

**AGREEMENT FOR SERVICES 333-S1811
VETERAN OUTREACH**

THIS AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Only Kindness, a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 676 Canal Street, Placerville, CA 95667, and whose Agent for Service of Process is Jennifer LaForce, 23501 Skyview Terrace, Los Gatos, CA 95033, (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a Contractor to provide outreach and related services to veterans (also referred to as "clients") and their families within El Dorado County; and

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

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

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

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

ARTICLE I

Scope of Services:

The Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) services are designed to be of short-term duration, usually six-months or less, however some individuals may require services for a longer defined period of time. 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 (WIC) Section 5600.3(b), and children with severe emotional disturbance as defined by WIC Section 5600.3(a) must be referred by Contractor to County Health and Human Services Agency (HHS) for assessment.

Veterans and their families are eligible for services under this program. Contractor shall provide personnel and services necessary to provide outreach, case management, access, educational supports, and linkage to treatment programs for veterans. Access and linkage to treatment programs means to connect veterans to medically necessary care and treatment. Contractor shall work closely with primary care providers, hospitals, Public Health Nurses, community-based organizations, law enforcement, caring friends and family, and others in the community to ensure linkage and support for veterans and their families.

The short-term goals of this program are to annually provide outreach and linkage to approximately 100 veterans and their families. The long-term goals for this program include developing a single point of entry for homeless veterans to receive needed services, assisting veterans to secure permanent and affordable housing, reducing the number of homeless veterans in El Dorado County, and improving the overall mental health of veterans and their families.

Contractor will comply with the PEI regulations effective October 6, 2015 or as may be replaced or amended hereafter. The PEI regulations are outlined on the Mental Health Services Oversight and Accountability Commission website, available at <http://mhsoac.ca.gov/document/2016-03/pei-regulations>, incorporated by reference herein.

Contractor also shall comply with the following:

- A. MHSA General Standards: Contractor must adhere to and demonstrate compliance 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.
 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 the 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, and Resilience Focused: “Wellness, Recovery, and Resilience Focused” includes the provision of services in a manner that focuses on the client’s wellness, increasing resiliency, and promoting recovery utilizing hope, personal empowerment, respect, social connections, self-responsibility, and self-determination.
 6. Integrated Service Experiences: “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.
- B. PEI Program Requirements: Contractor must adhere to and demonstrate compliance with the requirements that PEI programs provide:
1. Outreach to families, employers, primary care health care providers, and others to recognize the early signs of potentially severe and disabling mental illnesses.
 2. Access and linkage to medically necessary care provided by mental health programs for children with severe mental illness, as defined in WIC Section 5600.3(a), and for adults and seniors with severe mental illness, as defined in WIC Section 5600.3(b), as early in the onset of these conditions as practicable.
 3. Reduction in stigma associated with either being diagnosed with a mental illness or seeking mental health services.
 4. Reduction in discrimination against people with mental illness.
- C. Services: Services may include, but are not limited to the following:
1. Outreach and case management services to veterans and their families, particularly those veterans who are homeless or involved in the criminal justice system. Contractor shall perform an intake interview and/or assessment for inclusion into the local Homeless Management Information System, to evaluate the immediate needs of the veteran.
 2. Provide linkage to needed resources, including behavioral health services, physical health services, housing, or any other supportive services, and follow-up to ensure linkages were successful.
 3. For veterans who exhibit symptoms including Post Traumatic Stress Disorder (PTSD), provide referrals to HHS Behavioral Health Division (BHD) or other appropriate behavioral health provider (e.g., Veterans Health Administration) based upon each client’s health insurance coverage.
 4. Provide “Service Connected Disability Benefit Application” assistance.
 5. Document processing and assistance with civilian and military identification documents, and other documents as required.
 - a. Examples of assistance with other documents may include, but not be limited to documents related to vehicle repairs and smog certificates, rental applications, Social Security Disability applications, etc.
 6. Provide ancillary supports to veterans and their families. Said ancillary supports may include, but are not limited to, assistance with housing costs, emergency shelter, transportation, telephones, educational supports, household needs fulfillment such as beds, linens, cleaning supplies/cooking utensils/pre-paid food cards, etc.
- D. Personnel, Supplies and Equipment: Contractor shall provide staff or subcontract with staff trained in the service models provided. If Contractor subcontracts work, County shall approve in writing, each subcontractor, in accordance with the Article titled, “Assignment and Delegation” and the Section titled, “Subcontracting.” County’s written approval must be received prior to subcontractor performing services under this

Agreement. Contractor shall furnish all supplies and equipment required to provide services.

