

**MENTAL HEALTH ORGANIZATIONAL PROVIDER SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
CRESTWOOD BEHAVIORAL HEALTH INC. – PATHWAYS
FOR FISCAL YEARS 2018-2019 THROUGH 2020-2021**

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This Mental Health Organizational Provider Services Agreement (“Agreement”), entered into this ____ day of _____, 2018, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and Crestwood Behavioral Health Inc. – Pathways, a California for-profit mental health service organization, hereinafter referred to as “PROVIDER,” is made upon the following considerations:

WHEREAS, COUNTY is required to provide specialty mental health services to eligible Humboldt County Medi-Cal Beneficiaries (“Beneficiaries”) as part of COUNTY’s Medi-Cal Managed Mental Health Care Program; and

WHEREAS, COUNTY may arrange for the provision of such specialty mental health services through written agreements with licensed mental health service organizations pursuant to the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) that COUNTY has with the California Department of Health Care Services (“DHCS”); and

WHEREAS, COUNTY, by and through its Department of Health and Human Services – Mental Health (“DHHS – Mental Health”), desires to retain a certified Medi-Cal provider to furnish specialty mental health services to eligible Beneficiaries; and

WHEREAS, PROVIDER is duly licensed to independently practice psychotherapy in the State of California and has been certified as a Medi-Cal Provider by DHHS – Mental Health; and

WHEREAS, PROVIDER is currently in good standing to provide specialty mental health services under the State of California Medi-Cal Program; and

WHEREAS, PROVIDER represents that it is adequately trained, skilled, experienced and qualified to perform the specialty mental health services required by COUNTY.

NOW, THEREFORE, parties hereto mutually agree as follows:

1.0 DEFINITIONS:

Except when it is clear from the context that another meaning is intended, terms used in this Agreement shall have the meaning as set forth in the Humboldt County Organizational Provider Manual for Outpatient Specialty Mental Health Services (“Organizational Provider Manual”), as may be updated from time to time through provider bulletins issued by DHHS – Mental Health, which is incorporated herein by reference and made a part hereof as if set forth in full.

2.0 PROVISION OF SPECIALTY MENTAL HEALTH SERVICES:

2.1 Description of Services:

PROVIDER hereby agrees to furnish the specialty mental health services described in Exhibit A – Scope of Services, which is attached hereto and incorporated herein by reference as if set forth in full, in accordance with the policies and procedures set forth in the Organizational Provider

Manual. In providing such specialty mental health services PROVIDER agrees to fully cooperate with the DHHS – Mental Health Director, or a designee thereof, hereinafter referred to as “Director.”

2.2 Availability of Services:

PROVIDER shall make all specialty mental health services covered under this Agreement available in accordance with Title 9 of the California Code of Regulations (“C.C.R.”) Sections 1810.345 and 1810.405 with respect to the timelines of routine services as established by DHHS – Mental Health.

2.3 Amount, Duration and Scope of Services:

PROVIDER shall ensure that specialty mental health services provided pursuant to the terms and conditions of this Agreement are sufficient in amount, duration and scope to reasonably be expected to achieve the purpose for which such services are provided.

2.4 Denial or Reduction of Services:

PROVIDER shall not arbitrarily deny or reduce the amount, duration or scope of specialty mental health services required hereunder solely due to diagnosis, type of illness or condition of the Beneficiary except as specifically provided in the applicable medical necessity criteria set forth in 9 C.C.R. Sections 1820.205, 1830.205 and 1830.210.

2.5 Staffing Requirements:

PROVIDER shall maintain a minimum staffing ratio of at least one (1) full-time equivalent direct care staff member for each two and one-half (2.5) Beneficiaries receiving specialty mental health services pursuant to the terms and conditions of this Agreement. Staff schedules shall be determined by PROVIDER based on the number of Beneficiaries receiving specialty mental health services pursuant to the terms and conditions of this Agreement during specific hours of the day and the level of care and range of specialty mental health services being provided. All staff hours scheduled by PROVIDER pursuant to the terms and conditions of this Agreement shall be considered part of the required full-time equivalent staffing ratio.

2.6 Utilization of Interns, Associate Social Workers and Unlicensed Service Providers:

A. **Marriage and Family Therapy Services.** PROVIDER may use interns and/or associate social workers to administer marriage and family services pursuant to the terms and conditions of this Agreement, if the following requirements are met:

1. Each intern and/or associate social worker responsible for providing marriage and family therapy services pursuant to the terms and conditions of this Agreement shall have obtained a masters degree and be certified by the Board of Behavioral Science for internship or associate social worker status.
2. Each Intern and/or associate social worker responsible for providing marriage and family services pursuant to the terms and conditions of this Agreement shall be subject to documented clinical supervision in accordance with current Board of Behavioral Science requirements for interns and/or associate social workers.

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- a. Individual supervision shall be augmented by two (2) documented hours of multi-disciplinary group supervision per week. Such supervision shall be required for the first six (6) months of experience and may be required for up to one (1) year.
 - b. Members of PROVIDER's staff responsible for supervising interns and/or associate social workers shall meet regularly to review and monitor the performance of marriage and family services provided by interns and/or social workers and develop and schedule training seminar topics.
 - c. PROVIDER shall provide documentation of required intern and/or associate social worker supervision to COUNTY upon request.
3. Prior to allowing interns and/or associate social workers to provide any marriage and family services pursuant to the terms and conditions of this Agreement, PROVIDER shall provide COUNTY with the following documentation:
- a. Copies of each intern and/or associate social worker's application, resumé and license.
 - b. A detailed description of each intern and/or associate social worker's training program.
 - c. Copies of each supervising staff member's "Supervisor Responsibility Statement."
 - d. Proof of malpractice insurance coverage applicable to each intern and/or associate social worker and supervising staff member.

B. Mental Health Rehabilitation and Plan Development Services. PROVIDER may use unlicensed staff members who have at least two (2) years experience in working with adults and/or children with psychiatric illnesses to administer mental health rehabilitation and plan development services pursuant to the terms and conditions of this Agreement, if the following requirements are met:

1. Each unlicensed staff member responsible for providing mental health rehabilitation and plan development services pursuant to the terms and conditions of this Agreement shall have obtained, at a minimum, an Associate of Arts Degree in a related social science field.
2. Each unlicensed staff member responsible for providing mental health rehabilitation and plan development services pursuant to the terms and conditions of this Agreement shall be subject to documented clinical supervision by a licensed mental health professional, including, without limitation, physicians, psychologists, clinical social workers, marriage and family therapists and registered nurses with a master's degree in psychiatric nursing.

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C. Case Management and Brokerage Services. PROVIDER may use unlicensed staff members who have at least two (2) years experience in providing services in which case management principles and methods are utilized to administer case management and brokerage services pursuant to the terms and conditions of this Agreement, if the following

requirements are met:

1. Each unlicensed staff member responsible for providing case management and brokerage services pursuant to the terms and conditions of this Agreement shall have obtained, at a minimum, an Associate of Arts Degree in a field in which the principles and methods of case management are utilized.
2. Each unlicensed staff member responsible for providing case management and brokerage services pursuant to the terms and conditions of this Agreement shall be subject to documented clinical supervision by a licensed mental health professional, including, without limitation, physicians, psychologists, clinical social workers, marriage and family therapists and registered nurses with a master's degree in psychiatric nursing.

2.7 Benefit Restrictions:

Specialty mental health services provided pursuant to the terms and conditions of this Agreement shall be subject to the laws, regulations, policies, procedures, standards, limitations and restrictions set forth in the Organizational Provider Manual, as may be updated from time to time through provider bulletins issued by DHHS – Mental Health.

2.8 Provider Authority:

Nothing expressed or implied herein shall require PROVIDER to offer, order or deliver specialty mental health services that, in PROVIDER's professional opinion, are not required.

3.0 RIGHTS AND RESPONSIBILITIES OF PROVIDER:

3.1 Medi-Cal Eligibility:

PROVIDER shall verify the Medi-Cal eligibility of each Beneficiary prior to providing specialty mental health services pursuant to the terms and conditions of this Agreement.

3.2 Prior Authorization:

PROVIDER agrees to adhere to all applicable Prior Authorization policies and procedures set forth in the Organizational Provider Manual, which are incorporated herein by reference and made a part hereof as if set forth in full.

