

AGREEMENT FOR SERVICES 015-S1511
Specialty Mental Health Services for Minors

THIS AGREEMENT is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Charis Youth Center, a California corporation, duly qualified to conduct business in the State of California, whose principal place of business is 714 W. Main Street, Grass Valley, CA 95945, and whose Agent for Services of Process is Carol Fuller-Powell, 714 W. Main Street, Grass Valley, CA 95945 (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, County has determined that it is necessary to obtain a contractor to provide twenty-four (24) hour residential services for County-authorized minors requiring specialty mental health services (hereinafter referred to as "Client" or "Clients") on an "as requested" basis for the Health and Human Services Agency, Mental Health Division; and

WHEREAS, County Health and Human Services Agency, Social Services Division has executed an Agreement with Contractor to provide "as requested" protection in the form of shelter care and/or foster care placement for children under a separate Agreement 913-S0811; and

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

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

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

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

ARTICLE I

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

A. DEFINITIONS:

Assessment	Includes a clinical analysis of the history and status of a Client's mental, emotional, or behavioral disorder, and diagnosis. Can also include an appraisal of the Client's community functioning in several areas, which may include living situation, daily activities, social support systems, and health status. Relevant cultural issues are to be addressed in all assessment activities.
Beneficiary	Any person who is certified as eligible under the Medi-Cal Program (AUTHORITY: Title 9, California Code of Regulations ("CCR") Section 1810.205 and Title 22, CCR, Section 51000.2) , as currently interpreted or as amended during the term of this Agreement.
Case Management	<p>Activities provided to assist Clients to access needed medical, educational, social, prevocational, vocational, rehabilitative, or other needed community services for Clients. These activities may include:</p> <ul style="list-style-type: none">• Consultation - interagency and intra-agency consultation or collaboration involving people in professional relationships with the Client (e.g., CPS worker, Probation Officer, teacher, mental health staff, and pediatrician). Supervision is not billable to case management consultation.• Linkage - locating and securing services and resources in the community needed by the client. Examples of linkage could include assisting Client obtain funding such as Social Security Income, Medi-Cal, etc.; assistance with medical/dental care; education; vocational training; parenting classes, etc.• Access – Assisting a Client to access mental health services such as telephoning Dial-A-Ride on behalf of a Client unable to arrange transportation on their own due to mental illness and impairment in functioning, or providing interpretation and identification of cultural factors on behalf of Client during medication evaluation appointment. (Note – interpretation services alone are not a billable service).• Placement – Locating and securing appropriate living environment for the Client (can include pre-placement visits, placement, and placement follow-up). Case management placement can also be billed while a Client is in an acute psychiatric hospital, when the Client is within thirty (30) days of discharge, but only if the living environment at discharge from the hospital is in question or has yet to be determined.
Collateral	A service activity involving a significant support person in a Client's life with the intent of improving or maintaining the mental health status of the client. The Client may or may not be present for this activity. A "support person" is someone in a non-professional relationship with the Client.

Crisis Intervention	An emergency response service enabling the Client to cope with a crisis, while maintaining his/her status as a functioning member of the community to the greatest possible extent. A crisis is an unplanned event that results in the Client's need for immediate service intervention in order to avoid the need for a higher level of care. Crisis Intervention services are limited to stabilization of the presenting emergency. The emergency may or may not conclude with acute hospitalization.
Day Rehabilitation	<ul style="list-style-type: none"> • Process Groups are groups facilitated by staff to help Clients develop the skills necessary to deal with their individual problems and issues by using the group process to provide peer interaction and feedback in developing problem-solving strategies and to assist one another in resolving behavioral and emotional problems. Day Rehabilitation may include psychotherapy instead of process groups or in addition to process groups. • Skill building groups are groups in which staff helps Clients identify barriers related to their psychiatric and psychological experiences and, through the course of group interaction, become better able to identify skills that address symptoms and behaviors and to increase adaptive behaviors. • Adjunctive therapies are non-traditional therapies in which both staff and Clients participate, and self-expression (art, recreation, dance, music, etc.) is utilized as the therapeutic intervention. Participants do not need to have any level of skill in the area of self-expression, but rather be able to utilize the modality to develop or enhance skills directed towards Client plan goals.
Day Treatment Intensive	<ul style="list-style-type: none"> • Skill building groups and adjunctive therapies as defined in "Day Rehabilitation" herein. Day Treatment may also include process groups as defined in "Day Rehabilitation." • Psychotherapy, which means the use of psychosocial methods within a professional relationship to assist the Client or Clients to achieve a better psychosocial adaptation, to acquire greater human realization of psychosocial potential and adaptation, to modify internal and external conditions that affect individuals, groups, or communities in respect to behavior, emotions, and thinking, with respect to their intrapersonal and interpersonal processes. Only licensed, registered, or waived staff practicing within their scope of practice shall provide psychotherapy.
DHCS	California Department of Health Care Services
DMH	California Department of Mental Health (transitioned to DHCS 2012)
EPSDT	Early and Periodic Screening, Diagnosis and Treatment of eligible Medi-Cal beneficiaries as funded, administered and regulated by the Federal and State governments, with specific reference to Short-Doyle Medi-Cal services provided to any beneficiary under the age of twenty-one (21) with non-restricted Medi-Cal eligibility.

