

ORIGINAL

**AGREEMENT FOR SERVICES 628-S1210
Adult and Children's Inpatient Mental Health Services**

THIS AGREEMENT made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as County), and Dignity Health Medical Foundation, a California nonprofit public benefit corporation, whose principal place of business is 3400 Data Drive, Rancho Cordova, CA 95670 (hereinafter referred to as Contractor), and whose Agent for Service of Process is Ian A. Boase, 3400 Data Drive, Rancho Cordova, CA 95670.

RECITALS

WHEREAS, County has a legal obligation to provide eligible County residents (adults and children) with access to designated mental health services, including acute psychiatric care, in accordance with Welfare and Institutions Code Section 5600 et seq., Section 5775 et seq., 14000 et seq., and 17000 et seq., and pursuant to applicable laws and agreements with the State of California; and

WHEREAS, Contractor provides medical and psychiatric services through separate professional services agreements with medical groups and hospital services agreements with hospitals; and

WHEREAS, Contractor is willing to provide inpatient acute psychiatric services in accordance with this Agreement to persons for whom County has undertaken to provide designated mental health services, including Bronzan-McCorquodale (formerly Short Doyle) Uniform Method of Determining Ability to Pay (UMDAP) medically indigent individuals and Medi-Cal Specialty Mental Health Services patients (collectively "Clients"); and

WHEREAS, Contractor intends to enter into certain contracts to make available to County Clients requiring inpatient acute psychiatric services the services of general acute care hospitals, including, without limitation, Dignity Health dba Woodland Memorial Hospital, and physicians which are duly licensed by the appropriate licensing authority to respectively maintain a psychiatric unit or provide professional psychiatric services; 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 and local laws; and

WHEREAS, County has determined that the provision of these services provided by Contractor is in the public's best interest, and that these services are more economically and feasibly performed

by outside independent Contractors as well as authorized by County of El Dorado Charter, Section 210 (b) (6) and/or Government Code 31000;

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

ARTICLE I

Definitions:

- A. Acute Psychiatric Inpatient Hospital Services: Those routine hospital services and hospital-based ancillary services provided by a hospital to eligible clients for whom the facilities, services, and equipment are medically necessary for diagnosis or treatment of a mental disorder. (NOTE: Authority Title 9 California Code of Regulations (CCR) Sections 1810.201, 1810.238, 1810.350, and 1810.430(d)(5))
- B. Administrative Day Services: Those services provided to a client who has been admitted to the hospital for acute psychiatric inpatient services, when the client's stay at the hospital must be continued beyond the client's need for acute psychiatric inpatient hospital services due to a temporary lack of residential placement options at appropriate, non-acute treatment facilities that meet the needs of the client. (NOTE: Authority Title 9, CCR Sections 1810.202, 1810.238, and 1810.430(d)(5))
- C. Client: Shall mean both any person designated as a "Medi-Cal Beneficiary" and any "Short Doyle/Uninsured Client" as defined in this Agreement.
- D. County of Origin: For purposes of this Agreement, the county of origin is the county of primary residence for the client.
- E. Hospital-based Ancillary Services: Those services received by a client admitted to a hospital, other than routine hospital services, including but not limited to prescription drugs, laboratory services, x-ray, electroconvulsive therapy (ECT), and magnetic resonance imaging (MRI). (NOTE: Authority Title 9, CCR Section 1810.220)
- F. Host County: The county, other than the County of El Dorado, where services are provided to eligible County clients. For purposes of this Agreement, the Host County is Yolo County.
- G. Medi-Cal Beneficiary: Any person certified as eligible for Medi-Cal in the County of El Dorado according to Title 22 CCR, Section 50024 and Welfare and Institutions Code Section 14252, and as indicated by a number 09 County code in their Medi-Cal identification number.
- H. Mental Health Plan (MHP): The State of California authorizes counties to provide mental health services to the community via an Agreement with the State. Thereafter the County so designated is referred to as the MHP for that locality.
- I. Inpatient Psychiatric Support Services: Specialty mental health services provided to a Medi-Cal Beneficiary by a licensed psychiatrist with hospital admitting privileges while the beneficiary is in a hospital receiving psychiatric inpatient hospital services. Inpatient Psychiatric Support services do not include routine hospital services or hospital based ancillary services. (NOTE: Authority Title 9, CCR Section 1810.237.1)
- J. Psychiatric Inpatient Hospital Services: Shall mean both Acute Psychiatric Inpatient Hospital Services and Administrative Day Services provided in a hospital. (NOTE: Authority Title 9, CCR Section 1810.238)
- K. Short Doyle/Uninsured Client: Shall mean a client without Medi-Cal or other health insurance, or a Medi-Cal beneficiary between the ages of 22-64 for whom Contractor cannot receive Medi-

Cal reimbursement due to the Federal Institution for Mental Disease (IMD) exclusion, but has been referred for treatment by County as documented by a completed and signed Short Doyle / Uninsured Client Referral attached hereto as Exhibit A and incorporated by reference herein.

ARTICLE II

Scope of Services: Contractor acknowledges that this Agreement is funded in whole or in part with funds from the State of California and the Federal Government.

Contractor Responsibilities:

- A. Contractor shall ensure all subcontractors providing services under this Agreement, subcontractor facilities, and subcontractor's staff maintain such qualifications, licenses, and/or permits as required by State or Federal law to provide the services, and as required to receive payment under the State Medi-Cal regulations.
- B. Contractor shall ensure that both Contractor and any subcontractors providing services under this Agreement comply with requirements imposed by statutes, regulations and rules governing certification, coverage and reimbursement by Medi-Cal, including but not limited to the applicable provisions of the State Welfare and Institutions Code, Title 22 of the California Code of Regulations, the Federal Medicaid Act, 42 United States Code, section 1396 et seq., and any applicable regulations promulgated thereunder.
- C. Contractor shall conduct its business in an ethical manner and shall comply with their written Standards of Conduct, a copy of which shall be immediately made available upon request of County.
- D. Program Services
 1. Contractor shall engage subcontractor(s) appropriately licensed, qualified and equipped to provide the following:
 - i) Acute Psychiatric Inpatient Hospital Services and Administrative Day Services at Woodland Memorial Hospital in the County of Yolo for clients of County, in a manner consistent with the terms and provisions of this Agreement, and the requirements established in the Article titled "Compensation for Services." (NOTE: Authority Title 9, CCR Sections 1810.430 (d), 1810.238, 1810.201, 1810.202 and 1810.350)
 - ii) Inpatient Psychiatric Support Services in accordance with Contractor's license for the treatment of acute episodes of mental illness that meet the criteria for medical necessity; according to the requirements and standards as promulgated by this Agreement, to residents of the County of El Dorado who meet the criteria for mental health services pursuant to Welfare and Institutions Code Section 5600.3.
 2. Contractor shall provide notification of admission to County Utilization Review Unit within ten (10) calendar days of admission.
 3. To request payment, Contractor shall:
 - i) Medi-Cal Clients: Submit to County Utilization Review Unit a Treatment Authorization Request (TAR) or subsequent treatment authorization form, with supporting medical records, for each Medi-Cal Beneficiary within fourteen (14) days of discharge. Contractor may appeal a County disallowance as provided in Title 9, California Code of Regulations, Section 1850.315.