3.3 Referral Process:

PROVIDER agrees to schedule initial appointments with Beneficiaries within ten (10) working days of receiving referrals from COUNTY. PROVIDER further agrees to establish appropriate mechanisms to record the date on which a particular referral was received, the date of the first offered appointment and the date of the first face-to-face appointment. Staff cancellations and failure to appear shall be accounted for in this process. PROVIDER shall provide the above-referenced information to COUNTY on a monthly basis as set forth in the Organizational Provider Manual.

3.4 Admission Requirements:

- A. **Admission Policies.** In order for proper reimbursement of the specialty mental health services provided pursuant to the terms and conditions of this Agreement, PROVIDER must

comply with all of the following:

1. All referrals to PROVIDER must be authorized by Director, or a designee thereof; however, the final admission decision shall rest with PROVIDER.
2. If admission is denied, Director, or a designee thereof, shall be immediately notified and informed of the reasons leading to the denial.
3. PROVIDER's policies and procedures for admission shall be based on this Agreement. Policies must include a provision that patients are accepted for care without discrimination on the basis of race, color, religion, gender, national origin, age, sexual orientation or physical or mental disability.
4. In recognition of the fact that DHHS – Mental Health has specific responsibilities for the long-term case coordination of Beneficiaries referred to PROVIDER, PROVIDER agrees to participate in and accept the overall care plan for such Beneficiaries, including, but not limited to, discharge planning and timeliness, as a condition of acceptance of the Beneficiary for admission.

B. Admission Priority. PROVIDER shall provide COUNTY with periodic reports of openings in PROVIDER's treatment program, and give priority to the admission of Beneficiaries.

3.5 Hours of Operation:

PROVIDER shall offer to Beneficiaries hours of operation that are no less than the hours of operation offered to commercial enrollees. If PROVIDER serves only Medi-Cal beneficiaries, PROVIDER shall offer hours of operation that are comparable to the hours of operation made available for Medi-Cal services that are not covered by COUNTY or another Medi-Cal Managed Mental Health Care Program.

3.6 Location Expansion:

PROVIDER shall not provide specialty mental health services pursuant to the terms and conditions of this Agreement at any location other than those locations it uses as of the effective date of this Agreement without COUNTY's prior written permission.

3.7 Notification of Litigation:

PROVIDER shall inform COUNTY of any professional litigation within forty-eight (48) hours of the filing of such litigation.

3.8 Assistance in Litigation and Administrative Proceedings:

PROVIDER shall make itself, and any employees, agents or subcontractors assisting PROVIDER in the performance of its obligations hereunder, available to DHCS, at no cost, to testify as witnesses, or otherwise, in the event of any litigation or administrative proceedings being commenced against DHCS, its directors, officers or employees based upon claimed violations of HIPAA, or the regulations promulgated thereunder, which involve inactions or actions by COUNTY or PROVIDER, except where COUNTY or PROVIDER is a named adverse party.

4.0 LEGAL, REGULATORY AND CONTRACTUAL COMPLIANCE:

4.1 **Compliance with Applicable Laws, Regulations and Requirements:**

- A. **General Legal Requirements.** PROVIDER agrees to comply with any and all applicable regulations of the California Medi-Cal Program and all other local, state and federal laws, regulations, policies, procedures and standards applicable to the specialty mental health services provided pursuant to the terms and conditions of this Agreement, including, but not limited to, 22 C.C.R. Sections 51200, et seq. and Title 42 of the United States Code (“U.S.C.”) Sections 1396, et seq.
- B. **Licensure Requirements.** PROVIDER agrees to comply with any and all local, state and federal licensure, certification and accreditation standards applicable to the specialty mental health services provided pursuant to the terms and conditions of this Agreement. PROVIDER shall provide COUNTY with required copies of all necessary licenses and other documentation pertaining to licensure and certification as set forth in the Organizational Provider Manual.
- C. **Humboldt County Organizational Provider Manual.** PROVIDER agrees to comply with any and all applicable laws, regulations, policies, procedures, standards and guidelines set forth in the Organizational Provider Manual, and any updates thereto, which are incorporated herein by reference and made a part hereof as if set forth in full. PROVIDER hereby certifies that it was provided with a copy of the Organizational Provider Manual on the date set forth in Exhibit B – Acknowledgement of Receipt, which is attached hereto and incorporated herein by reference as if set forth in full.
- D. **Humboldt County Mental Health Managed Care Agreement.** PROVIDER agrees to comply with all provisions applicable to subcontractors in the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full. The above-referenced agreement can be obtained online at the following address: http://humboldt.granicus.com/GeneratedAgendaViewer.php?view_id=2&clip_id=707.
- E. **Humboldt County Mental Health Performance Agreement.** PROVIDER agrees to comply with all provisions applicable to subcontractors in the Mental Health Performance Agreement (State Standard Agreement No. 17-94523) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full. The above-referenced agreement can be obtained online at the following address: <http://humboldt.legistar.com/gateway.aspx?M=F&ID=87a31d7a-71b0-419f-a235-7838571a8d61.pdf>.
- F. **Humboldt County Policies and Procedures Regarding Advance Directives.** PROVIDER agrees to comply with COUNTY’s policies and procedures pertaining to Advance Directives, which are incorporated herein by reference and made a part hereof as if set forth in full. As used herein, the term “Advance Directives” shall mean a written instruction, such as a living will or durable power of attorney for health care, recognized under the laws of the State of California, relating to the provision of health care when the individual is incapacitated as defined in Title 42 of the Code of Federal Regulations (“C.F.R.”) Section 489.100.
- G. **Humboldt County Physician Incentive Plans.** PROVIDER agrees to comply with COUNTY’s obligations for Physician Incentive Plans, if applicable, based on the specialty mental health services provided pursuant to the terms and conditions of this Agreement. As used herein, the term “Physician Incentive Plans” shall include any compensation arrangement to pay a physician or physician group that may directly or indirectly have the

effect of reducing or limiting the specialty mental health services provided to any Beneficiary as set forth in 42 C.F.R. Section 422.208(a).

4.2 **Confidential Information:**

- A. **Legal Compliance.** PROVIDER hereby agrees to protect all confidential records and Beneficiary confidentiality in conformance with any and all applicable local, state and federal laws and regulations, including, but not limited to: California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health & Safety Code Sections 1280.15 and 1280.18; the California Information Practices Act of 1977; the California Confidentiality of Medical Information Act (“CMIA”); the United States Health Information Technology and Clinical Health Act (“HITECH Act”); the United States Health Information Portability and Accountability Act of 1996 (“HIPAA”) and any current and future implementing regulations promulgated thereunder, all as may be amended from time to time.
- B. **Continuing Compliance with Confidentiality Laws.** COUNTY and PROVIDER acknowledge that local, state and federal laws, regulations, standards and contractual requirements pertaining to confidentiality, electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws, regulations, standards or contractual requirements.

4.3 **Disclosure and Security Requirements:**

- A. **Legal Compliance.** PROVIDER hereby agrees to comply with any and all applicable local, state and federal privacy, security and confidentiality requirements, including, but not limited to, the Federal Privacy Regulations contained in 45 C.F.R. Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162; 42 C.F.R. Sections 431.300, et seq.; and 45 C.F.R. Section 205.50, all as may be amended from time to time. PROVIDER further agrees to comply with any and all applicable privacy, security, and confidentiality requirements contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) and the Mental Health Performance Agreement (State Standard Agreement No. 17-94523) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full.
- B. **Disclosure of Confidential Information.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
1. **Disclosure of Identifying Information.** PROVIDER shall protect from unauthorized disclosure the names and other “Identifying Information,” including “Personal Information” and “Personally Identifiable Information,” concerning persons either receiving specialty mental health services pursuant to this Agreement or persons whose names or Identifying Information become available to PROVIDER or are disclosed to PROVIDER as a result of services performed under this Agreement, except for statistical information not identifying any such person.
 - a. **Personal Information.** As used herein, the term “Personal Information” (“PI”) shall include, without limitation, any information that identifies or describes an individual, including, but not limited to, his or her physical description, home

address, home telephone number, education, financial matters, medical or employment history and statements made by, or attributed to, the individual.