Family Therapy or Rehabilitation	A therapeutic or rehabilitative activity with a Client and their family. "Family" is as defined by the Client, and may include biological, adopted, foster and extended family members. "Family" may be understood in a non-traditional manner, e.g. residents at a Board and Care facility.
Group Therapy or Rehabilitation	<ul style="list-style-type: none"> • Therapy - A therapeutic intervention delivered to a group of Clients that focuses primarily on symptom reduction as a means to decrease functional impairments. Therapy can only be delivered and billed for by a clinician for whom therapy is within their scope of practice. • Rehabilitation – A service delivered to a group of Clients, which may include assistance in improving, maintaining, or restoring functional skills. These include daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system.
Individual Therapy or Rehabilitation	<p>Therapy: A therapeutic intervention that focuses primarily on symptom reduction as a means to decrease functional impairments. Therapy can only be delivered and billed for by a clinician for whom therapy is within their scope of practice.</p> <p>Rehabilitation: A service that may include assistance in improving, maintaining, or restoring a Client's functional skills. These include daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system.</p>
Medical Necessity	The principal criteria by which the Mental Health Plan decides authorization and/or reauthorization for covered services. Medical Necessity must exist in order to determine when mental health treatment is eligible for reimbursement under Plan benefits as defined by the State Department of Mental Health or State Department of Health Care Services.
Medication Support Services	Service activities that include prescribing, administering, dispensing, and monitoring of psychiatric medications or biologicals (medical preparations made from living organisms such as serum, vaccine, antitoxin, etc.), which are necessary to alleviate the symptoms of mental illness. Activities may also include assessment/evaluation, medication injections, collateral, and case management as these activities relate to Medication Support Services. These services can only be provided and billed for by medical doctors, family nurse practitioners, physician assistants, nurses, and psychiatric technicians.
MHP	Mental Health Plan
Outpatient Services	<p>Defined by the State of California Health and Human Services Agency Mental Health Billing Manual under Mode of Service 15 or "MS 15," outpatient services include:</p> <ul style="list-style-type: none"> • Assessment • Case Management • Collateral • Crisis Intervention • Group Therapy • Individual Therapy, and • Medication Support Services

Plan Development	A service activity that consists of working with the Client and others in their support system to develop the Client Plan. May also include the process of getting the Client Plan approved and services authorized, e.g., presenting a case to the authority in charge of authorizing services. Attendance at an Individualized Education Program ("IEP") may be billed to Plan Development if the progress note documents the staff person's participation in the IEP regarding planning mental health services that will better allow the student to achieve academically.
Parent Partner	A Parent Partner provides active, hands-on peer support to parents/caregivers of youth receiving Rehabilitation services. Peer support may be delivered in individual or group settings at the agency, in family homes, or in community environments.
QIU	The County Quality Improvement Unit.
Rehabilitation	A service that may include assistance in improving, maintaining, or restoring a Client's functional skills. These include daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and/or building a support system.
SMHS	Specialty Mental Health Services
Therapeutic Behavioral Services (TBS)	Short-term one-to-one assistance to children or youth under the age of twenty-one (21) who have behaviors that put them at risk of losing their placement, and/or if it has been determined that it is highly likely that without TBS the minor may need a higher level of care. TBS can be provided in a variety of settings including at home, in a group home, in the community, and during evening and weekend hours as needed. The minor must have a current Client Plan and be receiving other SMHS concurrent with TBS. TBS services require a separate authorization from the authorization of other SMHS.

B. CONTRACTOR RESPONSIBILITIES:

1. Contractor agrees to furnish the personnel and equipment necessary to provide therapeutic treatment for clients on an "as requested" basis for the Health and Human Services Agency ("HHSA"), Mental Health Division ("MHD"). All services provided by Contractor shall have prior written authorization by the HHSA Director or Director's designee. Referrals will be given verbally and MHD Coordinator will provide a written authorization for services, which shall become a part of the Client's clinical record.
2. Contractor shall provide Day Rehabilitation services as defined in Title 9, California Code of Regulations ("CCR"), Rehabilitative and Developmental Services, Sections 1810.212 and 1810.213¹, as currently interpreted or as amended during the term of this Agreement, and as further described herein.
3. Contractor shall provide specialty mental health services to clients as defined in Title 9, California Code of Regulations, Rehabilitative and Developmental Services, Section 1810.247¹, as currently interpreted or as amended during the term of this Agreement.
4. Contractor shall provide quality care in a manner consistent with efficient, cost effective delivery of covered services.

¹ <https://archive.org/stream/gov.ca.ccr.09/ca.ccr.09#page/n0/mode/2up>

5. Contractor shall provide covered services to Clients in the same manner in which it provides said services to all other individuals receiving services from Contractor subject to any limitations contained in Clients' treatment plans.
6. While County Clients may be placed by the County in Contractor's facility, Contractor recognizes that County is under no obligation to place any Client in Contractor's facility.
7. Contractor agrees to provide documentation or reports to County when requested, to assure Contractor's compliance with the terms of this Agreement.
8. Meetings: Contractor will participate in periodic meetings with MHD at the request of either party for the purpose of reviewing the implementation of the program under this Agreement and at all times will cooperate in making data and information on the implementation of this Agreement available to MHD.
9. Interpretation Services: To the extent that it may be needed, free language interpretation services will be made available for Clients. It is expected that Contractor shall at all times have the internal capacity to provide the services called for in this Agreement with personnel that have the requisite cultural/linguistic competence required to achieve the purposes of this Agreement.
10. Reports and Data: Contractor shall collect and provide program implementation, financial, and related data and information on the activities conducted hereunder as may be requested by County. It is understood and agreed that Contractor's timely submission of program implementation, financial, and related data, and County's access to said data is an essential element of this Agreement.

