>ECONOMIC STATUS</u></b>	
Extremely low income	
Very low income	
Low income	
Moderate income	
High income	
<b><u>HEALTH INSURANCE STATUS</u></b>	
Private insurance	
Medi-Cal	
Medicare	
Uninsured	

## Exhibit B

### **MHSA Year-End Progress Report (Fiscal Year) Latino Outreach**

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

Please provide the following information for this reporting period:

- 1) Briefly report on how implementation of the Latino Outreach project is progressing (e.g., whether implementation activities are proceeding on target and as described in the County's MHSA Plan), and any major accomplishments and challenges.
- 2) Briefly report on how the Latino Outreach project has improved the overall mental health of the children, families, and communities by addressing the primary negative outcomes that are the focus of the Latino Outreach project (suicide, prolonged suffering, school failure or dropout, incarceration, unemployment, homelessness, and removal of children from their homes).
- 3) Provide a brief narrative description of progress in providing services through the Latino Outreach project to unserved and underserved populations.
- 4) Provide a brief narrative description of how the Latino Outreach 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) Provide the outcomes measures of the services provided and of customer satisfaction surveys. Outcome measures for the Latino Outreach project are:
  - Measurement 1: Customer satisfaction surveys.
  - Measurement 2: Client outcome improvement measurements.
  - Measurement 3: Increased engagement in traditional mental health services.
  - Measurement 4: Number of Clients referred to County Behavioral Health, if known.
  - Measurement 5: Client self-report on the duration of untreated mental illness.
  - Measurement 6: If known, the average interval between referral and participation in treatment
  - Measurement 7: A description of the methods Contractor used to encourage Client access to services and follow-through on referrals.
- 7) Provide total project expenditures and the type and dollar amount of leveraged resources and/or in-kind contributions.
- 8) Provide any additional relevant information.

## **Exhibit “C”**

### **HIPAA Business Associate Agreement**

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

#### **RECITALS**

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

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

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

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

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

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

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

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

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

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



3. Obligations of BA. In connection with its use of PHI disclosed by County to BA, BA agrees to:
  - A. Implement appropriate administrative, technical, and physical safeguards as are necessary to prevent use or disclosure of PHI other than as permitted by the Agreement that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI in accordance with 45 CFR 164.308, 164.310, 164.312, and 164.504(e)(2). BA shall comply with the policies and 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.