- ii) Short Doyle / Uninsured Clients: Submit to County, pursuant to the Article titled "Compensation for Services," an invoice with supporting medical records, and a copy of the initial Short Doyle / Uninsured Client Referral, for each Short Doyle/Uninsured Client. County shall review the request and retroactively determine the authorized length of stay for each client based on medical necessity as documented in the medical records. Contractor may appeal a Short Doyle/Uninsured Client disallowance in writing to the County. County's determination of the appeal will be final.

E. Administrative Services - Assurances

1. No provision of this contract shall be construed to replace or conflict with the duties of "County patients' rights advocate" designated in Welfare and Institutions Code Section 5500 et seq.
2. Individual psychiatrists and other mental health professionals will render professional services to eligible voluntary or involuntary clients at the same level of services as they care for other clients in Contractor's facility and will not discriminate against these clients in any manner, including hours of operation, admission practices, placement in special wings or rooms, or provision of special or separate meals. (NOTE: Authority Title 9 CCR Sections 1810.430 (d)(1) and 1810.430 (d)(2))
3. Attending psychiatrists shall be members of the medical staff of Contractor, and be subject to the rules and regulations of said staff. Attending psychiatrists who are subcontractors shall be subject to the rules and regulations of Contractor's medical staff. Duration and limitation of services will be under the control of the attending psychiatrist but will at all times meet broadly accepted community standards of quality of care and be subject to Contractor utilization review decisions.

County Responsibilities

- A. Referral of Short Doyle/Uninsured Clients: County shall document all referrals of Short Doyle/Uninsured clients by completing and submitting to Contractor a Short Doyle Referral attached hereto as Exhibit A. County will authorize payment for Short Doyle/Uninsured clients only if initially referred for admission by County. County shall review all inpatient services retrospectively for medical necessity and payment as defined in paragraph B herein.
- B. County shall provide retroactive review of client medical records submitted by Contractor to determine authorization for payment:
 1. Medi-Cal Beneficiaries: Upon receipt and review of the TAR and medical record, County Utilization Review shall approve or deny days requested. County Utilization Review shall then mail the completed TAR to the State's Fiscal Intermediary, Electronic Data Systems (EDS), or subsequent replacement Fiscal Intermediary, for payment of approved per diem rates. Utilization Review shall fax a copy of the same document to Contractor for Contractor's records.
 2. Authorized Inpatient Psychiatric Support Services will be submitted to County on a separate invoice and shall be paid from County directly to Contractor.
 3. Short Doyle / Uninsured Clients: County Utilization Review will approve or deny request for payment based on review of invoice and attached medical records as submitted by Contractor. Short Doyle / Uninsured Client invoices may reflect separate per diem rates and Inpatient Psychiatric Support Services rates, or may be incorporated into a single combined rate, based on the Contractor's Agreement with their Host County.

Evaluation of Contractor's Performance

- A. The County shall evaluate Contractor's performance under this Agreement after completion of the Agreement. County shall maintain a copy of any written evaluation in the County contract file.
- B. The County's determination as to satisfactory work shall be final absent fraud or mistake.

ARTICLE III

Term: This Agreement shall become effective April 10, 2012 through April 9, 2013 unless earlier terminated by one of the parties pursuant to the provisions under the Articles titled "Fiscal Considerations" and "Default, Termination and Cancellation" herein.

ARTICLE IV

Compensation for Services:

- A. Rates: Reimbursement for services provided to both children and adults under this Agreement shall be at the rates established between the Contractor and the Host County, incorporated by reference as if fully set forth herein. Contractor shall attach to each invoice a copy of the rates agreed to between Contractor and Host County for the period in which services were provided, in accordance with Title 9, California Code of Regulations, Section 1751.

1. The appropriate per-diem rate shall be billed for each client who meets admission and/or continued stay criteria, documentation requirements, treatment and discharge planning requirements and occupies a psychiatric inpatient hospital bed at 12:00 midnight in the facilities of Contractor. However, a day of service may be billed if the client is admitted and discharged during the same day provided that such admission and discharge is not within twenty-four (24) hours of a prior discharge.
2. Psychiatric Inpatient Hospital Services Medi-Cal Rate:
The per diem rate is considered payment in full, subject to third party liability and patient share of costs, for psychiatric inpatient hospital services to a beneficiary. (NOTE: Authority Title 9, CCR 1810.430 (d) (4)).

The per diem rate shall not be structured so as to provide incentives for Contractor to deny, limit, or discontinue medically necessary services to any beneficiary. (NOTE: Authority Title 9, CCR 1810.430 (e))

3. Psychiatric Inpatient Hospital Services Short Doyle/Uninsured Rate:
County will authorize payment for clients not eligible for Medi-Cal reimbursement or other third party payer at this facility only if the County initially refers client for admission. The rate shall be billed at the same rate negotiated with the Host County. The rates identified as the Hospital Inpatient Short Doyle/Uninsured Rates, as negotiated between the Contractor and the host County, are inclusive of all inpatient hospital services including hospital based ancillary services and routine hospital services.

4. Administrative Day Services: The rates established by the California Department of Mental Health as specified in Title 22 CCR, Section 51542(a)(3) for Fee-For-Service/Medi-Cal hospitals. All rates shall be as evidenced in a duly issued California Department of Health Care Services Information Notice and shall be effective upon the date specified in said Notice. Administrative Day Services rates reflect those services provided as described in Article titled "Definitions."
 - a) Administrative Day Medi-Cal Rate: The rate shall be no greater than the daily rate negotiated between the Contractor and the host County, and is inclusive of all inpatient hospital services including hospital based ancillary services and routine hospital services. Psychiatrist services rendered to clients under this Agreement are not included in the hospital administrative day rate, rather, are billed separately as the Inpatient Psychiatric Support Services.
 - b) Administrative Day Short Doyle/Uninsured Rate: Hospital Administrative Day Short Doyle/Uninsured Rate: The rates are intended to cover all inpatient hospital services including hospital based ancillary services and may include the Psychiatric Inpatient Professional Services Rates, only if services of a psychiatrist are provided.
5. Inpatient Psychiatric Support Services Rate: The rate shall be no greater than the daily rate negotiated between the Contractor and the Host County. These services shall be billed to County separately from the Acute Psychiatric Inpatient Hospital and Administrative Day Services rate(s) as specified in Welfare and Institutions Code Section 5781. It is the responsibility of Contractor to pay psychiatrists rendering services under this Agreement. Reimbursement by County to Contractor may then occur pursuant to the terms specified in Article titled "Compensation for Services," of this Agreement.

B. Other Fiscal Provisions

County anticipates revenues from various sources to be used to fund services provided by Contractor through this Agreement. Should actual revenues be less than the amounts anticipated for any period of this Agreement, the maximum payment obligation and/or payment obligations for specific services may be reduced at the discretion of the County's Director of Health and Human Services Agency or Director's designee.

County Short Doyle/Uninsured clients who may present at Contractor's facility without being referred by County in accordance with "County Responsibilities" paragraph A, and other applicable terms of this Agreement are expressly excluded from reimbursement by County. County may provide retroactive authorization when special circumstances exist, as determined by the County's Director of the Health and Human Services Agency or Director's designee, based on Contractor's written request.

County will perform eligibility and financial determinations, in accordance with guidance issued by State Department of Mental Health now known as the Department of Health Care Services Uniform Method of Determining Ability to Pay, for all clients. (NOTE: Authority Welfare and Institutions Code Sections 5709 and 5710 and Title 9 CCR Section 524.)