- b. **Personally Identifiable Information.** As used herein, the term “Personally Identifiable Information” (“PII”) shall include, without limitation, any information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, driver license number, identification card number, financial account number or other identifying number, symbol or particular assigned to the individual, including, but not limited to, finger prints, voice prints and photographs.
 2. **Unauthorized Disclosures of Identifying Information.** PROVIDER shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the Beneficiary, any such Identifying Information to anyone other than COUNTY or DHCS without prior written authorization from COUNTY or the DHCS Program Contract Manager, except if disclosure is required by local, state or federal law.
 3. **Use of Identifying Information.** PROVIDER shall not use such Identifying Information for any purpose other than carrying out PROVIDER’s duties and obligations under this Agreement.
 4. **Notification of Requests for Identifying Information.** PROVIDER shall promptly transmit to COUNTY all requests for disclosure of such Identifying Information not emanating from a Beneficiary, patient or person whose name or Identifying Information becomes available to PROVIDER or is disclosed to PROVIDER as a result of specialty mental health services performed under this Agreement.
 5. **Use and Disclosure of Protected Health Information.** PROVIDER shall not use or disclose “Protected Health Information” in any manner that would constitute a breach of this Agreement or a violation of any applicable local, state or federal laws, regulations, rules or standards.
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- a. **Protected Health Information.** As used herein, the term “Protected Health Information” (“PHI”) shall include, without limitation, individually identifiable health information that is transmitted by electronic media, maintained in electronic media or is transmitted or maintained in any other form or medium, as defined by the HIPAA Standards for Privacy of Individually Identifiable Health Information, as codified at 45 C.F.R. Parts 160 and 164, and the Federal Security Standards contained in 45 C.F.R. Parts 160 and 164, all as may be amended from time to time.
 6. **Minimum Use and Disclosure of Protected Health Information.** PROVIDER shall use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of this Agreement.
 7. **Compliance with Legal Standards Pertaining to Protected Health Information.** PROVIDER shall only use, store, disclose or access PHI in compliance with this Agreement and all applicable local, state and federal laws, regulations, rules and standards.
 8. **Downloading Protected Health Information.** PROVIDER shall not download PHI

to any personal device, including, but not limited to, flash drives, cell phones, iPads or tablets without the prior written approval of COUNTY.

9. **Maintenance and Preservation of Disclosure Records.** PROVIDER agrees to timely prepare accurate and complete performance records relating to the use and disclosure of PHI transmitted pursuant to this Agreement, and to maintain and preserve said records for at least seven (7) years from the date of expiration or termination of this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising there from.
 10. **Accounting Requirements.** PROVIDER shall comply with the accounting requirements of 45 C.F.R. Section 164.528 and any associated regulations or informal guidance issued by the United States Department of Health and Human Services – Office of Civil Rights, all as may be amended from time to time.
- C. **Security Incidents and Suspected Breaches of Confidential Information.** If PROVIDER has reason to believe that PHI, PI or PII transmitted pursuant to this Agreement may have been accessed, disclosed or acquired in breach of the terms and conditions set forth herein, PROVIDER shall immediately take all actions necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the suspected breach. Such actions include, but are not limited to, the following:
1. **Reporting Breaches of Confidential Information.** PROVIDER shall notify COUNTY immediately, by telephone call and e-mail or fax, upon the discovery of a breach of PHI, PI or PII in electronic media or in any other media, if the PHI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person.
 2. **Reporting Suspected Security Incidents.** PROVIDER shall notify COUNTY, by telephone call and e-mail or fax, within twenty-four (24) hours after discovering any suspected security incident, intrusion, loss or unauthorized use or disclosure of PHI, PI or PII in violation of this Agreement or any applicable local, state or federal law.
 - a. **Discovery of Breaches and Security Incidents.** For purposes of this Agreement, a breach of, or security incident involving, PHI, PI or PII shall be treated as discovered by PROVIDER as of the first (1st) day on which such breach is known, or by exercising reasonable diligence would have been known, to PROVIDER or any person, other than the person committing the suspected breach, who is an employee, officer or other agent of PROVIDER.
 3. **Reporting Suspected Breaches and Security Incidents to Affected Individuals.** To the extent deemed warranted, PROVIDER shall provide notice to any and all individuals affected by the suspected breach of, or security incident involving, PHI, PI or PII. PROVIDER shall pay the full costs associated with notifying the impacted individuals, which may include, but are not limited to, the costs to retain an outside consulting firm to undertake the notification effort. In addition, PROVIDER shall consult with COUNTY regarding the steps required to notify impacted individuals and any other persons, media outlets or governmental agencies, and must supply COUNTY with the following information:
 - a. **Description of Suspected Breach or Security Incident.** A brief description of the circumstances surrounding the suspected breach of, or security incident

involving, PHI, PI or PII, including, without limitation, the date of occurrence and discovery thereof, if known.

- b. **Description of the Information Involved.** A description of the types of unsecured PHI, PI or PII that were involved in the suspected breach or security incident, including, but not limited to, the full name, social security number, date of birth, home address, account number or disability code of all affected third parties.
- c. **Description of Remedial Actions.** A brief description of the actions being taken by PROVIDER to remediate the breach of, or security incident involving, PHI, PI or PII, mitigate losses and protect against any further breaches or security incidents.

- 4. **Investigation of Suspected Breaches and Security Incidents.** PROVIDER shall immediately investigate any and all suspected breaches of, or security incidents involving, PHI, PI or PII. Within seventy-two (72) hours of the discovery of such suspected breach or security incident, PROVIDER shall submit a "Privacy Incident Report" containing the applicable information to the extent known at that time.
- 5. **Remediation of Breaches and Security Incidents.** Upon discovery of a breach of, or security incident involving, PHI, PI or PII, PROVIDER shall:
 - a. **Corrective Action.** Take prompt corrective action to mitigate any risks or damages involved with the breach or security incident and to protect the operating environment.
 - b. **Legal Compliance.** Take any action pertaining to such breach or security incident required by all applicable local, state and federal laws and regulations.
- 6. **Cooperation with COUNTY's Remediation Efforts.** Upon discovery of a breach of, or security incident involving, PHI, PI or PII, PROVIDER shall give highest priority to immediately mitigating and remediating the breach or security incident, and shall devote such resources as may be required to accomplish that goal. In addition, PROVIDER shall cooperate with COUNTY's mitigation and remediation efforts, including, without limitation, providing any and all information necessary to enable COUNTY to fully understand the nature and scope of the breach or security incident, including, but not limited to, identification of each individual whose unsecured PHI may have been improperly accessed, acquired or disclosed. In the event that PROVIDER's assistance is required to reinstall software, such assistance shall be provided at no cost to COUNTY and in accordance with COUNTY's policies and standards.
- 7. **Remediation Report.** PROVIDER shall provide to COUNTY a written report of the investigation of a breach of, or security incident involving, PHI, PI or PII within ten (10) business days of the discovery of such breach or security incident. The report shall include, without limitation, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to remediate and/or contain the breach or security incident.

- D. **Safeguarding Confidential Information.** PROVIDER shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the

confidentiality, integrity and availability of all PHI, PI and PII related to the specialty mental health services provided pursuant to the terms and conditions of this Agreement, including, without limitation, electronic PHI, PI and PII that PROVIDER creates, receives, maintains, uses or transmits on behalf of COUNTY. PROVIDER shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the nature, scope, size and complexity of PROVIDER's operations and activities, including, at a minimum, the following safeguards:

1. **Personnel Controls.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
 - a. **Employee Training.** All workforce members who assist in the performance of functions or activities on behalf of PROVIDER, or access or disclose PHI, PI or PII, must complete information privacy and security training, at least annually, at their own expense. Each workforce member who receives information privacy and security training must sign a certification indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following expiration or termination of this Agreement.
 - b. **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with the privacy policies and procedures or any of the privacy, security and confidentiality requirements contained herein, including termination of employment where appropriate.
 - c. **Confidentiality Statement.** All persons that will be working with PHI, PI or PII must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use and Enforcement Policies. The statement must be signed by the workforce member prior to gaining access to PHI, PI or PII. The statement must be renewed annually. PROVIDER shall retain each person's written confidentiality statement for inspection for a period of six (6) years following expiration or termination of this Agreement.
 - d. **Background Check.** Before a member of the workforce may access PHI, PI or PII, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. PROVIDER shall retain each workforce member's background check documentation for a period of three (3) years following expiration or termination of this Agreement.
2. **Technical Security Controls.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
 - a. **Workstation and Laptop Encryption.** All workstations and laptops that store PHI, PI or PII either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard ("AES"). The encryption solution must be full disk unless approved by the DHCS – Information Security Office.
 - b. **Server Security.** Servers containing unencrypted PHI, PI or PII must have sufficient administrative, physical, and technical controls in place to protect that

data, based upon a risk assessment/system security review.