Contractor will attest that those employees performing services under this Agreement have met the credential requirements, if needed, and are qualified to perform the duties and functions required to fulfill the contract obligations. Contractor further attests that they have verified that those employees performing services under this Agreement are not on any State and/or federal exclusion lists. For future hired staff, interns and volunteers performing services under this Agreement, Contractor shall provide such verification with the quarterly reports. Contractor shall keep records of all employee licenses/credentials for a minimum of five (5) years.

- E. Referrals and linkage to services: Contractor shall make referrals and linkage for non-mental health services to meet the needs of the client. To the extent possible, 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 and linkage to services 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, satellite office location(s) and/or other field-based locations throughout El Dorado County. Contractor shall provide services countywide.
- G. Meetings: Contractor will participate in community coalition meetings (comprised of County agencies and providers, such as hospitals and health care providers; HHSA, including BHD and Public Health; and other community-based providers of mental health services and education services). Contractor also shall participate in quarterly cultural competency meetings scheduled by BHD, and periodic service collaboration meetings as requested by BHD. These meetings are for the purposes of collaboration, service integration, quality improvement, and to review the Contractor's activities under this Agreement. BHD or Contractor may request additional meetings.
- H. Satisfaction Surveys and Outcome Measures: Contractor shall report on the following outcome measures:
 - 1. Measurement 1: Unduplicated numbers of individuals served, including demographic data.
 - 2. Measurement 2: The number of referrals to treatment, the kind of treatment to which person was referred.
 - 3. Measurement 3: The number of persons who followed through on the referral and engaged in treatment, defined as the number of individuals who participated at least once in the Program to which the person was referred.
 - 4. Measurement 4: If known, the average duration of untreated mental illness for individuals who have not previously received treatment.
 - 5. Measurement 5: Average interval between the referral and engagement in treatment, defined as participating at least once in the treatment to which referred.
 - 6. Measurement 6: Completion of Quarterly and Year End Reports.
 - 7. Measurement 7: Implementation challenges, successes, lessons learned, and relevant examples.
 - 8. Measurement 8: Any other outcomes and indicators identified.

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 BHD to document the services provided and demonstrate the outcomes of the Veterans 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 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 BHD documentation of services provided with the monthly invoice.
2. Quarterly: Within thirty (30) days after the end of each quarter, Contractor shall submit to BHD quarterly unduplicated totals of the number of clients served, client demographics, services performed, and service locations. Satisfaction Surveys and Outcome Measures 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 BHD unduplicated totals of the number of clients served, client demographics, services performed, and service locations for the term of this Agreement. Satisfaction Surveys and Outcome Measures for the fiscal year are to be reported. This report shall include, at a minimum, the information identified in Exhibit A, 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, and includes at a minimum:
 - a. Client name or unique identifier
 - b. The following age groups:
 - i. 0-15 years old (children/youth)
 - ii. 16-25 years old (transition age youth)
 - iii. 26-59 years old (adult)
 - iv. ages 60+ years old (older adults)
 - v. Number of respondents who declined to answer the question
 - c. Race by the following categories:
 - i. American Indian or Alaska Native
 - ii. Asian
 - iii. Black or African American
 - iv. Native Hawaiian or other Pacific Islander
 - v. White
 - vi. Other
 - vii. More than one race

- viii. Number of respondents who declined to answer the question
- d. Ethnicity by the following categories:
 - i. Hispanic or Latino as follows:
 - 1) Caribbean
 - 2) Central American
 - 3) Mexican/Mexican American/Chicano
 - 4) Puerto Rican
 - 5) South American
 - 6) Other
 - 7) Number of respondents who declined to answer the question
 - ii. Non-Hispanic or Non-Latino as follows:
 - 1) African
 - 2) Asian Indian/South Asian
 - 3) Cambodian
 - 4) Chinese
 - 5) Eastern European
 - 6) Filipino
 - 7) Japanese
 - 8) Korean
 - 9) Middle Eastern
 - 10) Vietnamese
 - 11) Other
 - 12) Number of respondents who declined to answer the question
 - iii. More than one ethnicity
 - iv. Number of respondents who declined to answer the question
- e. Primary language used listed by threshold languages for the individual county
- f. Sexual orientation
 - i. Gay or lesbian
 - ii. Heterosexual or Straight
 - iii. Bisexual
 - iv. Questioning or unsure of sexual orientation
 - v. Queer
 - vi. Another sexual orientation
 - vii. Number of respondents who declined to answer the question
- g. Disability, as defined as a physical or mental health impairment or medical condition lasting at least six (6) months that substantially limits a major life activity, which is not the result of a severe mental illness
 - i. Yes, report the number that apply in each domain of disability(ies)
 - 1) Communication domain separately by each of the following
 - a) Difficulty seeing
 - b) Difficulty hearing, or having speech understood
 - c) Other (specify)
 - 2) Mental domain not including a mental illness (including but not limited to a learning disability, developmental disability, dementia)