C. Client Billing - Contractor shall not submit a claim to, demand or otherwise collect reimbursement from the client or persons acting on behalf of the client for any specialty mental health or related administrative services provided under this contract except to collect other health insurance coverage, share of cost and co-payments. The Contractor shall not hold clients liable for debts as follows:

- In the event that the County becomes insolvent;
- For costs of covered services for which the State does not pay the County;
- For costs of covered services for which the State or the County does not pay the Contractor;
- For costs of covered services provided under this or other contracts not authorized by County;
- For costs of covered services provided via referral or other arrangement not authorized by County; or
- For payment of subsequent screening and treatment needed to diagnose the specific condition of or stabilize a client with an emergency psychiatric condition.

Contractor shall submit invoices directly to County for any Inpatient Psychiatric Support Services provided to Medi-Cal beneficiaries, which may include services rendered on the date of discharge.

Contractor shall bill any third party payer financially responsible for a client's health care services, and in such cases, County shall not bear any financial responsibility. To the extent that County inadvertently makes payments to Contractor when a responsible third party payer is determined to exist, County shall be entitled to recoup such reimbursement.

It is expressly understood and agreed between the parties hereto that County shall not authorize payment to Contractor unless Contractor adheres to the terms and conditions of this Agreement. It is further agreed that County shall not authorize payment for services unless Contractor has provided County with evidence of current insurance coverage as outlined in the Article titled "Insurance" of this Agreement. County may provide retroactive authorization when special circumstances exist, as determined by the County's Director of the Health and Human Services Agency, or Director's designee.

County May Withhold Payment - Contractor shall provide all pertinent documentation required for Federal Medi-Cal reimbursement (including initial and quarterly notices, assessment and service plans, and progress notes). The County may withhold payment for any and all services for which the required documentation is not provided, or if the documentation provided does not meet professional standards as determined by the County Utilization Review Coordinator, or if County deems services are not satisfactory.

Contractor shall submit monthly invoices no later than sixty (60) days following the end of a "service month" except in those instances where Contractor obtains written approval from County's Director of the Health and Human Services Agency 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." Invoices shall be

submitted along with supporting medical records documentation as noted below, for review and authorization.

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

Mail invoices to:	Mail remittance to:
Health & Human Services Agency – Mental Health Utilization Review Unit 670 Placerville Drive Placerville, CA 95667	Woodland Memorial Hospital c/o Dignity Health Medical Foundation P.O. Box 742952 Los Angeles, CA 90074-2952

Contractor will provide an invoice to County for the amount of payment due within sixty (60) days of the date the services are supplied, as long as that date is at least sixty (60) days from the date the County has received distribution of mental health funds from the State. County will pay Contractor for services provided under this Agreement upon receipt of an undisputed invoice. In accordance with WIC Section 5657, County will pay a penalty of 0.10 percent of the amount due per day from the 61st day after the required payment date, for valid undisputed invoices that are not paid within sixty (60) days of the required payment date. Valid undisputed invoices will become delinquent if they remain unpaid ninety (90) days after the date services are supplied.

- E. Not to Exceed: Compensation for services provided shall not exceed \$61,300 over the term of this Agreement.

ARTICLE V

Special Terms and Conditions: By signing this Agreement, Contractor and any of Contractor's subcontractors providing services under this Agreement (pursuant to the Article titled "Assignment and Delegation") shall comply with these terms and conditions.

ARTICLE VI

Audit and Inspection Rights: Contractor agrees that County, California Department of Health Care Services, or Department of Mental Health (DHCS-DMH), the State Department of General Services, the Bureau of State Audits, the Auditor General, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of five (5) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the County and State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

County or State staff shall be permitted to work side-by-side with Contractor's staff to the extent and under 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.

Contractor shall allow County, DHCS-DMH, California Health and Human Services Agency (HSS), the Comptroller General of the United States, and 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.

Contractor agrees to include in any subcontractor's agreement the requirement to make all of its books and records, pertaining to the goods and services furnished under the terms of the subcontract, available for inspection, examination or copying by the County, State, the Comptroller General of the United States, and other authorized Federal and State agencies, or their duly authorized representatives, at all reasonable times at the subcontractor's place of business or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least five (5) years from the close of County's fiscal year in which the subcontract was in effect.

From time to time, the County or the State may inspect the facilities, systems, books, and records of Contractor to monitor compliance with the Agreement.

Contractor shall promptly remedy any violation of any provision of the Agreement and shall certify the same to the County Contract Administrator and the (State of California) Information Security Officer in writing.

The fact that the County or State inspects, or fails to inspect, or has the right to inspect Contractor's facilities, systems, and procedures does not relieve Contractor of its responsibility to comply with the Agreement.

The County or State's failure to detect, or the detection of any unsatisfactory practices, but failure to notify Contractor or require Contractor's remediation of the unsatisfactory practices does not constitute acceptance of such practice or a waiver of the County or State's enforcement rights under the Agreement.

ARTICLE VII

Captions: The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the clauses to which they pertain.

ARTICLE VIII

Claims Certification and Program Integrity: Contractor shall comply with the following requirements in the provision of mental health services:

- A. Contractor shall comply with all Federal and State statutory and regulatory requirements for certification of claims including Title 42 Code of Federal Regulations(CFR) Part 439, Sections 438.604, 438.606, and as effective August 13, 2003, Section 438.608 as published in the June 14, 2002 Federal Register (Vol. 67, No. 115, Page 41112, which are hereby incorporated by reference.
- B. Contractor certifies to the County, in writing under penalty of perjury, that the following actions were taken for each claim submitted for reimbursement for each Medi-Cal beneficiary:
 1. An assessment of the beneficiary was conducted in compliance with the requirements established in this Agreement.
 2. A determination was made that the beneficiary was eligible to receive services at the time the services were provided.
 3. The services included in the claim were actually provided to the beneficiary.
 4. Medical necessity was established for the beneficiary as defined under Title 9 CCR Division 1, Chapter II, for the service or services provided, for the timeframe in which the services were provided.
 5. Services are offered and provided without discrimination based on race, religion, color, national or ethnic origin, sex, age or physical or mental disability.

ARTICLE IX

Client Rights: Pursuant to Title 9 CCR Section 1810.430(f), as required by Title 42 CFR Section 438.100, Contractor will comply with County policies and procedures relating to client's rights and responsibilities, including the right to:

- A. Be treated with respect and with due consideration for his or her dignity and privacy;
- B. Receive information on available treatment options and alternatives, presented in a manner appropriate to his or her condition and ability to understand;
- C. Participate in decisions regarding his or her health care, including the right to refuse treatment;
- D. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation;
- E. Request and receive a copy of his or her medical records, and request that they be amended or corrected;
- F. Receive information in accordance with Title 42, CFR, Section 438.10, which describes information requirements; and
- G. Be furnished health care services in accordance with Title 42, CFR, Sections 438.206 through 438.210, which cover requirements for availability of services, assurances of

adequate capacity and services, coordination and continuity of care, and coverage and authorization of services.

ARTICLE X

Drug Free Workplace Certification: Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and shall provide a drug-free workplace.