- c. **Minimum Necessary.** Only the minimum necessary amount of PHI, PI or PII required to perform necessary business functions may be copied, downloaded or exported.
- d. **Removable Media Devices.** All electronic files that contain PHI, PI or PII data must be encrypted when stored on any removable media or portable device, including, without limitation, USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes, etc. Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- e. **Antivirus Software.** All workstations, laptops and other systems that process and/or store PHI, PI or PII must install and actively use a comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- f. **Patch Management.** All workstations, laptops and other systems that process and/or store PHI, PI or PII must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within thirty (30) days of vendor release. Applications and systems that cannot be patched within the required time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.
- g. **User Identification and Password Controls.** All users must be issued a unique user name for accessing PHI, PI or PII. Usernames must be promptly disabled, deleted or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight (8) characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed at least every ninety (90) days, preferably every sixty (60) days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
 - Upper case letters (A-Z);
 - Lower case letters (a-z);
 - Arabic numerals (0-9);
 - Non-alphanumeric characters (punctuation symbols).
- h. **Data Destruction.** When no longer needed, all PHI, PI or PII must be wiped using the Gutmann or United States Department of Defense ("DOD") 5220.22-M (7 Pass) standard or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the DHCS – Information Security Office.
- i. **System Timeout.** The system providing access to PHI, PI or PII must provide an automatic timeout, requiring re-authentication of the user session after no more

than twenty (20) minutes of inactivity.

- j. **Warning Banners.** All systems providing access to PHI, PI or PII must display a warning banner stating that data is confidential, systems are logged and system use is for business purposes only by authorized users. Users must be directed to log off the system if they do not agree with these requirements.
 - k. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which alters PHI, PI or PII. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only and must be restricted to authorized users. If PHI, PI or PII is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least three (3) years after occurrence.
 - l. **Access Controls.** The system providing access to PHI, PI or PII must use role based access controls for all user authentications, enforcing the principle of least privilege.
 - m. **Transmission Encryption.** All data transmissions of PHI, PI or PII outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI, PI or PII in motion such as website access, file transfer and E-Mail.
 - n. **Intrusion Detection.** All systems involved in accessing, holding, transporting and protecting PHI, PI or PII that are accessible via the internet must be protected by a comprehensive intrusion detection and prevention solution.
3. **Audit Controls.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
- a. **System Security Review.** PROVIDER must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing PHI, PI or PII must have at least an annual system risk assessment/security review which provides assurance that administrative, physical and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
 - b. **Log Reviews.** All systems processing and/or storing PHI, PI or PII must have a routine procedure in place to review system logs for unauthorized access.
 - c. **Change Control.** All systems processing and/or storing PHI, PI or PII must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.
4. **Business Continuity and Disaster Recovery Controls.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
- a. **Emergency Mode Operation Plan.** PROVIDER must establish a documented plan to enable continuation of critical business processes and protection of the security of PHI, PI or PII held in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal

computer operations to become unavailable for use in performing the work required under this Agreement for more than twenty-four (24) hours.

- b. **Data Backup Plan.** PROVIDER must have established documented procedures to backup PHI to maintain retrievable exact copies of PHI, PI or PII. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media and an estimate of the amount of time needed to restore PHI, PI or PII should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of data.
5. **Paper Document Controls.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
- a. **Supervision of Data.** PHI, PI or PII in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. PHI, PI or PII in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
 - b. **Escorting Visitors.** Visitors to areas where PHI, PI or PII is contained shall be escorted, and PHI, PI or PII shall be kept out of sight while visitors are in the area.
 - c. **Confidential Destruction.** PHI, PI or PII must be disposed of through confidential means, such as cross cut shredding and pulverizing.
 - d. **Removal of Data.** Only the minimum necessary amount of PHI, PI or PII may be removed from the premises of PROVIDER except with express written permission from COUNTY. PHI, PI or PII shall not be considered "removed from the premises," if it is only being transported from one (1) of PROVIDER's locations to another of PROVIDER's locations.
 - e. **Faxing.** Faxes containing PHI, PI or PII shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
 - f. **Mailings.** Mailings containing PHI, PI or PII shall be sealed and secured from damage or inappropriate viewing of such PHI, PI or PII to the extent possible. Mailings which include five hundred (500) or more individually identifiable records of PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission to use another method is obtained.

4.4 **Patients' Rights:**

- A. **Legal Compliance.** The parties to this Agreement shall comply with any and all applicable local, state and federal laws and regulations relating to patients' rights, including, but not limited to, California Welfare and Institutions Code Section 5325, 9 C.C.R. Sections 860 through 868 and 42 C.F.R. Section 438.100.
- B. **Specific Rights.** During the performance of this Agreement, the parties hereto shall comply

with any and all applicable local, state and federal policies and procedures pertaining to patients' rights, and shall ensure that its staff and subcontractors take those rights into account when providing specialty mental health services pursuant to the terms and conditions of this Agreement, including, without limitation, the right to:

1. Receive information in accordance with 42 C.F.R. Section 438.10.
2. Be treated with respect and with due consideration for his or her dignity and privacy.
3. Receive information on available treatment options and alternatives, presented in a manner appropriate to his or her condition and ability to understand.
4. Participate in decisions regarding his or her health care, including the right to refuse treatment.
5. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation.
6. Request and receive a copy of his or her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. Sections 164.524 and 164.526.
7. Be furnished services in accordance with 42 C.F.R. Sections 438.206 through 438.210.
8. Freely exercise his or her rights, and the exercise of those rights will not adversely affect the way in which PROVIDER treats the patient.

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- C. **Effect of Provision.** Nothing herein shall be construed to replace or conflict with the duties of patients' rights advocates set forth in California Welfare and Institutions Code Section 5520.

4.5 **Required Disclosures:**

- A. **Notification of Change in Ownership and Control.** In the event of a change in ownership or control of PROVIDER's business, within thirty-five (35) days after the occurrence thereof, or upon request of COUNTY, PROVIDER shall notify COUNTY of any change in ownership or control of its business and provide information as requested by COUNTY. The disclosures to be provided shall include, without limitation:
1. The name and address of any person (individual or corporation) with an ownership or control interest in PROVIDER's business. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;
 2. Date of birth and social security number (in the case of an individual);
 3. Other tax identification number (in the case of a corporation with an ownership or control interest in PROVIDER's business or in the business of any subcontractor in which PROVIDER has a five percent (5%) or more interest);
 4. Whether the person (individual or corporation) with an ownership or control interest in PROVIDER's business is related to another person with ownership or control interest

in the same or any other COUNTY contractor as a spouse, parent, child or sibling; or whether the person (individual or corporation) with an ownership or control interest in the business of any subcontractor in which PROVIDER has a five percent (5%) or more interest is related to another person with ownership or control interest in PROVIDER's business as a spouse, parent, child or sibling;

5. The name of any other disclosing entity in which PROVIDER has an ownership or control interest; and
6. The name, address, date of birth and social security number of any managing employee of PROVIDER.

B. Disclosures Related to Business Transactions. In accordance with 42 C.F.R. Sections 455.101 through 455.106, PROVIDER shall submit disclosures regarding certain business transactions within thirty-five (35) days after receiving COUNTY's request for such information. The disclosures to be provided shall include, without limitation:

1. The ownership of any subcontractor with whom PROVIDER has had business transactions totaling more than Twenty-Five Thousand Dollars (\$25,000.00) during the twelve (12) month period ending on the date of the request; and
2. Any significant business transactions between PROVIDER and any wholly owned supplier, or between PROVIDER and any subcontractor, during the five (5) year period ending on the date of the request.