- 3) Physical/mobility domain
 - 4) Chronic health condition (including, but not limited to chronic pain)
 - 5) Other (specify)
 - ii. No
 - iii. Number of respondents who declined to answer the question
- h. Veteran status
 - i. Yes
 - ii. No
 - iii. Number of respondents who declined to answer the question
- i. Gender
 - i. Assigned at birth
 - 1) Male
 - 2) Female
 - 3) Number of respondents who declined to answer the question
 - ii. Current gender identity
 - 1) Male
 - 2) Female
 - 3) Transgender
 - 4) Genderqueer
 - 5) Questioning or unsure of gender identity
 - 6) Another gender identity
 - 7) Number of respondents who declined to answer the question
- j. City of residence
- k. Economic status (extremely low income, very low income, low income, moderate income, high income);
- l. Health insurance status (e.g., Private, Medi-Cal, Medicare, uninsured).

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

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

Please Send Reports 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 all parties hereto, through June 30, 2020 unless terminated earlier pursuant to the provisions contained herein this Agreement under the Article(s) titled “Default, Termination, and Cancellation” or “Fiscal Considerations.”

ARTICLE III

Compensation for Services:

- A. Contractor shall submit monthly invoices no later than thirty (30) days following the end of a “service month” except in those instances where Contractor obtains written approval from HHSA Director or Director’s designee granting an extension of the time to complete billing for services or expenses. For billing purposes, a “service month:” shall be defined as a calendar month during which Contractor provides services in accordance with the Article titled “Scope of Services.” Each invoice shall be accompanied by supportive documentation to verify all costs identified on the monthly invoice.
- B. Reimbursable Expenses: Original receipts, invoices, or other proof of payment must be submitted with any monthly invoice that includes a claim for Reimbursable Expenses.

Travel expenses, including but not limited to travel time, meals, lodging, and mileage shall not be paid by County.

C. Annual Not-to-Exceed Compensation:

Fiscal Year	Not-to-Exceed
Fiscal Year 2017/18	\$150,000
Fiscal Year 2018/19	\$150,000
Fiscal Year 2019/20	\$150,000

Unspent funding may be carried forward from fiscal year to fiscal year, for the term of this Agreement, unless otherwise re-allocated by County in accordance with the Article titled, “Changes to Agreement.”

- D. Invoices: For all satisfactory services provided herein, County agrees to pay Contractor monthly in arrears and within forty-five (45) days following the County’s receipt and approval of itemized invoice(s) identifying services rendered. Invoices shall be sent as follows, or as otherwise directed in writing by County:

<i>Please Send Invoices to:</i>
County of El Dorado Health and Human Services Agency Attn: Finance Unit 3057 Briw Road, Suite B Placerville, CA 95667-5321

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

Article IV

Maximum Obligation: The maximum contractual obligation under this Agreement shall not exceed \$450,000.00 for all of the stated services during the term of the Agreement.

ARTICLE V

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 VI

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 VII

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 VIII

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 IX

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 X

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 XI

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 XII

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 XIII

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
360 Fair Lane
Placerville, CA 95667
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

ONLY KINDNESS
676 Canal Street
Placerville, CA 95667
ATTN: Jeanne Rene Evans, Chief Executive Officer

or to such other location as the Contractor directs.

ARTICLE IX

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 XV

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 XVI

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 XVII

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 XVIII

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 XIX

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 XX

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 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, 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

Additional Terms and Conditions -

A. All services provided pursuant to this Agreement shall be in accordance with the terms and conditions of the Agreement between the County of El Dorado and the California Department

of Health Care Services, hereinafter referred to as the Performance Agreement and the Mental Health Services Act Plan and Plan Update(s) (hereinafter referred to as the MHSA Plan), or as may be replaced or amended hereinafter. The Performance Agreement and the MHSA Plan and Plan Updates are incorporated by reference herein. Contractor agrees to be responsible to ensure all services are consistent and in accordance with said Agreement(s) in effect at the time services are provided, available at <http://www.edcgov.us/HHSAForContractors/>.