ARTICLE XI

License and Certifications

- A. Inpatient Contracts and Subcontracts: If this Agreement is for inpatient services, the Contractor acknowledges that Contractor must maintain necessary licensing and certification, and must include in all subcontracts for inpatient services that subcontractors maintain necessary licensing and certification.
- B. Permits and Licenses: The Contractor shall procure and keep in full force and effect during the term of this Agreement all permits, registrations and licenses necessary to accomplish the work specified in this Agreement, and give all notices necessary and incident to the lawful execution of the work.

Contractor shall keep informed of, observe, comply with, and cause all of its agents, subcontractors and employees to observe and to comply with all prevailing Federal, State, and local laws, and rules and regulations made pursuant to said Federal, State, and local laws, which in any way affect the conduct of the work of this Agreement. If any conflict arises between provisions of the plans and specifications and any such law above referred to, then the Contractor shall immediately notify the County in writing.

Contractor shall submit a copy of any licensing report issued by a licensing agency to County within ten (10) business days of Contractor's receipt of any such licensing report.

ARTICLE XII

Mandated Reporter Requirements: Contractor acknowledges and agrees to comply with mandated requirements pursuant to the provisions of Article 2.5, commencing with Section 11164, Chapter 2, Title I, Part 4 of the California Penal Code, also known as The Child Abuse and Neglect Reporting Act, and the Elder Abuse and Dependent Civil Protection Act, pursuant to Welfare and Institutions Code commencing with Section 4900.

ARTICLE XIII

Non-Discrimination Provisions: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including human immunodeficiency virus [HIV] and acquired immune deficiency syndrome [AIDS]), mental disability, medical condition (cancer),

age (over 40), marital status, and denial of family care leave. Contractor and any subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code [GC] Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations [CCR] Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing GC Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code (CCR), are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Consistent with the requirements of applicable Federal or State law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual preference, or mental or physical handicap.

Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

Notwithstanding other provisions of this section, the Contractor may require a determination of medical necessity pursuant to Title 9, CCR, Section 1820.205, Section 1830.205 or Section 1830.210, prior to providing covered services to a beneficiary.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

ARTICLE XIV

Public Hearings: If public hearings on the subject matter dealt with in this Agreement are held within one (1) year from the Agreement expiration date, Contractor shall make available to testify the personnel assigned to this Agreement at the hourly rates specified in the Contractor's proposed budget. County shall reimburse Contractor for travel of said personnel at the Agreement rates for such testimony as may be requested by County or State.

ARTICLE XV

Quality Assurance and Utilization Review: Contractor shall establish and maintain systems to review the quality and appropriateness of services in accordance with applicable Federal and State statutes and regulations, and guidelines operative during the term of this Agreement.

Contractor shall comply with existing Federal regulations for utilization review pursuant to Title 42, Code of Federal Regulations, Subpart D. These shall include certification of need for care,

evaluation and medical review, plans of care and utilization review plan. Contractor shall establish a Utilization Review Committee with the function to determine that admissions and length of stay are appropriate to that level of care and to identify problems with quality of care. Composition of the committee shall meet minimum Federal requirements.

Contractor has provided a statement which describes how it will conduct Performance Improvement activities for the Woodland Memorial Hospital subcontractor facility, Exhibit B – Woodland Healthcare Performance Improvement Plan 2012, incorporated herein and made by reference a part hereof. This plan will continue until a subsequent plan is approved.

ARTICLE XVI

Record Retention: Contractor and its subcontractors providing services under this Agreement agree to make all of its books and records pertaining to the goods and services furnished under the terms of this Agreement available for inspection, examination, or copying by authorized County, the Comptroller General of the United States, State of California or Federal agencies, or their duly authorized representatives, at all reasonable times at Contractor's place of business or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least five (5) years from the close of the County's fiscal year in which the Agreement was in effect, or longer period as may be required by Federal or State of California 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 will retain the books or records until the resolution of such litigation, audit, or investigation.

Records shall be maintained on all patients admitted or accepted for treatment in accordance with Title 22, CCR Section 71551.

ARTICLE XVII

Additional Agreement Provisions:

- A. Clean Air Act & Federal Water Pollution Control Act: The Contractor shall comply with the provisions of Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended, which provide that contracts and subcontracts of amounts in excess of \$100,000 shall contain a provision that requires the Contractor or subcontractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act. Violations shall be reported to the Centers for Medicare and Medicaid Services.
- B. Copeland Anti-Kickback Act: The Contractor shall comply with the provisions of the Copeland Anti-Kickback Act (18 U.S.C. 874 and 40 U.S.C. 276c), which requires that all contracts and subcontracts in excess of \$2,000 for construction or repair awarded by the Contractor and its subcontractors shall include a provision for compliance with the Copeland Anti-Kickback Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (Title 29, CFR, Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States").

- C. Davis-Bacon Act: The Contractor shall comply with the provisions of Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7), which requires that, when required by Federal Medicaid program legislation, all construction contracts awarded by the Contractor and its subcontractors of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (Title 29, CFR, Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").
- D. Federal Contractor Exclusions: Pursuant to Title 42, US Code Section 1320a-7 and 1320c-5, and Welfare and Institutions Code Section 14123, the Contractor shall not employ or enter into an Agreement with providers or other individuals and entities excluded from participation in Federal health care programs under either Section 1128 or 1128A of the Social Security Act. Federal financial participation is not available for amounts expended for providers excluded by Medicare, Medicaid, or the State Children's Insurance Program, except for emergency services.
- E. Federal Regulations Requirements: If applicable, based on the services provided under this Agreement, the Contractor agrees to comply as follows:
1. Contractor shall adhere to Title XIX of the Social Security Act (42 U.S.C.) and conform to all applicable Federal and State statutes and regulations.
 2. Contractor shall maintain written policies and procedures respecting advance directives in compliance with the requirements of Title 42, Code of Federal Regulations (CFR), Sections 422.128 and 438.6(i)(1), (3) and (4). Any written materials prepared by the Contractor for beneficiaries shall be updated to reflect changes in State laws governing advance directives as soon as possible, but no later than ninety (90) days after the effective date of the change.
 3. Contractor shall obtain approval from County prior to implementing a Physician Incentive Plan as described at Title 42, CFR, Section 438.6(h). County shall confer with DHCS-DMH as necessary and shall approve the Contractor's request only if the proposed Physician Incentive Plan complies with all applicable Federal and State regulations.

ARTICLE XVIII

Publications and Reports:

- A. Publications: If a publication and/or report is required under this Contract, Contractor shall:
1. Incorporate any comments or revisions required by the County into any publication or report and shall not publish any material until it receives final County approval.
 2. Furnish two (2) copies of each publication and report required plus one reproducible original.
 3. Prepare all illustrations, maps, and graphs in a manner that allows the complete illustration to be contained on a single 8-1/2" by 11" page unless specific written approval is given to the contrary.
 4. Print all graphs, illustrations and printed materials in a single color throughout each publication unless prior County approval is granted.
 5. Place the Contractor's name only on the cover and title page of publications and reports and summaries. Covers and title pages shall read as follows:

California Department of Health Care Services/Department of Mental Health
TITLE
By (Contractor)

6. County and the State of California reserve the right to use and reproduce all publications, reports, and data produced and delivered pursuant to this Agreement. County and the State of California further reserve the right to authorize others to use or reproduce such materials provided the author of the report is acknowledged in any such use or reproduction.
 7. If the publication and/or report are prepared by non-employees of the County and the State of California, and the total cost for such preparation exceeds \$5,000, the publication and/or report shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the publication and report in a separate section of the report (Government Code Section 7550).
- B. **Progress Reports:** If progress reports are required by this Agreement, Contractor shall provide a progress report in writing, or orally if approved by the County Contract Administrator, at intervals to be determined by County Contract Administrator. This progress report shall include, but not be limited to, a statement that the Contractor is or is not on schedule, any pertinent reports, interim findings and other information as directed by County. Contractor shall cooperate with and shall be available to meet with the County to discuss any difficulties, or special problems, so that solutions or remedies can be developed as soon as possible.
- C. **Presentation:** Upon request, Contractor shall meet with the County to present any findings, conclusions, and recommendations required by the Agreement for approval. If set forth in the Contract, Contractor shall submit a comprehensive final report for approval. Both the final meeting and the final report shall be completed on or before the date indicated in the Contract.