C. Disclosures Related to Persons Convicted of Crimes. Upon request by COUNTY, PROVIDER shall submit disclosures regarding its owners, persons with controlling interest, agents and managing employees' criminal convictions related to federal health care programs pursuant to 42 C.F.R. Section 455.106(a)(1)-(2). PROVIDER shall submit the following disclosures:

1. The identity of any person who is a managing employee of PROVIDER who has been convicted of a crime related to federal health care programs (42 C.F.R. Section 455.106(a)(1)-(2)); and
2. The identity of any person who is an agent of PROVIDER who has been convicted of a crime related to federal health care programs. (42 C.F.R. Section 455.106(a)(1)-(2).) For purposes of this provision, the word "agent" has the meaning set forth in 42 C.F.R. Section 455.101.

4.6 Federal Health Care Program Exclusion:

- A. Certification of Eligibility.** By executing this Agreement, PROVIDER certifies that neither it nor any of its current staff members are restricted or excluded from providing services under any health care program funded by the federal government, either directly or indirectly, in whole or in part.
- B. Employment of Ineligible or Excluded Individuals or Entities.** PROVIDER shall not employ or contract with providers or other individuals and entities excluded from participation in federally funded health care programs (as defined in Section 1128B(F) of the Social Security Act) under either Section 1128, 1128A, or 1156 of the Social Security Act. Federal financial participation is not available for amounts expended for providers excluded

by Medicare, Medicaid or the California Children's Insurance Program, except for emergency services.

- C. **Eligibility Screening.** PROVIDER shall screen, on a monthly basis, all staff employed or retained to provide specialty mental health services related to this Agreement to ensure that they are not designated as "Ineligible" or "Excluded" as defined herein. Screening shall be conducted against both the California "Medi-Cal Suspended and Ineligible List" and the United States Health and Human Services – Office of Inspector General "List of Excluded Individuals/Entities" or any other list pursuant to 42 C.F.R. 438.214(d). PROVIDER shall screen prospective staff prior to hire or engagement.
- D. **Eligibility Notification.** PROVIDER shall notify COUNTY in writing that PROVIDER and its staff are eligible to participate in federally funded health care programs on a monthly basis. This notification shall be performed by completing the Organizational Provider Employee Screening form (QI 67).
- E. **Disclosure Requirements.** PROVIDER shall immediately disclose to COUNTY any debarment, exclusion or other event that causes PROVIDER, or any member of its staff, to be ineligible for participation in federally funded health care programs. If PROVIDER discovers that a staff member has become ineligible for, or excluded from, participation in federally funded health care programs, PROVIDER shall remove such individual from responsibility for, or involvement with, business or health care operations related hereto.
- F. **Defense and Indemnification.** PROVIDER shall hold harmless, defend and indemnify COUNTY against any and all loss or damage arising from any federal exclusion of PROVIDER or its staff members from participation in a federally funded health care program.
- G. **Effect of Non-Compliance.** Failure by PROVIDER to meet the requirements of the provisions set forth herein shall constitute a material breach upon which COUNTY may immediately terminate or suspend this Agreement.

4.7 **Intellectual Property Rights:**

PROVIDER hereby agrees to comply with any and all applicable intellectual property rights provisions contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full:

- A. **Ownership.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
 - 1. Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all "Intellectual Property," from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from or reduced to practice by PROVIDER or DHCS as a direct or indirect result of this Agreement.
 - a. For purposes of this Agreement, "Intellectual Property" means recognized protectable rights and interest such as: patents (whether or not issued), copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights,

right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or come into existence hereafter, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- i. For purposes of the definition of "Intellectual Property," "works" means all literary works, writings and printed matter, including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells and other audiovisual works, including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.
2. In the performance of this Agreement, PROVIDER will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, PROVIDER may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, PROVIDER shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without DHCS' prior written permission. Except as otherwise set forth herein, neither PROVIDER nor DHCS shall give any ownership interest in, or rights to, its Intellectual Property to the other party. If during the term of this Agreement, PROVIDER accesses any third-party Intellectual Property that is licensed to DHCS, PROVIDER agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
3. PROVIDER agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If PROVIDER enters into any agreements or subcontracts with other parties in order to perform this Agreement, PROVIDER shall require the terms of the agreements or subcontracts to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, PROVIDER or DHCS and which result directly or indirectly from this Agreement or any subcontract.
4. PROVIDER further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain and enforce DHCS' Intellectual Property rights and interests.

B. Retained Rights / License Rights. By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:

1. Except for Intellectual Property made, conceived, derived from or reduced to practice by PROVIDER or DHCS and which result directly or indirectly from this Agreement, PROVIDER shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. PROVIDER hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute and dispose PROVIDER's Intellectual Property resulting from this Agreement, unless PROVIDER assigns all rights, title and interest in the Intellectual Property as set forth herein.
 2. Nothing in this provision shall restrict, limit or otherwise prevent PROVIDER from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that PROVIDER's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or any third-party, or result in a breach or default of any provisions herein or result in a breach of any provisions of law relating to confidentiality.
- C. **Copyright.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
1. PROVIDER agrees that for purposes of copyright law, all works, as defined herein, of authorship made by or on behalf of PROVIDER in connection with PROVIDER's performance of this Agreement shall be deemed "works made for hire." PROVIDER further agrees that the work of each person utilized by PROVIDER in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of PROVIDER or that person has entered into an agreement with PROVIDER to perform the work. PROVIDER shall enter into a written agreement with any such person that: (i) all work performed for PROVIDER shall be deemed a "work made for hire" under the Copyright Act; and (ii) such person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from or reduced to practice by PROVIDER or DHCS and which result directly or indirectly from this Agreement.
 2. All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from or reduced to practice by PROVIDER or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [*Enter Current Year e.g., 2010, etc.*], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.
- D. **Patent Rights.** With respect to inventions made by PROVIDER in the performance of this Agreement, which did not result from research and development specifically included in this Agreement's scope of services, PROVIDER hereby grants to DHCS a license as described herein for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development specifically included within this Agreement's scope of services, then PROVIDER agrees to assign to DHCS, without

additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

- E. **Third-Party Intellectual Property.** Except as provided herein, PROVIDER agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of PROVIDER or third-party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described herein, for any of PROVIDER's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and DHCS determines that Intellectual Property should be included in or is required for PROVIDER's performance of this Agreement, PROVIDER shall obtain a license under terms acceptable to DHCS.
- F. **Warranties.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, represents, warrants and agrees as follows:
1. It is free to enter into and fully perform this Agreement.
 2. It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
 3. Neither PROVIDER's performance of this Agreement, nor the exercise by either party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution and disposition of the Intellectual Property made, conceived, derived from or reduced to practice by PROVIDER or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States or any foreign country. There is currently no actual or threatened claim by any such third-party based on an alleged violation of any such right by PROVIDER.
 4. Neither PROVIDER's performance of this Agreement, nor any part of its performance thereof, will violate the right of privacy of, or constitute a libel or slander against, any person or entity.
 5. It has secured and will secure all rights and licenses necessary for Intellectual Property, including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
 6. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber or interfere with any of the rights granted to DHCS in this Agreement.
 7. It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 8. It has no knowledge of any outstanding claims, licenses or other charges, liens or encumbrances of any kind or nature whatsoever that could affect in any way

PROVIDER's performance of this Agreement.

9. DHCS makes no warranty that the Intellectual Property resulting from this Agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

G. **Intellectual Property Indemnity.** By executing this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:

1. PROVIDER shall indemnify, defend and hold harmless DHCS, its licensees, assignees, officers, directors, employees, agents, representatives, successors and users of its products ("Indemnitees"), from and against all claims, actions, damages, losses or liabilities, or actions or proceedings with respect to any thereof, whether or not rightful, arising from any and all actions or claims by any third-party or expenses related thereto, including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action or proceeding, whether commenced or threatened, to which any of the Indemnitees may be subject, whether or not PROVIDER is a party to any pending or threatened litigation, which arise out of or are related to: (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of PROVIDER pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by PROVIDER or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at PROVIDER's expense, any such infringement action brought against DHCS.
2. Should any Intellectual Property licensed by PROVIDER to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, PROVIDER will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel, at PROVIDER's expense, in any such claim or action. In the defense or settlement of the claim, PROVIDER may obtain the right for DHCS to continue using the licensed Intellectual Property; or replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
3. PROVIDER agrees that damages alone would be inadequate to compensate DHCS for breach of any term of these Intellectual Property provisions by PROVIDER. PROVIDER acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including, without limitation, an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

- H. **Federal Funding.** In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title and ownership, which results directly or indirectly from the agreement; except as provided in 37 C.F.R. Part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.
- I. **Survival.** The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule associated therewith.