Contractor certifies that the terms and conditions of the Performance Agreement and the MHSA Plan and Plan Update(s) have been reviewed and services provided by Contractor shall be consistent and in accordance with said Agreements in effect, or as may be amended or replaced, at the time services are provided.

- B. Audits:** From time to time, the County or state may inspect the facilities, systems, books, and records of the Contractor to monitor compliance with this Agreement. The Contractor shall promptly remedy any violation of any provision of this Agreement and shall certify the same to the County or state in writing. The fact that the County or state inspects, or fails to inspect, or has the right to inspect, the Contractor's facilities, systems and procedures does not relieve the Contractor of its responsibilities to comply with this Agreement. The County or state's failure to detect or detection, but failure to notify the Contractor or require the Contractor's remediation of any unsatisfactory practice, does not constitute acceptance of such practices or a waiver of the state's enforcement rights under this Agreement.

The Contractor shall maintain and make available to auditors, at all levels, accounting and program records including supporting source documentation and cooperate with all auditors. County or State staff shall be permitted to work side-by-side with Contractor's staff to the extent and under the conditions as directed by the County Contract Administrator. In this connection, County or State staff shall be given access to all data, working papers, etc., which Contractor seeks to utilize. Further, the Contractor shall allow the County, DHCS, the Comptroller General of the United States, or other State or Federal agencies, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and subcontractors, pertaining to such services at any time during normal business hours. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Agreement including working papers, reports, financial records and books of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries. Upon request, at any time during the period of this contract, the Contractor shall furnish any such record, or copy thereof, to County or State. Authorized agencies shall maintain the confidentiality of such books and records in accordance with applicable laws and regulations.

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

C. Certifications / Assurances:

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

D. Compliance with All Federal, State and Local Laws and Regulations: Contractor shall comply with all federal, state and local laws including, but not limited to, the Americans with Disabilities Act (ADA) of 1990 (42USC12101 et. seq.) and California Government Code Sections 11135-11139.5, and all regulations, requirements, and directives pertinent to its operations. Contractor shall abide by manuals, directives and other guidance issued by the State of California. All appropriate manuals and updates shall be available for review or reference by Contractor from County's Health and Human Services Agency.

Contractor shall further comply with all applicable laws relating to wages and hours of employment and occupational safety and to fire, safety, and health and sanitation regulations. Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

Contractor further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, the County of El Dorado and all other appropriate governmental agencies and shall maintain these throughout the term of the Agreement.

E. Confidentiality and Information Security Provisions: Contractor shall comply with applicable federal, state, and local laws and regulations, including but not limited to the Code of Federal Regulations Title 45, parts 160-164, regarding the confidentiality and security of Personally Identifiable Information (PII).

Personally Identifiable Information means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

1. Permitted Uses and Disclosures of PII by Contractor.
 - a. Permitted Uses and Disclosures. Contractor shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives,

maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Contractor, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate federal or state laws or regulations.

- b. Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, Contractor shall:
 - i) Use and disclose only PII for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, provided that such use and disclosures are permitted by law; and
 - ii) Take all reasonable steps to destroy, or arrange for the destruction of a client's records within its custody or control containing personal information that is no longer to be retained by Contractor by (1) shredding, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.
- 2. Responsibilities of Contractor.
 - a) Contractor agrees to safeguards:
 - i) To prevent use or disclosure of PII other than as provided for by this Agreement. Contractor shall provide County with information concerning such safeguards as County may reasonably request from time to time; and
 - ii) Employee Training and Discipline: Contractor shall train its employees and use reasonable measures to ensure compliance with the requirements of this Agreement by employees who assist in the performance of functions or activities under this Agreement and use or disclose individually identifiable health information.
 - iii) Contractor shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
 - iv) Contractor shall implement a system to identify appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Contractor shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.
 - b) Contractor shall implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
 - i) Network based firewall or personal firewall; and
 - ii) Continuously updated anti-virus software; and
 - iii) Patch-management process including installation of all operating system/software vendor security patches.
 - c) Mitigation of Harmful Effects. Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PII by Contractor or its subcontractors.
 - d) Agents and Subcontractors of Contractor. The same restrictions and conditions that apply through this Agreement to Contractor, shall also apply to Contractor's subcontractors and agents.

- e) Notification of Electronic Breach or Improper Disclosure. During the term of this Agreement, Contractor shall notify County immediately upon discovery of any breach of PII or data, where the information or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to County Privacy Officer, within two (2) business days of discovery, at (530) 621-5852. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to County Privacy Officer, postmarked within thirty (30) working days of the discovery of the breach.