C. SERVICE REQUIREMENTS:

1. Day Treatment Intensive and Day Rehabilitation:

- a. In addition to meeting the requirements of Title 9, CCR, Sections 1840.318, 1840.328, 1840.330, 1840.350, and 1840.352², and DMH Information Notice No. 02-06³, as currently interpreted or as amended during the term of this Agreement, providers who are authorized to perform day treatment intensive and day rehabilitation shall include the following minimum service components in day treatment intensive or day rehabilitation:
 - i. Therapeutic milieu definition:
 - (a) Provides the foundation for the provision of day treatment intensive and day rehabilitation and differentiates these services from other specialty mental health services.
 - (b) Includes a therapeutic program that is structured by well-defined service components with specific activities being performed by identified staff.
 - (c) Takes place for the continuous scheduled hours of operation for the program (more than four hours for a full-day program and a minimum of three hours for a half-day program).
 - (d) Creates a supportive and nurturing interpersonal environment that teaches, models, and reinforces constructive interaction.
 - (e) Supports peer/staff feedback to clients on strategies for symptom reduction, increasing adaptive behaviors, and reducing subjective distress.
 - (f) Empowers clients through involvement in the overall program (such as the

² <https://archive.org/stream/gov.ca.ccr.09/ca.ccr.09#page/n0/mode/2up>

³ <http://www.dhcs.ca.gov/formsandpubs/MHArchives/InfoNotice02-06.pdf>

- g. The Contractor shall require that if day treatment intensive or day rehabilitation staff is also staff with other responsibilities (e.g., as staff of a group home, a school, or another mental health treatment program), the provider documents a clear audit trail. The Contractor shall require that there be documentation of the scope of responsibilities for these staff and the specific times in which day treatment intensive or day rehabilitation activities are being performed exclusive of other activities.
- h. An expectation that the beneficiary will be present for all scheduled hours of operation for each day. When a beneficiary is unavoidably absent for some part of the hours of operation, the Contractor shall receive Medi-Cal reimbursement for day treatment intensive and day rehabilitation for an individual beneficiary only if the beneficiary is present for at least fifty percent (50%) of the scheduled hours of operation for that day.
- i. At least one (1) contact, face-to-face or by an alternative method (e.g., e-mail, telephone, etc.) per month with a family member, caregiver or other significant support person identified by an adult Client, or one (1) contact per month with the legally responsible adult for a Client who is a minor. Adult Clients may choose whether this service component is done for them. The contacts and involvement should focus on the role of the significant support person in supporting the Client's reintegration into the community. It is expected that this contact will occur outside hours of operation and the therapeutic milieu for day treatment intensive and day rehabilitation, and will be billed for neither separately, nor in addition to the day rate.

2. Outpatient Services:

Contractor shall provide a full range of quality mental health outpatient services, as described in herein, to the child/youth and families/care providers individually, and in various combinations, as indicated by clinical need and reflected in the Treatment Plan.

- a. Services shall be provided in accordance with the County Mental Health Plan.
 - i. Mental health services shall be provided to the individual child or youth, and may include family or significant support persons.
 - ii. Services shall be provided anywhere in the community including home, school, office, or other sites. Place of service shall enhance delivery and access to service. Contractor hours shall be flexible to include weekends and evenings to accommodate the family/care provider.
 - iii. The length, type, and duration of mental health services shall be defined in the Treatment Plan. Length of service will be based on clinical need as determined by the case-assigned Clinician/Therapist/Service Coordinator in collaboration with the child/youth/family, but will not exceed the time authorized by HHSA/MHD on the Treatment Plan.
 - iv. The Client shall be defined as the child/youth that is authorized to receive mental health services from the Contractor. In cases where there is more than one (1) child/youth in the same family receiving mental health services, each child/youth is to be considered a separate Client.
 - v. Contractor shall provide referrals and/or facilitate linkage to community social services for needs such as housing, food, clothing, and transportation.

3. Therapeutic Behavioral Services (“TBS”)

- a. Contractor shall provide TBS in accordance with the DMH/DHCS guidelines, and as outlined in the Mental Health Plan⁴.
- b. Contractor shall develop the TBS Client plan in order to provide an array of individualized, one-to-one services that target behaviors or symptoms that jeopardize existing placements, or are barriers to transitioning to a lower level of residential placement.
- c. Contractor shall ensure that services are available at times and locations that are convenient for parents/care providers and acceptable to the child/youth.
- d. Contractor shall develop a Transition Plan at the inception of TBS.
 - i. The Transition Plan shall outline the decrease and/or discontinuance of TBS when they are no longer needed, or appear to have reached a plateau in effectiveness.
 - ii. When applicable, Contractor shall include a plan for transition to adult services when the child/youth turns twenty-one (21) years old, and is no longer eligible for TBS.
- e. Contractor shall provide services at any community location not otherwise prohibited by regulations. These may include homes, foster homes, group homes, after school programs, and other community settings.
- f. Contractor shall incorporate all goals and objectives on the IEP related to the child/youth’s mental health needs into the child/youth’s TBS Client plan when appropriate.
- g. Contractor shall provide the number of service hours to the child/youth as indicated on the TBS Client plan. Billable service hours shall not exceed twenty- four (24) hours on any given day.
- h. Contractor shall comply with all TBS policies and procedures developed by HHSA/MHD incorporated by reference as if fully set forth herein.
 - i. Contractor shall comply with all letters related to TBS readily available on the DHCS website, incorporated by reference as if fully set forth herein

4. Intake – Eligibility Determination:

- a. Each beneficiary receiving services shall meet the criteria for EPSDT/SMHS continuously for the duration of provision of services. Eligibility for EPSDT SMHS is established by completion of an assessment with the beneficiary and their family. The assessment must establish Medical Necessity as previously defined.
- b. Eligibility for Mental Health Treatment requires at least one item be present from each of “Diagnostic Criteria,” “Impairment Criteria,” and “Intervention Related Criteria” as defined below.
 - i. Diagnostic Criteria: Eligibility requires at least one (1) of the following Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) “Included Diagnoses,” which will be the focus of the intervention being provided.