4.8 **Non-Discrimination:**

- A. **Compliance with Anti-Discrimination laws.** PROVIDER hereby assures that it, and its subcontractors, shall comply with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, California Welfare and Institutions Code Section 10000, Division 21 of the California Department of Social Services Manual of Policies and Procedures, United States Executive Order 11246, as amended, the Americans with Disabilities Act of 1990, the California Fair Employment and Housing Act and any other applicable local, state and federal laws and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in 2 C.C.R. Sections 8101, et seq., are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- B. **Provision of Specialty Mental Health Services.** Consistent with the requirements of any and all applicable local, state and/or federal laws and regulations, including, but not limited to, 42 C.F.R. Section 438.6(d)(3)-(4), PROVIDER shall not: engage in any unlawful discriminatory practices in the admission of Beneficiaries; assignments of accommodations, treatment, evaluation, employment or personnel; or in any other respect on the basis of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal ordinances, laws or regulations. PROVIDER shall not discriminate against Beneficiaries on the basis of health status or need for health care services, pursuant to 42 C.F.R. Section 438.6(d)(3).
- C. **Employment Practices.** In connection with the specialty mental health services provided hereunder, PROVIDER, and its subcontractors, shall not unlawfully discriminate against any employee, or applicant for employment, because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal ordinances, laws or regulations. PROVIDER shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to the factors referenced above. Such actions shall include, without limitation: employment, promotion, demotion or

transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. Nothing herein shall be construed to require the employment of unqualified persons.

- D. **Solicitations for Employment.** PROVIDER shall, in all solicitations or advancements for employees placed by or on behalf of PROVIDER, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental disability, age or status as a disabled veteran or veteran of the Vietnam era.
- E. **Notification to Current and Prospective Employees.** PROVIDER shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the federal government or DHCS, setting forth the provisions of the Equal Opportunity Clause of Section 503 of the Rehabilitation Act of 1973 and the Affirmative Action Clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. Section 4212). Such notices shall state PROVIDER's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin, physical or mental disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- F. **Notification to Labor Unions and/or Workers' Representatives.** PROVIDER shall send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice, to be provided by the federal government or the State of California, advising the labor union or workers' representative of PROVIDER's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- G. **Non-Discrimination in Federally Assisted Programs.** PROVIDER shall comply with all the provisions of, and furnish all information and reports required by, Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. Section 4212) and Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations and relevant orders of the Secretary of Labor pertaining to the prohibition of discrimination against qualified disabled persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.
- H. **Access to Records Regarding Non-Discrimination Compliance.** PROVIDER shall furnish all information and reports required by Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by authorized representatives of the State of California and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

- I. **Sanctions for Non-Compliance.** In the event of PROVIDER's non-compliance with the requirements of the provisions set forth herein, or with any federal rules, regulations or orders referenced herein, this Agreement may be cancelled, terminated or suspended in whole or in part and PROVIDER may be declared ineligible for further state and federal contracts in accordance with procedures authorized in Federal Executive Order No. 11246, as amended, and such other sanctions that may be imposed, and remedies invoked, as provided in Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- J. **Determination of Medical Necessity.** Notwithstanding other provisions of this section, PROVIDER may require a determination of medical necessity pursuant to 9 C.C.R. Sections 1820.205, 1830.205 or 1830.210, prior to providing specialty mental health services to a Beneficiary pursuant to the terms and conditions of this Agreement.
- K. **Incorporation of Provisions.** PROVIDER shall include the foregoing provisions in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246, as amended, including by Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. Section 4212), so that such provisions will be binding upon each subcontractor or vendor. PROVIDER shall take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions, including, without limitation, sanctions for non-compliance provided, however, that in the event PROVIDER becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, PROVIDER may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State of California and of the United States.

4.9 **Clean Air/Pollution:**

- A. **Certification of Compliance.** During the performance of this Agreement, PROVIDER, for itself, and its assignees and successors in interest, agrees as follows:
 - 1. To comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 C.F.R. Section 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. Section 1368), Executive Order 11738 and the Environmental Protection Agency regulations set forth in 40 C.F.R. Part 15.
 - 2. To comply with all applicable standards, orders or requirements under the Clean Air Act (42 C.F.R. Sections 7401, et seq.), as amended, and the Water Pollution Control Act (33 U.S.C. Sections 1251, et seq.), as amended.
- B. **Incorporation of Provisions.** PROVIDER shall include this provision in every subcontract or purchase order unless exempted by law.

4.10 Smoke-Free Workplace Certification:

- A. **Legal Requirements.** Public Law 103-227, also known as the Pro-Children Act of 1994 (“PCA”), requires that smoking not be permitted in any portion of any indoor facility owned or leased, or contracted for, by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of eighteen (18), if the services are funded by federal programs either directly or through local or state governments by federal grant, contract, loan or loan guarantee. The PCA also applies to children’s services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The PCA does not apply to children’s services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants and Children Program coupons are redeemed.
- B. **Certification of Compliance.** By executing this Agreement, PROVIDER certifies that it will comply with the requirements of the PCA, and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined thereby.
- C. **Effect of Non-Compliance.** Failure to comply with the provisions of the PCA may result in the imposition of a civil monetary penalty of up to One Thousand Dollars (\$1,000.00) for each violation and/or the imposition of an administrative compliance order on the responsible entity.
- D. **Incorporation of Provisions.** PROVIDER further agrees that it will incorporate the provisions contained herein into any subcontracts entered into that involve the specialty mental health services to be provided pursuant to the terms and conditions of this Agreement.

4.11 Drug Free Workplace Certification:

By executing this Agreement, PROVIDER certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350, et seq.), and will provide a drug-free workplace by doing all of the following:

- A. **Drug-Free Policy Statement.** Publish, as required by California Government Code Section 8355(a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.
- B. **Drug-Free Awareness Program.** Establish, as required by California Government Code Section 8355(a)(2), a Drug-Free Awareness Program which informs employees about the following:
 - 1. The dangers of drug abuse in the workplace;
 - 2. PROVIDER’s policy of maintaining a drug-free workplace;
 - 3. Any available counseling, rehabilitation and employee assistance programs; and
 - 4. Penalties that may be imposed upon employees for drug abuse violations.
- C. **Drug-Free Employment Agreement.** Ensure, as required by California Government Code

Section 8355(a)(3), that every employee who provides specialty mental health services pursuant to the terms and conditions of this Agreement will:

1. Receive a copy of PROVIDER's Drug-Free Policy Statement; and
2. Agree to abide by PROVIDER's Drug-Free Policy as a condition of employment.

D. **Effect of Non-Compliance.** Failure to comply with the above-referenced requirements may result in suspension of payments under this Agreement, and/or termination thereof, and PROVIDER may be ineligible for award of future contracts if COUNTY determines that the foregoing certification is false or if PROVIDER violates the certification by failing to carry out the above-referenced requirements.

4.12 **Nuclear Free Humboldt County Ordinance Compliance:**

By executing this Agreement, PROVIDER certifies that it is not a Nuclear Weapons Contractor, in that PROVIDER is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. PROVIDER agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if PROVIDER subsequently becomes a Nuclear Weapons Contractor.

5.0 **COMPENSATION AND RECOVERIES:**

5.1 **Reimbursement:**

A. **Reimbursement Requirements.** COUNTY will reimburse PROVIDER for specialty mental health services rendered to Beneficiaries pursuant to the terms and conditions of this Agreement, if the following requirements are met:

1. The Beneficiary is enrolled in, and eligible for benefits under, the California Medi-Cal Program at the time the claimed services are rendered by PROVIDER.
2. The claimed services are covered under COUNTY's Medi-Cal Managed Health Care Program according to the laws and regulations in effect at that time.
3. The claimed services meet the medical necessity criteria for specialty mental health services set forth in 9 C.C.R. Division 1, Chapter 11.
4. Claims for reimbursement are submitted to COUNTY in accordance with the Medi-Cal claims processing and documentation standards and procedures set forth in the Organizational Provider Manual, including, without limitation, completion of a daily contact log.