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

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

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

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

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

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

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

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

COUNTY	STATE DEPARTMENT OF HEALTH CARE SERVICES
Health and Human Services Agency 3057 Briw Road, Suite B Placerville, CA 95667	P.O. Box 997413 Sacramento, CA 94252-2050

Neither said County nor State Department of Health Care Services / State of California, nor any officer or employee thereof, or the Contractor or any of its subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document, nor does any party represent that use of the data contained herein would not infringe upon privately owned rights without obtaining permission or authorization from any party who has any rights in connection with the data.

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

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

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

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

The title to the Contractor’s proprietary data shall remain in the Contractor’s possession throughout the term of this Agreement and thereafter. As to generated data which is reserved to the County by express terms of this Agreement and as to any preexisting or proprietary data which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, the Contractor shall preserve the same in a form which may be introduced in evidence in a court of competent jurisdiction

at the Contractor's own expense for a period of not less than five (5) years after receipt by the County and state of the final report or termination of this Agreement and any and all amendments hereto, or for three (3) years after the conclusion or resolution of any and all audits or litigation relevant to this Agreement, whichever is later.

Prior to the expiration of such time and before changing the form of or destroying any such data, the Contractor shall notify the County and state of any such contemplated action; and the County or state may within thirty (30) days after said notification determine whether it desires said data to be further preserved and, if the state so elects, the expense of further preserving said data shall be paid for by the state. The Contractor agrees that the County and state shall have unrestricted reasonable access to the same during said three (3) year period and throughout the time during which said data is preserved in accordance with this Agreement, and the Contractor agrees to use best efforts to furnish competent witnesses or to identify such competent witnesses to testify in any court of law regarding said data.

Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and each party shall notify the other of any changes in that designation. As of this date, the County's Information Security/Privacy Officer is as follows:

COUNTY
Information Security/Privacy Officer County of El Dorado 330 Fair Lane Placerville, CA 95667

2. Confidentiality Requirements relating to the Health Insurance Portability and Accountability Act: The Contractor shall comply with applicable laws and regulations, including but not limited to Sections 14100.2 and 5328 et seq. of the Welfare and Institutions Code, Section 431.300 et seq. of Title 42, Code of Federal Regulations, and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to Section 1320 d et seq. of Title 42, United States Code and its implementing regulations (including but not limited to Title 45, CFR, Parts 160, 162 and 164) regarding the confidentiality and security of individually identifiable health information (IIHI).
- G. Debarment and Suspension Certification:** By signing this agreement, the Contractor agrees to comply with applicable federal suspension and debarment regulations and Contractor further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-contractor utilized under the agreement:
- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - 2) Have not within a three year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification of destruction of records, making false statements, or receiving stolen property;

- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in the above Paragraph B;
- 4) Have not within a three (3)-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default;
- 5) Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under federal regulations or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the state; and
- 6) Shall include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions.

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

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

- H. Disallowed Costs:** The Contractor shall use funds provided under this Agreement only for the purposes specified in this Agreement and in the MHSA Agreement available at <http://www.edcgov.us/HHSAForContractors/>.
- I. Drug-Free Workplace:** Contractor agrees to maintain a drug-free workplace and remain in compliance with the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. Chapter 10) and the California Drug-Free Workplace Act of 2000 (Government Code Section 8350 et seq.) and any subsequent amendments to either Act thereto. A "drug free workplace" means the site(s) for the performance of work done by Contractor at which Contractor and employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of any controlled substance. A list of controlled substances can be found in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in Regulation 21 Code of Federal Regulations (CFR) 1308.11 – 1308.15.
- J. Federal Equal Opportunity Requirements:** Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age, or status as a disabled veteran or veteran of the Vietnam era. Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age, or status as a disabled veteran of the Vietnam era. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and career development opportunities and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government Federal Rehabilitation Act of 1972 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin, physical or mental handicap, disability, age, or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental handicap, disability, age, or status as a disabled veteran of the Vietnam era.

Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Federal Government or State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR Part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.

Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' as supplemented by regulation at 41 CFR Part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1972, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of Contractor's noncompliance with the requirements herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with the procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR Part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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, must comply with the provisions contained in this Agreement.