Included Diagnoses:	
Adjustment Disorders	Medication-Induced Movement Disorders
Attention Deficit and Disruptive Behavior Disorders	Mood Disorders
Dissociative Disorders	Other Disorders of Infancy, Childhood, or Adolescence
Eating Disorders	Paraphilia

⁴ <http://www.edcgov.us/HHSAForContractors/>

Included Diagnoses:	
Elimination Disorders	Personality Disorders, excluding Antisocial Personality Disorder
Factitious Disorders	Pervasive Developmental Disorder, except Autistic Disorder, which is "Excluded."
Feeding and Eating Disorders of Infancy or Early Childhood	Schizophrenia and Other Psychotic Disorders
General Identity Disorders	Impulse-Control Disorders Not Otherwise Specified
Excluded Diagnoses:	
Antisocial Personality Disorder	Mental Retardation
Autistic Disorders (Other Pervasive Developmental Disorders are "Included")	Motor Skills Disorder
Mental Disorders Due to a General Medical Condition	Other conditions that may be a focus of clinical attention, except "Medication Induced Movement Disorders" which are "Included"
Delirium, Dementia, and Amnesic and Other Cognitive Disorders	Sexual Dysfunctions
Learning Disorders	Sleep Disorders
Communication Disorders	Substance-Related Disorders
Tic Disorders	

Presence of an "Excluded Diagnosis" does not preclude eligibility for service for an "Included Diagnosis."

- ii. **Impairment Criteria.** Must have at least one of the following three items as a result of the mental disorder(s) identified in the section titled "Diagnostic Criteria":
 - (a) A significant impairment in an important area of life functioning, or
 - (b) A probability of significant deterioration in an important area of life functioning, or
 - (c) Children also qualify if there is a probability the child will not progress developmentally as individually appropriate. (Children covered under EPSDT qualify if they have a mental disorder that can be corrected or ameliorated, current State Department of Health Services EPSDT regulations also apply).
- iii. **Intervention Related Criteria:** Must have all three items shown below:
 - (a) The focus of proposed interventions is to address the condition identified in the section titled "Impairment Criteria" above, and
 - (b) It is expected the beneficiary will benefit from the proposed intervention by significantly diminishing the impairment, or preventing significant deterioration in an important area of life functioning, and/or for children it is probable the child will progress developmentally as individually appropriate (or if covered by EPSDT can be corrected or ameliorated), and
 - (c) The condition would not be responsive to physical healthcare based treatment.
- iv. EPSDT beneficiaries with an included diagnosis and a substance related disorder may receive SMHS directed at the substance use component. The intervention must be consistent with, and necessary to the attainment of, the specialty mental health treatment goals.

- c. Contractor shall not accept a referral for a child/youth if s/he cannot be offered an appointment to be seen within ten (10) business days.
 - d. Contractor shall screen one hundred percent (100%) of referred children/youth for Medi-Cal eligibility upon initial assessment and monthly for all children/youth receiving services in the case of group homes, and with each additional service in the case of outpatient services. The eligibility screening shall include verifying the County of El Dorado as the responsible County, and confirming for valid full scope aid codes.
 - i. If the child/youth becomes ineligible for Medi-Cal, Contractor shall take the necessary steps to ensure the timely re-instatement of Medi-Cal eligibility.
 - e. If services defined in California Government Code, Title I, Division 7, Chapter 26.5 ("Chapter 26.5") are authorized by County, Contractor shall provide such services in accordance with Code Sections 7572.5, 7576, 7582, 7585, and 7586, as currently interpreted or as amended during the term of this Agreement.
 - i. Contractor shall coordinate with MHD Quality Improvement Unit (QIU) to include tracking Chapter 26.5 status and notification of all changes to the level of services for all Chapter 26.5 eligible children and youth.
 - ii. Contractor shall attend IEP Team Meetings if requested by County.
5. **Miscellaneous Requirements**
- a. Contractor shall provide comprehensive SMHS, as defined in Title 9, CCR, Division 1, Chapter 11, as currently interpreted or as amended during the term of this Agreement, to children and youth who are referred by County and who meet the criteria established in, and in accordance with, the MHP.
 - b. Contractor shall obtain written pre-authorization for all mental health services from the MHD QIU. Services rendered by Contractor without pre-authorization shall not be reimbursed.
 - c. Contractor shall adhere to guidelines in accordance with Policy and Procedures issued by the MHD QIU.
 - d. Contractor shall collaborate with all parties involved with the child and family including but not limited to parents, schools, doctors, social services, Alta Regional, alcohol and drug service providers, and Probation. Contractor shall provide referral and linkages as appropriate.
 - e. Contractor shall involve child/parents/caregivers/guardians in all treatment planning and decision-making regarding the child's services as documented in the child/youth's Treatment Plan.
 - f. Contractor shall provide clinical supervision to all treatment staff in accordance with the State Board of Behavioral Sciences and State Board of Psychology.
 - g. Contractor shall attend County-sponsored provider meetings and other work groups as requested.
 - h. Contractor shall provide Clients with a copy of the El Dorado County Mental Health Plan Grievance and Appeal brochures and "Guide to Medi-Cal Mental Health Services." If requested, Contractor shall assist Clients/families in the Grievance or Appeal process outlined in the above referenced documents.
 - i. Contractor shall complete all performance outcomes requirements in accordance with the DMH and the MHD.
 - j. Contractor shall adhere to the guidelines in accordance with policies and procedures issued by MHD QIU including but not limited to:

- i. Contractor shall complete all chart documentation as defined in the QIU.
- ii. Contractor shall participate in all County required Utilization Reviews.
- iii. Contractor shall conduct his or her own internal Utilization Review.
- iv. Contractor shall comply with audit requests by the County.
- k. Contractor is prohibited from using any unconventional mental health treatments on children. Such unconventional treatments include, but are not limited to, any treatments that violate the children's personal rights as provided in Title 22, CCR, Division 6, Chapter 1, Section 80072(3). Use of any such treatments by Contractor or any therapist providing services for Contractor shall constitute a material breach of this Agreement and may be cause for termination of this Agreement.