ARTICLE XIX

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 XX

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 XXI

Assignment and Delegation: Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. County acknowledges that Contractor has entered into an agreement with Dignity Health dba Woodland Memorial Hospital to provide professional services for Woodland Memorial Hospital's inpatient psychiatric unit. County also acknowledges that Dignity Health dba Woodland Memorial Hospital has entered into an Agreement with Contractor to provide the facility for inpatient acute psychiatric services, and the services of an acute general care hospital. Contractor shall ensure that Woodland Memorial Hospital abides by all terms and obligations as set forth in this Agreement.

Notwithstanding the aforementioned, 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. In the event County agrees in writing that Contractor may subcontract for services under this Agreement, Contractor shall include in any subcontract all the terms and conditions of the Article titled "Special Terms and Conditions" in this Agreement; shall require that all subcontractors comply with all terms and conditions of this Agreement; and shall require that all subcontractors comply with all pertinent Federal and State statutes and regulations.

ARTICLE XXII

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 XXIII

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

Hold Harmless: Contractor agrees to hold harmless the State of California and its beneficiaries in the event the County cannot or shall not pay for services performed by the Contractor pursuant to this Agreement.

ARTICLE XXIV

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. 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.

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. The failure of County to enforce at any time the provisions of this Agreement, or to require at any time performance by the Contractor of any of the provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of County to enforce said provisions.

- 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: Either party may terminate this Agreement without cause in whole or in part upon sixty (60) calendar day's prior written notice to the other party.

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, and for such other services, which County may agree to in writing as necessary for Agreement resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract.

- E. Transfer of Care: Prior to the termination or expiration of this Agreement and upon request by the County or State of California DHCS-DMH, Contractor shall assist in the orderly transfer of beneficiaries' mental health care. In doing this, the Contractor shall make available to County or the State of California copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor, necessary for efficient case management of beneficiaries, as determined by County. Costs of reproduction shall be borne by the County. In no circumstances shall a beneficiary be billed for this service.
- F. Transfer of Records: In the event that Contractor ceases operation, all files that are subject to audit shall be transferred to the County for proper storage of physical records and electronic data. Contractor shall notify County of impending closure as soon as such closure has been determined, and provide County with a complete list of records in its possession pertaining to County clients and operational costs under this Agreement. County shall promptly advise Contractor which records are to be transferred to the custody of County. Records not transferred to custody of County shall be properly destroyed by Contractor, and Contractor shall provide documentation of proper destruction of all such records to County.

ARTICLE XXV

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
935-B SPRING STREET
PLACERVILLE, CA 95667
ATTN: CHEREE HAFFNER, ACTING MANAGER OF MENTAL HEALTH PROGRAMS

and to:

COUNTY OF EL DORADO
PROCUREMENT AND CONTRACTS
360 FAIR LANE, LOWER LEVEL
PLACERVILLE, CA 95667
ATTN: TERRI DALY, PURCHASING AGENT

or to such other location as the County directs.

Notices to Contractor shall be addressed as follows:

DIGNITY HEALTH MEDICAL FOUNDATION
3400 DATA DRIVE
RANCHO CORDOVA, CA 95670
ATTN: PRESIDENT AND CHIEF EXECUTIVE OFFICER

with a copy to:

VICE PRESIDENT AND ASSOCIATE GENERAL COUNSEL
DIGNITY HEALTH
3400 DATA DRIVE
RANCHO CORDOVA, CA 95670

and:

WOODLAND HEALTHCARE
1325 COTTONWOOD STREET
WOODLAND, CA 95695
ATTN: BRAD NICODEMUS, RN, MS-HCA, DIRECTOR OF BEHAVIORAL HEALTH

or to such other location as the Contractor directs.

ARTICLE XXVI

Confidentiality and Information Security: 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), 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). Contractor shall comply with Exhibit C, Confidentiality and Information Security Provisions, attached hereto, and incorporated by reference herein.

Nondisclosure. Contractor shall not use or disclose confidential, individually identifiable, or sensitive information other than as permitted or required by the Agreement and as required by law.

- A. Confidentiality of Data and Documents: Contractor shall not disclose data or documents or disseminate the contents of the final or any preliminary report without written permission of the County Contract Administrator. However, all public entities shall comply with California Public Records Act (Government Code Sections 6250 et seq.) and the Freedom of Information Act (Title 5 of the United States Code Section 552), as applicable.

Permission to disclose information or documents on one occasion shall not authorize Contractor to further disclose such information or documents on any other occasions except as otherwise provided in the Agreement or required by law.

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 contract, or the County or State's actions on the same, except to County or State staff or Contractor's own personnel involved in the performance of this Contract, or as required by law.

If requested by County, 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 County and shall supply County with evidence thereof.

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

After any data or documents submitted have become a part of the public records of the County or the State of California, Contractor may at its own expense and upon written approval by the County Contract Administrator, publish or utilize the same data or documents but shall include the following Notice:

LEGAL NOTICE

This report was prepared as an account of work sponsored by the Department of Mental Health (Department), but does not necessarily represent the views of the 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 Department at P.O. Box 952050, Sacramento, California, 94252-2050. Neither said Department nor the State of California, nor any officer or employee thereof, or any of its Contractors or 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.

- B. Provisions Relating to 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, or any other portable devices, including, but not limited to computer disks or thumb drives.

"Generated data" is that data, which 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 State expense, together with complete documentation thereof, shall be treated in the same manner as generated data.

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

Prior to the expiration of any legally required retention period and before destroying any data, Contractor shall notify the County of any such contemplated action; and County may within thirty (30) days of said notification determine whether or not this data shall be further preserved. The County shall pay the expense of further preserving this data. County shall have unrestricted reasonable access to the data that is preserved in accordance with this Agreement.

Contractor shall use best efforts to identify and furnish competent witnesses to testify in any court of law regarding data used in or generated under the performance of this Agreement.

ARTICLE XXVII

Indemnity: County and Contractor agree to indemnify, defend, and release the other party, its directors, officers, employees and agents from any and all claims, actions, suits, judgments, damages, fines and other proceedings, whether civil, criminal, administrative, investigative, or otherwise, together with all costs, expenses and other amounts including attorney’s fees, arising or alleged to have arisen out of any negligent or willful act, error, misrepresentation or omission primarily caused by the other party, its directors, officers, employees, agents or assigns.

Neither party hereto shall be liable for defending or for the expense of defending the other party, its agents or employees, against any claims, legal actions, dispute resolutions or administrative or regulatory proceedings arising out of acts, actions, or omissions primarily caused by the other party hereto.