- K. HIPAA Compliance:** By signing this Agreement, Contractor agrees to comply with Exhibit B, marked "Business Associate Agreement," attached hereto and incorporated by reference herein.
- L. Litigation:** The County, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the County or State of California or its officers or employees for which the Contractor must provide indemnification under this Agreement. The failure of the County to give such notice, information, authorization, or assistance shall not relieve the Contractor of its indemnification obligations. The Contractor shall immediately notify the County of any claim or action against it which affects, or may affect, this Agreement, the terms and conditions hereunder, or the County or State of California, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of the County and state.
- M. Mandated Reporter Requirements:** California law requires that certain persons are mandated to report suspected child abuse, suspected dependent adult abuse, and suspected domestic violence. Contractor acknowledges and agrees to comply with the following state-required mandated reporter regulations as they apply to the services being rendered by Contractor: California Penal Code Sections 11160-11163, which covers suspected domestic violence; California Penal Code, Article 2.5 (commencing with Section 11164) of Chapter 2 of Title I of Part 4, also known as the Child Abuse and Neglect Reporting Act; and Welfare and Institutions Code Section 15630, which covers suspected dependent adult abuse.

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

N. Miscellaneous Provisions:

1. **Disclaimer:** The state makes no warranty or representation that compliance by the Contractor with this Agreement, HIPAA or the HIPAA regulations shall be adequate or satisfactory for the Contractor's own purposes or that any information in the Contractor's possession or control, or transmitted or received by the Contractor is, or will be, secure from unauthorized use or disclosure. The Contractor is solely responsible for all decisions made by the Contractor regarding the safeguarding of IIIH.
2. **Assistance in Litigation or Administrative Proceedings:** The Contractor shall make itself, and use its best efforts to make any subcontractors, employees or agents assisting the Contractor in the performance of its obligation under this Agreement, available to the County or state at no cost to the County or state to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the state, its directors, officers or employees for claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy based upon actions or inactions of the Contractor and/or its subcontractor, employee, or agent, except where the Contractor or its subcontractor, employee or agent is named adverse party.
3. **No Third-Party Beneficiaries:** Nothing expressed or implied in the terms and conditions of this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the County or the state, or the Contractor and their respective successors or assignees, any rights remedies, obligations or liabilities whatsoever.
4. **Interpretation:** The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable state or local laws. The parties agree that any ambiguity in the terms and

conditions of this Agreement shall be resolved in favor of a meaning that complies and is consistent with applicable laws.

5. Regulatory References: A reference in the terms and conditions of this Agreement to a section in the HIPAA regulations means the section as in effect or as amended.
 6. Survival: The respective rights and obligations of the Contractor under herein this Agreement shall survive the termination or expiration of this Agreement.
 7. No covenant, condition, duty, obligation, or undertaking continued or made a part of this Agreement shall be waived except by written agreement of the parties hereto, and forbearance or indulgence in any other form or manner by either party in regard whatsoever will not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed or discharged by the party to which the same may apply. Until performance or satisfaction of all covenants, conditions, duties, obligations, and undertakings is complete, the other party shall have the right to invoke any remedy available under this contract, or under law, notwithstanding such forbearance or indulgence.
 8. No Waiver of Obligations: No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
 9. Signatures: This Agreement is of no force and effect until signed by both of the parties hereto. The Contractor shall not commence performance prior to the beginning of this Agreement or upon final approval.
- O. Monitoring for Compliance:** County shall monitor the Contractor's operations for compliance with the provisions of this Agreement as well as applicable Federal and State laws and regulations. When monitoring activities identify areas of non-compliance, County shall issue reports to the Contractor detailing findings, recommendations, and corrective action. Failure to comply with required corrective action could lead to civil penalties; as appropriate, pursuant to California Code Regulations., Title 9, Sections 1810.380 and 1810.385.
- P. Non-Discrimination:** Assurance of compliance with the County of El Dorado Health and Human Services Agency non-discrimination in state and federally assisted programs requirements as follows:

Contractor hereby agrees that they shall comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended, and in particular Section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code Sections 11135-11139.5, as amended; California Government Code Section 122900 et seq., and 12940 (c), (h) (1), (i), and (j); California Government Code Section 4450; Title 22, California Code of Regulations Section 98000 – 98413; California Code of Regulations Section 72850.0 et seq., and the applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and state laws, as well as their

implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84 and 91, 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are non-discriminatory, to the effect that no person shall, because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, or political belief, be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state financial assistance; and hereby give assurance that it shall immediately take any measures necessary to effectuate this Agreement.

This assurance is binding on Contractor directly or through contract, license, or other provider services, as long as it receives federal or state assistance.

County policy is intended to be consistent with the provisions of all applicable state and federal laws.