D. MEDICATION SUPPORT SERVICES:

Services shall include prescribing, administering, dispensing, and monitoring of psychiatric medications or biologicals that are necessary to alleviate the symptoms of mental illness. These services can only be provided, and billed for, by medical doctors, family nurse practitioners, physician assistants, nurses, and psychiatric technicians. Sessions/activities as noted below are inclusive of time required for documentation:

Activities:	Session shall be less than or equal to:
Assessment / Evaluation - Initial	90 minutes
Assessment / Evaluation – Follow Up	45 minutes
Case Management	15 minutes
Medication Refill	10 minutes

E. EVALUATION OF CONTRACTOR'S PERFORMANCE:

The County shall evaluate the 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. The County's determination as to satisfactory work shall be final absent fraud or mistake.

ARTICLE II

Term: This Agreement shall cover the period of July 1, 2014 through June 30, 2017 unless earlier terminated pursuant to the provisions under the Articles titled "Fiscal Considerations" and "Default, Termination and Cancellation" herein.

ARTICLE III

Compensation for Services: Contractor shall submit monthly invoices no later than thirty (30) days following the end of a "service month" except in those instances where Contractor obtains written approval from County Health and Human Services Agency Director or Director's designee granting an extension of the time to complete billing for services or expenses. For billing purposes, a "service month" shall be defined as a calendar month during which Contractor provides services in accordance with the Article titled "Scope of Services."

For services provided herein, County agrees to pay Contractor monthly in arrears and within forty-five (45) days following the County's receipt and approval of itemized invoice(s) identifying services rendered.

A. Rates:

Service Type	Unit	Rate
Day Treatment Intensive Services	Day	\$208.00
Day Rehabilitation Services	Day	\$136.00
Medication Support Services	Minute	\$5.00
Therapeutic Behavioral Services	Minute	\$2.71
Crisis Intervention	Minute	\$4.02

B. 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:
County of El Dorado HHSA 3057 Briw Road Placerville, CA 95667 Attn: Fiscal Unit	Charis Youth Center 714 W. Main St. Grass Valley, CA 95945 Attn: Accounts Receivable

ARTICLE IV

Maximum Obligation: The maximum contractual obligation under this Agreement shall not exceed \$185,000 for all of the stated services and during the term of the Agreement.

ARTICLE V

Cost Report: Contractor shall submit an annual Cost Report to County on or before October 31 of each year for the preceding fiscal period of July 1 through June 30 ("fiscal period"). Contractor shall prepare the Cost Report in accordance with the State Department of Health Care Services Cost and Financial Reporting System Local Program Financial Support Instruction Manual, incorporated by reference as if fully set forth herein.

The Cost Report shall be the final financial record of services rendered under this Agreement, for subsequent audits, if any. Such reported costs and allocations shall be supported by source documentation maintained by Contractor and available at any time to Contract Administrator upon reasonable notice.

It is agreed between County and Contractor that the rates stated in this Agreement are intended to approximate the Contractor's actual costs. Should the actual rate as determined in the Cost Report for the fiscal period be less than the rate(s) identified herein, Contractor agrees to reimburse County for all amounts paid in excess of the actual rate. Reimbursement shall be remitted to County no later than December 31 following the fiscal period. Based upon written approval by the Health and Human Services Agency Director, this reimbursement may be made via monthly installment payments for up to six (6) months.

ARTICLE VI

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 VII

Audit and Inspection Rights:

- A. 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).
- B. 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.
- C. The 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.
- D. The 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.

- E. 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.

1. 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.

2. 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.

3. 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 VIII

Disabled Veteran Business Enterprises (DVBE): Unless specifically waived by the County, Contractor shall comply with the Disabled Veteran Business Enterprises participation goal in accordance with the provisions of Public Contract Code Section 10115 et seq.

ARTICLE IX

Drug-Free Workplace: Contractor agrees to maintain a drug-free workplace and remain in compliance with the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. Chapter 10) and the California Drug-Free Workplace Act of 2000 (Gov't Code §8350 et seq.) and any subsequent amendments to either Act thereto. A "drug free workplace" means the site(s) for the performance of work done by Contractor at which Contractor and employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of any controlled substance. A list of controlled substances can be found in Schedules I through V of §202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in Regulation 21 CFR 1308.11 – 1308.15.

ARTICLE X

Key Personnel: Contractor's key personnel at the time of this Agreement shall be as noted in the section titled "Notice to Parties." Any substitution of Contractor's key personnel as identified at the time of execution requires written approval by Contract Administrator.

ARTICLE XI

License and Certifications:

- A. Inpatient Contracts and Subcontracts: If this Agreement is for inpatient services, the Contractor acknowledges that they must maintain necessary licensing and certification. All inpatient subcontracts must require that subcontractors maintain necessary licensing and certification, and all subcontractors must comply with the terms of this Agreement.

- 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.

The 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.