The parties will promptly notify each other of any claims or demands for which indemnification is sought.

ARTICLE XXVIII

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.

ARTICLE XXIX

Waivers: A failure of County to enforce strictly a provision of this Agreement shall in no event be considered a waiver of any part of such provision. No waiver by County of any breach or default by Contractor shall operate as a waiver of any succeeding breach of the same terms in the Agreement or other default or breach of any of Contractor's obligations under the Agreement. No waiver shall have any effect unless it is specific, irrevocable, and in writing.

ARTICLE XXX

Debarment and Suspension: The Contractor shall comply with the provisions of Title 2, CFR, Section 180 as implemented by Title 2 CFR Section 376, and Executive Orders 12549 and 12689, "Debarment and Suspension," which excludes parties listed on the General Services Administration's list of parties excluded from Federal procurement or non-procurement programs from having a relationship with the Contractor.

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

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- B. Have not within a three year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the above Paragraph B;
- D. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
- E. Shall not knowingly enter in to any lower tier or sub-recipient covered transaction with any person(s) who are proposed for debarment under Federal regulations or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
- F. Shall include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or sub-recipient covered transactions.
- G. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- H. 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.
- I. The Contractor shall comply with the provisions of Title 2, CFR, Section 180 as implemented by Title 2 CFR Section 376, and Executive Orders 12549 and 12689,

"Debarment and Suspension," which excludes parties listed on the General Services Administration's list of parties excluded from Federal procurement or non-procurement programs from having a relationship with the Contractor.

ARTICLE XXXI

Insurance: Contractor shall provide proof 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 Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California; and
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000 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, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000 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 County of El Dorado 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 the 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 listed under paragraph H, 1) and 2) below (including an endorsement page for the "additional insured" language, stating that:
 - 1) The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
 - 2) The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, 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 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 County of El Dorado Risk Management, as essential for the protection of the County.

ARTICLE XXXII

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 XXXIII

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 XXXIV

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 Agreement 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."

- A. Gratuities and Contingency Fees: The County, by written notice to the Contractor, may terminate the right of Contractor to proceed under this Agreement if it is found, after notice and hearing by the County or the State of California, 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 the State of California with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or performing of such contract.

In the event this Agreement is terminated as provided in the paragraph above, County shall be entitled (a) to pursue the same remedies against 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, to exemplary damages in an amount which shall not be less than three times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

The rights and remedies of the County 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 agency has been employed or retained by it to solicit or secure this Agreement upon a contract or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of Contractor, for the purpose of securing business. For breach or violation of this warranty, the County 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 Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

- B. Use of State Funds: Contractor, including its officers and members, shall not use funds received pursuant to this Agreement to support or pay for costs or expenses related to the following:
1. Campaigning or other partisan activities to advocate for either the election or defeat of any candidate for elective office, or for or against the passage of any proposition or ballot measure; or,
 2. Lobbying for either the passage or defeat of any legislation.
- This provision is not intended and shall not be construed to limit any expression of a view, opinion, or position of any member of Contractor as an individual or private citizen, as long as State funds are not used; nor does this provision limit Contractor from merely reporting the results of a poll or survey of its membership.
- C. Conflict of Interest Certification: In accordance with State of California laws and State of California Departmental policy, no employees (including Contractors) shall participate in incompatible activities, which are in conflict with their job duties. In addition, State law requires employees whose positions are designated in the State Conflict of Interest Code to file statements of economic interest. In signing this Agreement, Contractor certifies that they have read and understand Government Code 19990.

ARTICLE XXXV

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 XXXVI

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 XXXVII

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 XXXVIII

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

ARTICLE XXXIX

Administrator: The County Officer or employee with responsibility for administering this Agreement is Cheree Haffner, Acting Manager of Mental Health Programs, Health and Human Services Agency, or successor.

ARTICLE XL

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 XLI

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 XLII

Force Majeure: Neither the County, the State of California, nor the Contractor shall be deemed to be in default in the performance of the terms of this Agreement if either party is prevented from performing the terms of this Agreement by causes beyond its control, including without being limited to: acts of God, interference, rulings or decision by municipal, Federal, State or other governmental agencies, boards or commissions; any laws and/or regulations of such municipal, State, Federal, or other governmental bodies; or any catastrophe resulting from flood, fire, explosion, or other causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other party written notice of the cause of delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable, to complete performance under this Agreement.

ARTICLE XLIII

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

ARTICLE XLIV

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.

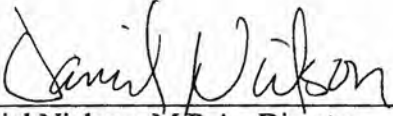
ARTICLE XLV

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: Cheree Haffner Dated: 1/10/13
Cheree Haffner, Acting Manager of Mental Health Programs
Health and Human Services Agency

Requesting Department Head Concurrence:

By: 
Daniel Nielson, M.P.A., Director
Health and Human Services Agency

Dated: 1-14-2013

IN WITNESS WHEREOF, the parties hereto have executed this Agreement 628-S1210 on the dates indicated below.


- - COUNTY OF EL DORADO - -

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

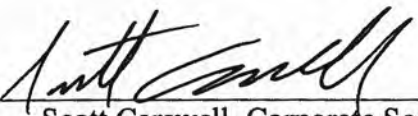
Dated: 3/8/13

-- CONTRACTOR --

DIGNITY HEALTH MEDICAL FOUNDATION,
a California nonprofit public benefit corporation

By: 
Tom Lowry, Chief Financial Officer
"Contractor"

Dated: 1/28/13

By: 
Scott Carswell, Corporate Secretary
"Contractor"

Dated: 2/11/2013

Approved as to form: KE *NA-2013*
Dignity Health Legal Department
Sacramento Office *VP/CNE*
WTC

kg1

Exhibit A
EL DORADO COUNTY
HEALTH AND HUMAN SERVICES AGENCY

Mental Health Division

AUTHORIZATION STATEMENT

Services rendered to the client identified below as requested herein have been authorized by the Health and Human Services Agency Mental Health Division in accordance with the conditions of Agreement for Services #628-S1210.

Date: ___ / ___ / ___

Client: _____ D.O.B: ___ / ___ / ___

Address: _____ City: _____ State: ___ Zip: _____

AUTHORIZED SIGNATURE:

I attest to the fact that I am an employee of the County and as such am duly authorized to execute this document.

Signature: _____ Date: ___ / ___ / ___



WOODLAND HEALTHCARE
Performance Improvement Plan
2012

Purpose

To establish a planned, systematic, and interdisciplinary approach to improving the care and services provided by the Woodland Healthcare (WHC)

Scope & Applicability

This is a WHC-wide plan. It applies to all settings of care and services provided by WHC.

Authority and Responsibility

Board of Directors

The WHC Board of Directors authorizes the establishment of this performance improvement plan. The Board is ultimately responsible for the quality of care provided by WHC.

Medical Executive Committee / Quality Management Committee (QMC and CQMC)

The Board delegates the development, implementation, and evaluation portions of this plan to the WHC Medical Executive Committee (MEC). The MEC is responsible for improving the quality of clinical care and service provided by its medical staff. The MEC has formed a Quality Management Committee and Clinic Quality Management Committee to carry out part of this function. The Quality Management Committee and the Clinic Quality Management Committee is a multi-disciplinary committee comprised of representatives of the medical staff, and administration.