- Q. Release of Information:** Contractor shall ensure that County Health and Human Services Agency is included as a receiving party on all Release of Information forms used in the performance of services under this Agreement.
- R. Review, Inspection and Record Retention:** Contractor and subcontractor(s) agree to make all of its books and records pertaining to the goods and services furnished under the terms of the contract (or subcontract) available for inspection, examination, or copying by authorized County, state or federal agencies, or their duly authorized representatives, at all reasonable times at Contractor's place of business or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping. Upon expiration or termination of this Agreement all client records shall be kept for a minimum of seven (7) years from the date of discharge and in the case of minors, for at least one (1) year after the minor client's eighteenth (18th) birthday, but in no case less than seven (7) years from the date of discharge. Service and financial records shall be retained by Contractor, for a term of at least five (5) years from the close of the County's fiscal year in which the contract was in effect, or any longer period as may be required by federal or state law including, but not limited to any record retention laws pertaining to minors, psychiatric health facilities, psychology clinics, psychologists and/or other licensed professionals. If at the end of the applicable retention period, there is litigation or an audit or other investigation involving those books or records, Contractor shall retain the books or records until the resolution of such litigation, audit, or investigation.

The County, DHCS, the Bureau of State Audits, the Auditor General, or designees shall have access to and right to examine, monitor, copy, and audit all records, documents, supporting documentation, conditions, and activities related to the performance under this contract and programs funded by this Agreement. For purposes of this section "access to" means that the Contractor shall at all times maintain a complete set of records and documents related to programs funded by this Agreement and shall make these records available to the state or County, or their respective designee in a central location.

- S. 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 in effect at the time services are provided, as defined in the Agreement between County and California Department of Health Care Services.

- T. Standards of Conduct:** The following standards apply to Contractor and, in the event County agrees in writing to Contractor subcontracting services under this Agreement, pursuant to the Article titled "Assignment and Delegation," Contractor shall ensure the following standards are included in any subcontract hereto:
1. Every reasonable course of action shall be taken to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This Agreement shall be administered in an impartial manner, free from efforts to gain person, financial or political gain.
 2. Any executive or employee of the Contractor shall not solicit or accept money or any other consideration from a third person for the performance of an act reimbursed in whole or part by the County or the state. Supplies, materials, equipment, or services purchased with Agreement funds shall be used solely for purposes allowed under this Agreement. No member of the Contractor's Board will cast a vote on the provision of services by that member (or any organization which that member represents) or vote on any matter which would provide direct financial benefit to that member (or immediate family of the member) or any business or organization which the member directly represents.
 3. The County, by written notice to the Contractor, may terminate the right of the Contractor to proceed under this Agreement if it is found, after notice and hearing by the County or state, that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County or state with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or performing of such Agreement, provided that the existence of the fact upon which the County or state makes such findings that shall be an issue may be reviewed in any competent court.
 4. In the event this Agreement is terminated as provided in the paragraph above, the County or state shall be entitled:
 - a. To pursue the same remedies against the Contractor as it could pursue in the event of the breach of the Agreement by the Contractor, and
 - b. As a predetermined amount of liquidated damages in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount which shall be not less than three (3) times the cost incurred by the County or state in providing any such gratuities to any such officer or employee.
 5. The rights and remedies of the Contractor provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The Contractor warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement upon a contract or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of the Contractor, for the purpose of securing business. For breach or violation of this warranty, the state shall have the right to annul this Agreement without liability, paying only for the values of the work actually returned or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
 6. Contractor, and any subcontractors and/or consultants retained by the Contractor with funds provided under this Agreement must comply with the provisions of California Government Code Section 19990, et seq.

- U. Subcontracting:** In addition to the Article titled, "Assignment and Delegation," the Contractor certifies that:
1. Any work or services specified in this Agreement which will be performed by other than the Contractor shall be evidenced by a written Agreement specifying the terms and conditions of such performance.
 2. The Contractor shall maintain and adhere to an appropriate system, consistent with Federal, State and local law, for the award and monitoring of contracts that contain acceptable standards for insuring accountability.
 3. The system for awarding contracts will contain safeguards to ensure that the Contractor does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds.
 4. Subcontractors shall comply with the Confidentiality requirements set forth in the Article titled "Confidentiality Requirements" of this Agreement.
- V. Termination for Cause:** Upon the County or state's knowledge of a material breach of this Agreement by the Contractor, the County or state shall:
1. Provide an opportunity for the Contractor to cure the breach or end the violation and terminate this Agreement if the Contractor does not cure the breach or end the violation within the time specified by the County or state; or
 2. Immediately terminate this Agreement if the Contractor has breached a material term of this Agreement and cure is not possible; or
 3. If neither cure nor termination is feasible, the state Information Security Officer shall report the violation to the Secretary of the U.S. Department of Health and Human Services.
 4. **Judicial or Administrative Proceedings:** The County or state may terminate this Agreement, effective immediately, if (i) the Contractor is found liable in a civil matter or guilty in a criminal matter proceeding for a violation of the HIPAA Privacy or Security Rule or (ii) a finding or stipulation that the Contractor has violated a privacy or security standard or requirement of HIPAA, or other security or privacy laws is made in an administrative or civil proceeding in which the Contractor is a party.
 5. **Effect of Termination:** Upon termination or expiration of this Agreement for any reason, the Contractor shall return or destroy all IIHI received from the state that the Contractor still maintains in any form, and shall retain no copies of such IIHI or, if return or destruction is not feasible, it shall continue to extend the protections of this Agreement to such information, and limit further use of such IIHI to those purposes that make the return or destruction of such IIHI infeasible. This provision shall apply to IIHI that is in the possession of subcontractors or agents of the Contractor.
- W. Termination Process:** The County may terminate this Agreement in whole or in part when it has determined that the Contractor has substantially violated a specific provision of the MHSA regulations or implementing State legislation. The County shall provide a termination notice in writing to the Contractor.