ARTICLE XII

Non-Discrimination: Assurance of compliance with the County of El Dorado Health and Human Services Agency non-discrimination in State and Federally assisted programs requirements as follows:

Contractor hereby agrees that they shall comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended, and in particular Section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code section 11135-11139.5, as amended; California Government Code section 12940 (c), (h) (1), (i), and (j); California Government Code section 4450; Title 22, California Code of Regulations section 98000 – 98413; Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable Federal and State laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84 and 91, 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are non-discriminatory, to the effect that no person shall, because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, or political belief, be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving Federal or State financial assistance; and hereby give assurance that it shall immediately take any measures necessary to effectuate this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal and State assistance; and Contractor hereby gives assurance that administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Chapter 21, shall be prohibited.

By accepting this assurance, Contractor agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of the aforementioned laws, rules, and

regulations, and permit authorized CDSS or Federal government personnel, during normal working hours, to review such records, books, and accounts as needed to ascertain compliance. If there are any violations of this assurance, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code Section 10605, or Government Code section 11135-11139.5, or any other laws, or the issue may be referred to the appropriate Federal agency for further compliance action and enforcement of this assurance.

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

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

ARTICLE XIII

Record Retention: Contractor agrees 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.

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

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.

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ARTICLE XVI

Additional Agreement Provisions:

- A. Agreement Work Hours and Safety Standards Act: The Contractor shall comply with the provisions of the Agreement Work Hours and Safety Standards Act (40 U.S.C. 327-333), as applicable. This Act requires that all subcontracts awarded by the Contractor in excess of \$2,000 for construction and in excess of \$2,500 for other subcontracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Agreement Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (Title 29, CFR, Part 5).
- B. 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.
- C. 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.
- D. 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").
- E. 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").
- F. 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 nonprocurement programs from having a relationship with the Contractor.
- G. 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.
- H. Federal Regulations Requirements: If applicable, based on the services provided under this Agreement, the Contractor agrees to comply as follows:

1. The 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.
2. The 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 XVII

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:

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 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 XVIII

Mandated Reporter: Contractor acknowledges and agrees to comply with mandated reporter requirements pursuant to the provisions of Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the California Penal Code, also known as The Child Abuse and Neglect reporting Act, and the Welfare and Institutions Code 15630 et seq. related to elder and dependent adults, as applicable.

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. Contractor shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE 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

Continuous Operation: Contractor shall operate continuously throughout the term of this Agreement with at least the minimum number and type of staff required to meet applicable Federal, State, and County requirements, and which are necessary for the provision of services hereunder.

ARTICLE XXIV

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, the 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.

ARTICLE XXV

Default, Termination, and Cancellation:

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

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

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

ARTICLE XXVI

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

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ARTICLE XXVII

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 COUNTY
HEALTH AND HUMAN SERVICES AGENCY
3057 BRIW ROAD
PLACERVILLE, CA 95667
ATTN: CONTRACTS UNIT

With a copy to:

COUNTY OF EL DORADO
PROCUREMENT AND CONTRACTS DIVISION
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:

CHARIS YOUTH CENTER.
714 WEST MAIN STREET
GRASS VALLEY, CA 95945
ATTN: CAROL FULLER-POWELL

Or to such other location as the Contractor directs.

ARTICLE XXVIII

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

ARTICLE XXIX

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

Personally Identifiable Information means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification

card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

A. Permitted Uses and Disclosures of PII by Contractor.

1. Permitted Uses and Disclosures. Contractor shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Contractor, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.
2. Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, Contractor shall:
 - a. Use and disclose only PII for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, provided that such use and disclosures are permitted by law; and
 - b. Take all reasonable steps to destroy, or arrange for the destruction of a client's records within its custody or control containing personal information that is no longer to be retained by Contractor by (1) shredding, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

B. Responsibilities of Contractor.

1. Contractor agrees to safeguards:
 - a. To prevent use or disclosure of PII other than as provided for by this Agreement. Contractor shall provide County with information concerning such safeguards as County may reasonably request from time to time; and
 - b. Contractor shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
 - c. Contractor shall implement a system to identify appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Contractor shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.
2. Contractor shall implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
 - a. Network based firewall or personal firewall; and
 - b. Continuously updated anti-virus software; and
 - c. Patch-management process including installation of all operating system/software vendor security patches.

3. Mitigation of Harmful Effects. Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PII by Contractor or its subcontractors.
4. Agents and Subcontractors of Contractor. The same restrictions and conditions that apply through this Agreement to Contractor, shall also apply to Contractor's subcontractors and agents.
5. Notification of Electronic Breach or Improper Disclosure. During the term of this Agreement, Contractor shall notify County immediately upon discovery of any breach of PII or data, where the information or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to County Privacy Officer, within two business days of discovery, at (530) 621-5565. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to County Privacy Officer, postmarked within thirty (30) working days of the discovery of the breach.

ARTICLE XXX

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

ARTICLE XXXI

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

ARTICLE XXXII

Debarment and Suspension Certification: By signing this Agreement, the Contractor agrees to comply with applicable Federal suspension and debarment regulations including, but not limited to 45 CFR 76 and Contractor further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-contractor utilized under the Agreement:

- 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 (3)-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 subrecipient covered transaction with any person(s) who are proposed for debarment under Federal regulations (i.e., 48 CFR part 9, subpart 9.4) 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 titled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions in accordance with 45 CFR. Part 76.

If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation in writing to County.

The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549 (<http://www.archives.gov/federal-register/codification/executive-order/12549.html>).