Administration & Management

The Board also delegates the development, implementation, and evaluation portions of this plan to the WHC Administration and Management team. Administration and Management are responsible for improving the operational quality of care and service provided by WHC.

Medical Staff and WHC Staff

Staff is charged with participating in this performance improvement plan to the degree necessary and appropriate to achieve the plans purpose.

Further Delegation of Authority and Responsibility

The MEC and/or WHC Administration may further delegate aspects of this plan as necessary to discharge their responsibilities. As such, either body may delegate to existing entities in their respective structure(s), or may formulate entities to achieve specific aims.

Designing Processes and Services

When designing a new or modified process or service, WHC will strive to ensure that it is designed well. The following criteria are utilized to determine the effectiveness of design:

- The design is consistent with the "mission, vision, values" and objectives of WHC.
- The design meets the needs of the individuals served, WHC and medical staff, and key stakeholders.
- When clinical processes are involved, the design is sound and consistent with accepted national and/or community standards of care.
- The design is consistent with sound business practice, and reflects stewardship of resources.
- The design – as appropriate – incorporates new technology and/or the performance of similar design(s) in other organizations.
- The design – as appropriate – incorporates information regarding the risk and occurrence of sentinel events¹
- The design incorporates the results of performance improvement activities.

¹ A sentinel event is defined as an unexpected occurrence involving death or serious physical injury or the risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes any process variation for which the recurrence would carry a significant chance of a serious adverse outcome. WHC maintains a separate policy on the identification and management of sentinel events. The reader is referred to that document for further information.



Performance Improvement Plan 2012

Establishing Performance Measures

WHC will establish measurement systems to monitor its performance. The measurement criteria will take into consideration, scope of care and services provided.

Criteria

The following criteria is used to determine the scope and prioritization of performance measurement and improvement:

- Ensure the safety of the providers and the recipients of care
- Further the mission and strategic objectives of WHC
- Meet legal, regulatory, licensure, and accreditation requirements
- Establish the effectiveness, timeliness, and stability of processes that are high-risk, high-volume or problem prone.
- Establish desirable outcomes of care for at-risk patient populations
- Determine the effectiveness of the design of new or modified services.

Scope of Performance Measurement

Based upon an application of the above criteria, the following care, services, and functions are measured:

- 1 – Improving Organizational Performance – Overview
- 2 – Performance Improvement Plan
- 3 – Staff Opinions and Needs
- 4 – Staff Perceptions of Risk to Patients & Suggestions to Improving Patient Safety
- 5 – Staff Willingness to Report Unanticipated Adverse Events
- 6 – Perception of Care, Treatment, and Services
- 7 – Medication Management
- 8 – Blood and Blood Product Use
- 9 – Restraint / Seclusion Use
- 10 – Operative and Other Invasive Procedures
- 11 – Resuscitation and its Outcomes
- 12 – Risk Management
- 13 – Utilization Management
- 14 – Quality Control
- 15 – Infection Control Surveillance and Reporting
- 16 – Research
- 17 – Mortality / Autopsies
- 18 – Organ Procurement Effectiveness
- 19 – Adverse Drug Events
- 20 – Medication Errors
- 21 – Pre-op / Post-op Discrepancies
- 22 – Sedation / Analgesia Events
- 23 – Hazardous Conditions
- 24 – Core Measures Report
- 25 – Sentinel Event – Defined
- 26 – RCA Process
- 27 – Risk-Reduction Strategy
- 28 – National Patient Safety Goals

Measurement of the above areas may be organization-wide in scope, targeted to specific areas, departments and services, or focused on selected populations.

Measurement may be ongoing, time limiting, episodic, intensive, or recurring. The duration, intensity, and frequency of a particular performance measure are based on the needs of the WHC, external requirements, and the result of data analysis.



Performance Improvement Plan 2012

Data Collection and Aggregation

Data will be collected and aggregated on performance measures.

Purpose

The purpose of data collection is to:

- Establish a baseline level of performance
- Determine the stability of process
- Determine the effectiveness of a process or desirability of an outcome as compared to internal or external targets (benchmarks)
- Identify opportunities for improvement
- Identify the need for more focused data collection
- Determine whether improvement has been achieved and/or sustained.

Construct

Performance measures should have a construct to assure that data is appropriately identified, collected, aggregated, displayed, and analyzed. In general, the construct should consist of:

- A definition of the measure – including the dimensions of performance being measured.
- The population to be measured (including, when appropriate, criteria for inclusion and/or exclusion)
- The type of measurement (i.e. rate based or event based)
- If rate based, a calculation formula (i.e. defined numerator / denominator)
- The minimum sampling size (where appropriate) to assure statistical validity
- The frequency of data collection / aggregation
- The methodology by which data will be collected.
- The entity primarily responsible for data collection.
- The manner in which aggregated data will be displayed.
- The entity(s) to which the aggregated data will be reported to for analysis and action.

Assessment of Performance

Data on performance measures will be analyzed to identify opportunities for improvement. There are two basic approaches utilized by WHC to assess performance.

Assessment of Aggregated Data

Data on rate based performance measures are aggregated to determine patterns, trends, and variation (common or special cause). Data may be aggregated for a single point in time or over time, depending on the needs of the WHC and the reason for monitoring performance. In general, measurement designed to establish the desired stability of a process or a desired outcome will be measured over time until target levels of performance are met. Once a process is considered stable, and/or a desired level of performance has been achieved, then an assessment of performance measures may be conducted in a more episodic fashion.

Data that is event based is assessed in singular or aggregated form depending on the number of data elements in the performance measure. In general, event based measurements are monitored on an ongoing basis.



Performance Improvement Plan 2012

Intensive Assessments

Data will be intensively assessed when WHC detects or suspects a significant undesirable performance or variation. Intense analysis is called for when:

- Levels of performance, patterns, or trends vary significantly and undesirably from those expected.
- Performance varies significantly and undesirably from that of other organizations or recognized standards
- A sentinel event has occurred (root cause analysis).
- There is a confirmed hemolytic transfusion reaction
- There is a significant adverse drug reaction
- There is a significant medication error.
- There is a major discrepancy or pattern of discrepancy between preoperative and postoperative diagnosis – including those identified during pathologic review or specimens removed during surgical or invasive procedures,
- There is a significant adverse event associated with anesthesia.

IMPROVING PERFORMANCE

Performance Model

WHC will undertake efforts to improve existing processes and outcomes and then sustain the improved performance. To accomplish this, WHC had adopted a performance improvement model – FOCUS PDCA. This model is explained below:

F	=	Find a Problem
O	=	Organize a Team
C	=	Clarify Existing Processes
U	=	Understand the Variation in those Processes
S	=	Select a Plan of Action

P	=	Plan to Implement the Action
D	=	Do Implement the Plan
C	=	Check on the Results
A	=	Act on the Findings

The performance improvement model is utilized – formally or informally – in improvement efforts throughout the WHC.

WHC also utilizes a Transformational Care Committee. When a process improvement opportunity is identified and found to be appropriate for the Team's expertise, a referral is made to the Committee.