B. **Reimbursement Rates.** Specialty mental health services provided to Beneficiaries pursuant to the terms and conditions of this Agreement shall be reimbursed at COUNTY's negotiated reimbursement rates in effect for such services.

C. **Renegotiation of Reimbursement Rates.** COUNTY hereby reserves the right to renegotiate the rates paid to PROVIDER pursuant to the terms and conditions of this Agreement based on the outcome of COUNTY's rate negotiations with DHCS. Any and all renegotiated reimbursement rates shall be documented in writing, and PROVIDER shall be notified

thereof in accordance with the notice provisions set forth herein. PROVIDER shall submit to COUNTY written requests for rate changes, as necessary, with a frequency of not more than one (1) time per quarter.

- D. **Maximum Amount Payable.** The maximum amount payable by COUNTY for specialty mental health services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is One Million Six Hundred Twenty-One Thousand Five Hundred Dollars (\$1,621,500.00). In no event shall the maximum amount paid under this Agreement exceed Five Hundred and Forty Thousand Five Hundred Dollars (\$540,500.00) per fiscal year for fiscal years 2018-2019 through 2020-2021. PROVIDER agrees to perform all specialty mental health services required by this Agreement for an amount not to exceed such maximum dollar amount. However, if local, state or federal funding or allowance rates are reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable for specialty mental health services provided to Beneficiaries hereunder, or may terminate this Agreement as provided herein.
- E. **Additional Services.** Any additional services not otherwise provided for herein, shall not be rendered by PROVIDER, or compensated by COUNTY, without prior written authorization from COUNTY. PROVIDER is responsible for tracking the total amount of claims submitted to COUNTY for reimbursement, in order to ascertain that the total amount claimed does not exceed the maximum payable amount set forth herein. All unauthorized costs and expenses incurred by PROVIDER above the maximum amount payable shall be the responsibility of PROVIDER. PROVIDER shall notify COUNTY in writing, at least six (6) weeks prior to the date upon which PROVIDER estimates that the maximum payable amount will be reached.
- F. **Year-End Settlement.** Initial year-end settlement shall occur no later than ninety (90) days after COUNTY has submitted its year-end cost report to DHCS. Initial year-end settlement will be based on COUNTY's negotiated rates in effect for the specialty mental health services rendered pursuant to the terms and conditions of this Agreement. However, if the annual Final Cost Report prepared by PROVIDER pursuant to the terms and conditions of this Agreement fails to justify or support such rates, COUNTY reserves the right to negotiate a provisional treatment rate that reflects PROVIDER's actual costs. If it is determined that the cost reported by PROVIDER is less than the actual payments made by COUNTY, PROVIDER shall reimburse COUNTY for the overpayment.

5.2 **Payments and Claims Processing:**

- A. **Submission and Payment of Service Claims.** PROVIDER shall obtain and complete any and all applicable claim forms currently used by COUNTY's Mental Health Managed Care Medi-Cal Program for specialty mental health services rendered to Beneficiaries. PROVIDER shall submit completed claim forms, along with any additional information needed to process the claim, to COUNTY within thirty (30) days from the end of the month in which specialty mental health services were provided to Beneficiaries pursuant to the terms and conditions of this Agreement. Payment for specialty mental health services rendered pursuant to the terms and conditions of this Agreement shall be made within thirty (30) days of COUNTY's receipt of complete and uncontested claims submitted within the timelines set forth in the Organizational Provider Manual. Payments made to PROVIDER at the COUNTY's reimbursement rates in effect for specialty mental health services rendered pursuant to the terms and conditions of this Agreement shall be considered interim payments subject to the third-party liability provisions set forth herein.

- B. **Effect of Non-Payment:** In the event COUNTY cannot, or will not, pay for specialty mental health services provided to Beneficiaries pursuant to the terms and conditions of this Agreement, PROVIDER shall hold harmless all Beneficiaries and the State of California.

5.3 **Third-Party Liability:**

Except as provided herein, PROVIDER shall look only to COUNTY for compensation for specialty mental health services rendered pursuant to the terms and conditions of this Agreement, and shall at no time seek compensation, including co-payments, for such specialty mental health services from Beneficiaries. However, nothing herein shall prevent PROVIDER from seeking authorized share of cost payments, and/or payments for services not covered hereunder.

- A. **Third-Party Health Insurance Coverage.** PROVIDER shall notify COUNTY of any specialty mental health services provided pursuant to the terms and conditions of this Agreement that may be covered by private third-party health insurance or another health program in accordance with the notification and recovery requirements set forth in the Organizational Provider Manual, which are incorporated herein by reference and made a part hereof as if set forth in full. PROVIDER further agrees to assist COUNTY in obtaining any potential third-party insurance recoveries.
- B. **Potential Tort, Casualty and Workers' Compensation Awards.** PROVIDER shall notify COUNTY of any potential tort, casualty insurance and workers' compensation awards that may be used to reimburse PROVIDER for any specialty mental health services provided to Beneficiaries pursuant to the terms and conditions of this Agreement. If such an award is granted, PROVIDER shall reimburse COUNTY the amount of any paid claims.
- C. **Beneficiary's Share of Cost.** If so instructed by Director, PROVIDER shall determine a Beneficiary's share of the cost associated with the specialty mental health services provided pursuant to the terms and conditions of this Agreement using the State of California's Uniform Method of Determining the Ability to Pay, and notify COUNTY of such determination in accordance with the notification and recovery requirements set forth in the Organizational Provider Manual. Such determinations shall be made any time there is a demonstrable change in a Beneficiary's financial status, but no less than annually. PROVIDER agrees that a Beneficiary's inability to pay shall not be a bar to PROVIDER's services. COUNTY agrees to provide training in the determination of ability to pay.
- D. **Medicare Coverage.** Specialty mental health services provided to Beneficiaries under both the Medicare and Medi-Cal Programs will continue to be paid through the current Fee-For-Service system, EDS, without authorization from COUNTY.

6.0 **REPORTS, RECORDS AND ACCOUNTS:**

6.1 **Reporting Requirements:**

- A. **General Reporting.** PROVIDER agrees to provide COUNTY with any reports that may be required by local, state and/or federal agencies for compliance with this Agreement. Reports shall be submitted no later than fifteen (15) days after the end of each calendar quarter using the format required by the State of California as appropriate.
- B. **Final Cost Reports.** PROVIDER shall submit to COUNTY an unaudited Final Cost Report summarizing all costs incurred, and the units of service generated, in providing each type of specialty mental health service pursuant to the terms and conditions of this Agreement, no

later than ninety (90) days following the close of the fiscal year, in accordance with all applicable local, state and federal laws, regulations and guidelines.

6.2 Preparation and Retention of Medical Records and Documentation:

- A. Preparation of Medical Records.** PROVIDER shall timely prepare and maintain, for each Beneficiary who receives specialty mental health services pursuant to the terms and conditions of this Agreement, a legible, accurate and complete “Medical Record” in accordance with any and all applicable local, state and federal laws, regulations and standards. Medical records prepared and maintained pursuant to the terms and conditions of this Agreement shall contain sufficient detail to permit and facilitate effective internal professional review, external medical audit processes and adequate follow-up treatment.
1. For purposes of this provision, “Medical Records” shall include, without limitation, all physical, books, records, documents and other evidence of medical treatment originated or prepared as part of PROVIDER’s performance of the specialty mental health services to be provided under this Agreement, including, but not limited to, all treatment records, medical charts and prescription files and other documentation pertaining to specialty mental health services rendered to Beneficiaries.
- B. Preparation of Medical Documentation.** PROVIDER shall timely prepare and maintain all “Medical Documentation,” as necessary to disclose how PROVIDER discharged its duties and obligations hereunder. Medical Documentation shall identify all of the following: the quantity and quality of the specialty mental health services provided pursuant to the terms and conditions of this Agreement; the names of, and all other necessary identifying information pertaining to, Beneficiaries who received such services; the manner in which PROVIDER administered the provision of such services and the cost thereof; and the manner and amount of payment made for such services.
1. For purposes of this provision, “Medical Documentation” shall include, without limitation, all physical, books, records, documents and other evidence of medical treatment originated or prepared as part of PROVIDER’s performance of the specialty mental health services to be provided under this Agreement, including, but not limited to; working papers, reports submitted to COUNTY or DHCS, financial records and other documentation pertaining to specialty mental health services rendered to Beneficiaries.
- C. Maintenance and Preservation of Medical Records and Documentation.** PROVIDER shall maintain and preserve all Medical Records and Medical Documentation for a period of seven (7) years from the date of final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.
1. If this Agreement is completely or partially terminated, the Medical Records and/or Medical Documentation relating to the terminated specialty mental health services shall be preserved and made available for a period of seven (7) years from the date of any resulting final settlement.
 2. If any litigation, claim, negotiation, audit or other action involving the Medical Records and/or Medical Documentation has been started before the expiration of the seven (7) year period, the records shall be retained until completion of the action and resolution of all issues which arise there from, or until the end of the regular seven (7) year period, whichever is later.