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

ARTICLE XXXIII

Accounting Systems and Financial Records: Contractor shall be required to establish and maintain accounting systems and financial records that accurately account for and reflect all federal funds received, including all matching funds from the State, County and any other local or private organizations. Contractor's records shall reflect the expenditure and accounting of said funds in accordance with all State laws and procedures for expending and accounting for all funds and receivables, as well as meet the financial management standards in 45 CFR Part 92 and all current revisions of OMB Circular A-122. More particularly, Contractors are responsible for complying with OMB Circular A-122 and 45 CFR Part 92, and the allowability of the costs covered therein. Contractor must obtain written approval from a member of the HHSA Executive Management prior to the expenditure of any "special" or unusual costs in order to avoid possible disallowances or disputes based on any potential unreasonableness or unallowability of expenditures as detailed under the specific cost principles of OMB Circular A-122. In order to obtain the most current regulations, the user should consult not only the latest version of the CFR, but also the List of (CFR) Sections Affected ("LSA") issued in the current month. The *Federal Register* home page (<http://www.gpoaccess.gov/nara/index.html>) offers links to both the *Federal Register* and the CFR. An electronic CFR ("e-CFR") is available at <http://www.gpoaccess.gov/ecfr/>. The e-CFR is an unofficial editorial compilation of CFR

material and *Federal Register* amendments. It is a current, daily updated version of the CFR; however, it is not an official legal edition of the CFR. Please note that on-line versions of the CFR may not be the most current available.

ARTICLE XXXIV

Annual Audit: Pursuant to the Single Audit Act and the Office of Management and Budget ("OMB") Circular A-133, any entity that receives a total of \$500,000 or more per year in federal funds for the purposes of carrying out federal programs must complete an annual audit. The funding threshold is aggregate funds from all sources. Contractor shall mail a certified copy of said completed annual audit to County's Health and Human Services Agency at the address listed in Agreement's "Notice to parties" Article within thirty (30) days of Contractor's receipt of same. All adverse audit findings must be documented and included with completed annual audit. Certified evidence of correction(s) of adverse audit findings shall be provided to County at the HHS address listed in Agreement's Article titled "Notice to Parties."

ARTICLE XXXV

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager ("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.
 1. If Contractor has no employees, they shall not be required to obtain Worker's Compensation and Employer's Liability insurance. Should, during the term of this Agreement, Contractor hire one or more employees who will provide any services related to this Agreement, Contractor shall immediately obtain full Workers' Compensation and Employers' Liability insurance and furnish County with certificate(s) for same.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event Contractor uses motor vehicles 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 \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the Risk Manager as evidence that the above-required insurance is being maintained.
- F. The insurance shall be issued by an insurance company acceptable to the County of El Dorado Risk Management Department ("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 the Risk

Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event 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 for breach pursuant to the provisions contained herein this Agreement under the Article titled "Default, Termination, and Cancellation."

- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer shall not cancel the insured's coverage without prior written notice to County, and;
 - 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an "Additional Insured Endorsement" page, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Contractor's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. Either:
 - 1. Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or
 - 2. 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 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 both insurance and evidence of insurance to County that shall cover claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of County.

ARTICLE XXXVI

Interest of Public Official: No official or employee of the County of El Dorado 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 the County of El Dorado have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XXXVII

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 Contractor shall employ no person having any such interest.

ARTICLE XXVIII

Audit by California State Auditor: Contractor acknowledges that contracts involving the expenditure of public funds in excess of \$10,000 are subject to examination and audit by the California State Auditor pursuant to Government Code Section 8546.7. Contractor shall provide Federal, State, or County authorities with access to any books, documents, papers, and records of Contractor, which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions. In order to facilitate these potential examinations and audits, Contractor shall maintain all books, documents, papers, and records necessary to demonstrate performance under this Agreement for a period of at least three (3) years after final payment or for any longer period required by law.

ARTICLE XXXIX

Transfer of Records: In the event that Contractor ceases operation, all physical and electronic 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. Contractor shall properly destroy records not transferred to custody of County, and Contractor shall provide documentation of proper destruction of all such records to County.

ARTICLE XL

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

Contractor shall further comply with all applicable laws relating to wages and hours of employment and occupational safety and to fire, safety, and health and sanitation regulations.

Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

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

ARTICLE XLI

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

ARTICLE XLII

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 XLIII

Lobbying Certification: The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

- A. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form SF-LLL, OMB Number 0348-0046 "Disclosure of Lobbying Activities" in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE XLIV

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 XLV

Taxpayer Identification Number (Form W-9) and County Payee Data Record Form: All independent Contractors or Corporations providing services to County must file a Department of the Treasury Internal Revenue Service Form W-9 with County, which certifies their Taxpayer Identification Number. All independent Contractors or Corporations providing services to County may also be required to file a County-issued "Payee Data Record" form with County.

ARTICLE XLVI

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

ARTICLE XLVII

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 XLVIII

Administrator: The County Officer or employee with responsibility for administering this Agreement is Jamie Samboceti, Acting Manager of Mental Health Programs, or successor.

ARTICLE XLIX

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 L

Waivers: Failure of County to enforce any provision of this Agreement shall in no event be considered a waiver of any part of such provision or any other provision contained herein. 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 LI

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 LII

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 LIII

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

ARTICLE LIV

Litigation: 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.

Contractor, promptly after receiving notice thereof, shall immediately notify the County in writing 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 LV

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 LI

Conflict Prevention and Resolution: The terms of this Agreement shall control over any conflicting terms in any referenced document, except to the extent that the end result would constitute a violation of Federal or State law. In such circumstances, and only to the extent the conflict exists, this Agreement shall be considered the controlling document.

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ARTICLE LVII

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: Patricia Charles-Heathers, Ph.D. Dated: 5/15/14
Patricia Charles-Heathers, Ph.D., Assistant Director
Health and Human Services Agency

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By: Don Ashton Dated: 5/16/2014
Don Ashton, M.P.A., Director
Health and Human Services Agency

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Services 015-S1511 on the dates indicated below.