Their mission statement is as follows:

- The purpose of this effort is to ensure we are delivering the right care, at the right time, and in the right place for all of our patients. We seek to improve care from the front door of our hospital (i.e., the Emergency Department) all the way through to making thoughtful transition of care back to the patients' home environment

Sustaining Performance

WHC also recognizes that in order for performance improvement to be sustained, key staff must be educated about the redesign of processes or other changes that are being implemented. To that end, the following processes have been established:

- The results of performance and improvement activities are communicated – as appropriate -- to the Medical Staff and hospital staff through their respective structures.
- The Governing Body receives regular reports on the WHC' performance and improvement activities.
- The input of key staff is sought to identify additional opportunities for improvement.
- Information available about sentinel events from either the JCAHO or from healthcare organizations that provide similar care and service will be analyzed for opportunities to improve internal processes to prevent the event from occurring in the WHC.

--- END ---

EXHIBIT C

CONFIDENTIALITY AND INFORMATION SECURITY PROVISIONS

1. CONFIDENTIALITY AND INFORMATION SECURITY PROVISIONS.

- A. 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 142, 160, 162 and 164) regarding the confidentiality and security of individually identifiable health information (IIHI).
- B. Permitted Uses and Disclosures of IIHI by the Contractor:
- i) *Permitted Uses and Disclosures.* Except as otherwise provided in this Agreement, the Contractor may use or disclose IIHI to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.
 - ii) *Specific Uses and Disclosures Provisions.* Except as otherwise indicated in the Agreement, the Contractor may:
 - (1) Use and disclose IIHI for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided that such use and disclosures are permitted by law.
 - (2) Use IIHI to provide data aggregation services to County or State. Data aggregation means the combining of IIHI created or received by the Contractor for the purposes of this contract with IIHI received by the Contractor in its capacity as the Contractor of another HIPAA covered entity, to permit data analyses that relate to the health care operations of County and State.
- C. Safeguards: 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 the Contractor's operations and the nature and scope of its activities. The information privacy and security program shall reasonably and appropriately protect the confidentiality, integrity, and availability of the IIHI that it creates, receives, maintains, or transmits; and prevent the use or disclosure of IIHI other than as provided for by this Agreement. The Contractor shall provide County or State with information concerning such safeguards as County or State may reasonably request from time to time.

The Contractor shall implement administrative, technical, and physical safeguards to ensure the security of County or State information on portable electronic media (e.g., floppy disks and CD-Rom) and in paper files. Administrative safeguards to be implemented shall include, but are not limited to training, instructions to employees, and policies and procedures regarding the HIPAA Privacy Rule. Technical safeguards to be implemented shall include, but are not limited to, role based access, computer passwords, timing out of screens, storing laptop computers in a secure location (never leaving the equipment unattended at workplace, home or in a vehicle) and encryption. Physical

EXHIBIT C

safeguards to be implemented shall include, but are not limited to, locks on file cabinets, door locks, partitions, shredders, and confidential destruct.

- D. The Contractor shall implement appropriate authentication methods to ensure information system access to confidential, personal (e.g., IIHI) or sensitive data is only granted to properly authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), the Contractor shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-68 and the SANS Institute Password Protection Policy. The Contractor shall:
- i) Implement the following security controls on each server, workstation, or portable (e.g., laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
 - (1) Network-based firewall and/or personal firewall
 - (2) Continuously updated anti-virus software
 - (3) Patch-management process including installation of all operating system/software vendor security patches
 - ii) Encrypt all confidential, personal, or sensitive data stored on portable electronic media (including, but not limited to, CDs and thumb drives) and on computing devices (including, but not limited to, desktop computers, laptop computers and PDAs) with a solution that uses proven industry standard algorithms.
 - iii) Prior to disposal, sanitize all County and State confidential data contained in hard drives, memory devices, portable electronic storage devices, mobile computing devices, and networking equipment in a manner consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-88.

The Contractor shall not transmit confidential, personal, or sensitive data via e-mail or other Internet transport protocol over a public network unless, at minimum, a 128-bit encryption method (for example AES, 3DES, or RC4) is used to secure the data.

- E. 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 PHI by Contractor or its subcontractors in violation of the requirements of this Agreement.
- F. Reporting of Improper Disclosures: Contractor shall report to County and State within twenty-four (24) hours during a work week, of discovery by Contractor that PHI has been used or disclosed other than as provided for by this Agreement.
- G. Agents and Subcontractors of the Contractor: Contractor shall ensure that any agent, including a subcontractor to which the Contractor provides PHI received from, or created or received by the Contractor on behalf of County or State, shall comply with the same restrictions and conditions that apply through this Agreement to the Contractor with respect to such information.
- H. Internal Practices: Contractor shall make Contractor's internal practices, books and records relating to the use and disclosure of PHI received from County or State, or created or received by the Contractor on behalf of County or State, available to the County or State, or to the Secretary of the U.S. Department of Health and Human Services, in a time and manner designated by County or State or by the Secretary, for purposes of determining the County or State or Contractor's compliance with the HIPAA regulations.

EXHIBIT C

- I. Notification of Electronic Breach or Improper Disclosure: During the term of this Agreement, Contractor shall notify the County and State immediately upon discovery of any breach of Medi-Cal IIHI and/or data, where the information and/or data is reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to the County and State Information Security Officer, within two (2) business days of discovery, at (530) 621-5565 or (916) 651-6776 respectively. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to the County and State Information Security Officers, postmarked within thirty (30) working days of the discovery of the breach to the addresses below:

Information Security Officer Risk Management Department County of El Dorado 330 Fair Lane Placerville, CA 95667
--

Information Security Officer Office of HIPAA Compliance California Department of Mental Health 1600 9 th Street, Room 102 Sacramento, CA 95814

- J. Employee Training and Discipline: Contractor shall train and use reasonable measures to ensure compliance with the requirements of this Agreement by employees who assist in the performance of functions or activities on behalf of the County or State under this Agreement and use or disclosure of IIHI; and discipline such employees who intentionally violate any provisions of this Agreement, including by termination of employment.
- K. Effect of Termination: Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all IIHI received from County or State (or created or received by Contractor on behalf of County or State) that 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.

2. **MISCELLANEOUS PROVISIONS.**

- A. Disclaimer: The County and State make no warranty or representation that compliance by Contractor with this Agreement, HIPAA or the HIPAA regulations shall be adequate or satisfactory for Contractor's own purposes or that any information in the Contractor's possession or control, or transmitted or received by the Contractor, is or shall be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of IIHI.
- B. Assistance in Litigation or Administrative Proceedings: Contractor shall make itself, and use its best efforts to make any subcontractors, employees or agents assisting Contractor in the performance of its obligations under this Agreement, available to 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 County or State, its

EXHIBIT C

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 Contractor or its subcontractor, employee, or agent is a named adverse party.

- i) *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 State or Contractor and their respective successors or assignees, any rights remedies, obligations or liabilities whatsoever.
- ii) *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 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 HIPAA and the HIPAA regulations.
- iii) *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.
- iv) *Survival.* The respective rights and obligations of Contractor under Section 6.C of this Agreement shall survive the termination or expiration of this Agreement.

C. Violations reported to U.S. Department of Health and Human Services: Upon the County or State's knowledge of a material breach of this Agreement by Contractor that has not been cured or for which termination of the Agreement is not feasible, the State Information Security Officer shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

D. Judicial or Administrative Proceedings: The County may terminate this Agreement, effective immediately, if (i) Contractor is found guilty in a civil or criminal 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.