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

1. Stop work on the date specified in the notice;

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

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

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


- X. **Transfer of Records:** In the event that Contractor ceases operation, all physical and electronic files that are subject to audit shall be transferred to County for proper storage of physical records and electronic data. Contractor shall notify County of impending closure as soon as such closure has been determined, and provide County with a complete list of records in its possession pertaining to County Clients and operational costs under this Agreement. County shall promptly advise Contractor which records are to be transferred to the custody of County. Contractor shall properly destroy records not transferred to custody of County, and Contractor shall provide documentation of proper destruction of all such records to County.
- Y. **Utilization Review:** Contractor shall establish and maintain systems to review the quality and appropriateness of services in accordance with Federal and State statutes and regulations, and guidelines operative during the term of this Agreement.
- Z. **Conflict Prevention and Resolution:** The terms of this Agreement shall control over any conflicting terms in any referenced document, except to the extent that the end result would constitute a violation of Federal or State law. In such circumstances, and only to the extent the conflict exists, this Agreement shall be considered the controlling document.

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: 

Jamie Samboceti
Deputy Director
Health and Human Services Agency

Dated: 1/3/18

Requesting Department Head Concurrence:

By: 

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

Dated: 1/3/18

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

-- COUNTY OF EL DORADO --

Dated: _____

By: _____

Chair
Board of Supervisors
"County"

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

By: _____
Deputy Clerk

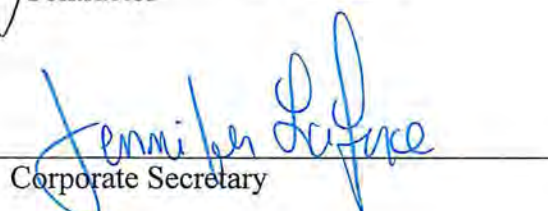
Dated: _____

-- CONTRACTOR --

ONLY KINDNESS
A CALIFORNIA CORPORATION

By: 
Jeanne Rene Evans
Chief Executive Officer
"Contractor"

Dated: 01/05/2018

By: 
Corporate Secretary

Dated: 1-5-18

slv

Exhibit A

Outreach to Veterans MHSA Year-End Progress Report (Fiscal Year)

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 Veterans 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 Veteran Outreach project has improved the overall mental health of veterans and their families, and how the Veteran Outreach project has addressed the negative outcomes that result from untreated mental illness (suicide, incarceration, unemployment, homelessness, prolonged suffering, school failure or dropout, and removal of children from home).
- 3) Provide a brief narrative description of progress in providing services through the Veterans Outreach project to unserved and underserved populations.
- 4) Provide a brief narrative description of how the Veterans 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 Veterans Outreach project are:
 - Measurement 1: Unduplicated numbers of individuals served, including demographic data.
 - Measurement 2: The number of referrals to treatment, the kind of treatment to which person was referred.
 - Measurement 3: The number of persons who followed through on the referral and engaged in treatment, defined as the number of individuals who participated at least once in the Program to which the person was referred.
 - Measurement 4: If known, the average duration of untreated mental illness for individuals who have not previously received treatment.
 - Measurement 5: Average interval between the referral and engagement in treatment, defined as participating at least once in the treatment to which referred.
 - Measurement 6: Completion of Quarterly and Year End Reports.

Exhibit A

- Measurement 7: Implementation challenges, successes, lessons learned, and relevant examples.
 - Measurement 8: Any other outcomes and indicators identified.
- 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 B

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.