--COUNTY OF EL DORADO--

Dated: _____

By: _____
Norma Santiago, Chair
Board of Supervisors
"County"

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

By: _____
Deputy Clerk

Dated: _____

--CONTRACTOR--

CHARIS YOUTH CENTER
A CALIFORNIA CORPORATION

By: _____
Carol Fuller Powell, Executive Director
"Contractor"

Dated: _____

By: _____
Elizabeth Hayman, Corporate Secretary

Dated: _____

Exhibit "A"

HIPAA Business Associate Agreement

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

RECITALS

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

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

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

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

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

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

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

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

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

2. Scope of Use and Disclosure by BA of County Disclosed PHI

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

3. Obligations of BA. In connection with its use of PHI disclosed by County to BA, BA agrees to:
- A. Implement appropriate administrative, technical, and physical safeguards as are necessary to prevent use or disclosure of PHI other than as permitted by the Agreement that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI in accordance with 45 CFR 164.308, 164.310, 164.312, and 164.504(e)(2). BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule.
 - B. Report to County within 24 hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
 - C. Report to County in writing of any access, use or disclosure of PHI not permitted by the Underlying Agreement and this Business Associate Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than five (5) days. To the extent the Breach is solely a result of BA's failure to implement reasonable and appropriate safeguards as required by law, and not due in whole or part to the acts or omissions of the County, BA may be required to reimburse the County for notifications required under 45 CFR 164.404 and CFR 164.406.
 - D. BA shall not use or disclose PHI for fundraising or marketing purposes. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. BA shall not directly or indirectly receive remuneration in exchange of PHI, except with the prior written consent of the County and as permitted by the HITECH Act, 42 USC Section 17935(d)(2); however, this prohibition shall not affect payment by County to BA for services provided pursuant to the Agreement.
4. PHI Access, Amendment and Disclosure Accounting. BA agrees to:
- A. Provide access, at the request of County, within five (5) days, to PHI in a Designated Record Set, to the County, or to an Individual as directed by the County. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 USC Section 17935(e).

- B. Within ten (10) days of receipt of a request from County, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in BA's possession constitutes a Designated Record Set.
- C. To assist the County in meeting its disclosure accounting under HIPAA:
 - (1) BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosure from Electronic Health Record for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At the minimum, the information collected shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if know, the address of the entity or person; (iii) a brief description of PHI disclosed and; (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
 - (2) Within in 30 days of notice by the County, BA agrees to provide to County information collected in accordance with this section to permit the County to respond to a request by an Individual for an accounting of disclosures of PHI.
- D. Make available to the County, or to the Secretary of Health and Human Services (the "Secretary") , BA's internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining BA's compliance with the Privacy Rule, subject to any applicable legal restrictions. BA shall provide County a copy of any PHI that BA provides to the Secretary concurrently with providing such information to the Secretary.

5. Obligations of County.

- A. County agrees that it will promptly notify BA in writing of any restrictions on the use and disclosure of PHI agreed to by County that may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.
- B. County agrees that it will promptly notify BA in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.
- C. County agrees that it will promptly notify BA in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect BA's use of disclosure of PHI.

- D. County shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County, except as may be expressly permitted by the Privacy Rule.
- E. County will obtain any authorizations necessary for the use or disclosure of PHI, so that BA can perform its obligations under this Business Associate Agreement and/or the Underlying Agreement.

6. Term and Termination.

- A. Term. This Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement, as provided therein when all PHI provided by the County to BA, or created or received by BA on behalf of the County, is destroyed or returned to the County, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- B. Termination for Cause. Upon the County's knowledge of a material breach by the BA, the County shall either:
 - (1) Provide an opportunity for the BA to cure the breach or end the violation and terminate this Agreement if the BA does not cure the breach or end the violation within the time specified by the County.
 - (2) Immediately terminate this Agreement if the BA has breached a material term of this Agreement and cure is not possible; or
 - (3) If neither termination nor cures are feasible, the County shall report the violation to the Secretary.
- C. Effect of Termination.
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the BA shall, at the option of County, return or destroy all PHI that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI.
 - (2) In the event that the County determines that returning or destroying the PHI is infeasible, BA shall provide to the County notification of the conditions that make return or destruction infeasible, and . BA shall extend the protections of this Agreement to such PHI to those purposes that make the return or destruction infeasible, for so long as the BA maintains such PHI. If County elects destruction of the PHI, BA shall certify in writing to County that such PHI has been destroyed.

7. Indemnity

- A. BA shall indemnify and hold harmless all Agencies, Districts, Special Districts and Departments of the County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (collectively "County") from any liability whatsoever, based or asserted upon any services of BA, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to BA's performance under this Business Associate Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever to the extent arising from the performance of BA, its officers, agents, employees, subcontractors, agents or representatives under this Business Associate Agreement. BA shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards against the County in any claim or action based upon such alleged acts or omissions.
- B. With respect to any action or claim subject to indemnification herein by BA, BA shall, at its sole cost, have the right to use counsel of its choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes BA's indemnification of County as set forth herein. BA's obligation to defend, indemnify and hold harmless County shall be subject to County having given BA written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at BA's expense, for the defense or settlement thereof. BA's obligation hereunder shall be satisfied when BA has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.
- C. The specified insurance limits required in the Underlying Agreement of this Business Associate Agreement shall in no way limit or circumscribe BA's obligations to indemnify and hold harmless the County herein from third party claims arising from the issues of this Business Associate Agreement.
- D. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code Section 2782. Such interpretation shall not relieve the BA from indemnifying the County to the fullest extent allowed by law.
- E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Business Associate Agreement, this indemnification shall only apply to the subject issues included within this Business Associate Agreement.

8. Amendment The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
9. Survival The respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
10. Regulatory References A reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
11. Conflicts Any ambiguity in this Business Associate Agreement and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.