- D. **Government Access to Medical Records and Documentation.** PROVIDER agrees that any and all Medical Records and/or Medical Documentation prepared pursuant to the terms and conditions of this Agreement shall be subject at all reasonable times to inspection, audit and reproduction by COUNTY, DHCS, the California Department of General Services, the Bureau of State Audits, or their representatives, including the Comptroller General of the United States, and any other duly authorized local, state or federal agencies.

6.3 **Audit and Retention of Performance Records:**

- A. **Maintenance of Records.** PROVIDER shall maintain books, records, documents, and other evidence of PROVIDER's accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including, without limitation, any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- B. **Government Access to Records and Facilities.** PROVIDER's facility or office, or such part thereof as may be engaged in the performance of this Agreement, and its records shall be subject at all reasonable times to inspection, audit and reproduction by COUNTY, DHCS, the California Department of General Services, the Bureau of State Audits, or their designated representatives, including, without limitation, the Comptroller General of the United States, and any other duly authorized local, state or federal agencies.
- C. **General Examination and Audit.** PROVIDER agrees that COUNTY, DHCS, the California Department of General Services, the Bureau of State Audits, or their designated representatives, including the Comptroller General of the United States, and any other duly authorized local, state or federal agencies, shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. PROVIDER agrees to allow COUNTY, DHCS and any other duly authorized local, state or federal agencies access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related thereto.
- D. **Examination and Audit by the California State Auditor.** Pursuant to California Government Code Section 8546.7, PROVIDER shall be subject to the examination and audit of the California State Auditor for a period of three (3) years after final payment under this Agreement. PROVIDER shall hold COUNTY harmless for any liability resulting from said audit.
- E. **Preservation of Records.** PROVIDER shall preserve and make available its records for a period of seven (7) years from the date of final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.
1. If this Agreement is completely or partially terminated, the records relating to the terminated specialty mental health services shall be preserved and made available for a period of seven (7) years from the date of any resulting final settlement.
 2. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the seven (7) year period, the records shall be retained until completion of the action and resolution of all issues which arise there from, or until the end of the regular seven (7) year period, whichever is later.
- F. **Legal Compliance.** PROVIDER shall comply with the above-referenced requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set

forth in Section 10115.10 of the California Public Contract Code, if applicable.

- G. **Record Storage and Reproduction.** PROVIDER may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD or other data storage medium. Upon request by a designated representative of COUNTY, DHCS or any other duly authorized local, state or federal agencies to inspect, audit or obtain copies of said records, PROVIDER must supply or make available applicable devices, hardware and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers.

6.4 **Inspection Rights:**

PROVIDER shall allow COUNTY, DHCS, the United States Department of Health and Human Services, the Comptroller General of the United States, and any other duly authorized local, state and federal agencies, or their designated representatives, to inspect or otherwise evaluate the quality, appropriateness and timeliness of specialty mental health services performed pursuant to the terms and conditions of this Agreement, and to inspect, evaluate, and audit any and all books, records and facilities maintained by PROVIDER, and its subcontractors hereunder, pertaining to such services at any time during normal business hours, for a period of at least seven (7) years from the close of the DHCS fiscal year in which this Agreement came into effect. Books and records include, but are not limited to, all physical records originated or prepared pursuant to PROVIDER's performance of the obligations and duties contained in this Agreement, including working papers, reports, financial records and books of account, Beneficiary records, prescription files, subcontracts and any other documentation pertaining to specialty mental health services provided to Beneficiaries pursuant to the terms and conditions of this Agreement. Upon request, at any time during the above-referenced period, PROVIDER shall furnish any such record, or copy thereof, to COUNTY, DHCS, the United States Department of Health and Human Services, the Comptroller General of the United States, and other duly authorized local, state and federal agencies, or their designated representatives. COUNTY and all other duly authorized local, state and federal agencies shall maintain the confidentiality of such books and records in accordance with any and all applicable laws and regulations.

6.5 **Monitoring:**

PROVIDER agrees that COUNTY and any other duly authorized local, state or federal agencies, including, without limitation, DHCS, have the right to monitor all activities related to this Agreement, including the right to review and monitor PROVIDER's records, programs or procedures, at any time, as well as the overall operation of PROVIDER's programs in order to ensure compliance with the terms and conditions of this Agreement. PROVIDER will cooperate with a corrective action plan, if deficiencies in PROVIDER's records, programs or procedures are identified by COUNTY or any other duly authorized local, state or federal agencies. However, COUNTY is not responsible, and shall not be held accountable, for overseeing or evaluating the adequacy of PROVIDER's performance hereunder.

6.6 **Settlement of Audit Liability:**

- A. **Adverse Audit Findings.** In the event that any local, state or federal audit conducted pursuant to the terms and conditions of this Agreement results in the imposition of liability upon COUNTY, PROVIDER shall pay to COUNTY the amount of any such liability that is attributable to the specialty mental health services rendered pursuant to the terms and conditions of this Agreement. COUNTY shall be responsible for any and all costs which are

attributable to COUNTY.

- B. **Disallowance of Services.** In the event specialty mental health services provided, claimed or billed pursuant to the terms and conditions of this Agreement are disallowed or denied through COUNTY's utilization review or any other local, state or federal audits, claims processes or error correction procedures, such disallowed or denied claims shall be reimbursed by PROVIDER through direct payment to COUNTY.

7.0 **INSURANCE AND INDEMNIFICATION:**

7.1 **Insurance Requirements:**

This Agreement shall not be executed by COUNTY, and PROVIDER is not entitled to any rights hereunder, unless certificates of insurance or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

- A. **General Insurance Requirements.** Without limiting PROVIDER's indemnification obligations provided for herein, PROVIDER shall, and shall require that all subcontractors hereunder, take out and maintain, throughout the entire period of this Agreement, and any extended term thereof, the following policies of insurance, placed with insurers authorized to do business in the State of California with a current A.M. Bests rating of no less than A: VII or its equivalent against personal injury, death and property damage which may arise from, or in connection with, the activities of PROVIDER and its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG 0001), in an amount of Two Million Dollars (\$2,000,000.00) per occurrence for any one (1) incident, including, but not limited to, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
2. Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000.00) combined single limit coverage. Such insurance shall include coverage of all owned, hired and non-owned vehicles. Said coverage shall be at least as broad as Insurance Service Offices Form Code 1 (any auto).
3. Workers' Compensation Insurance, as required by the Labor Code of the State of California; with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY and its agents, officers, officials, employees and volunteers.
4. Professional Liability Insurance – Error and Omission Coverage including coverage in an amount no less than Two Million Dollars (\$2,000,000.00) for each occurrence (Four Million Dollars (\$4,000,000.00) general aggregate). Said insurance shall be maintained for the statutory period during which PROVIDER may be exposed to liability. PROVIDER shall require that such coverage be incorporated into its professional services agreements with any other entities.

- B. **Special Insurance Requirements.** Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

1. The Comprehensive or Commercial General Liability Policy shall provide that COUNTY and its agents, officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY or its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:
 - a. Includes contractual liability.
 - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as "XCU Hazards."
 - c. Is the primary insurance with regard to COUNTY.
 - d. Does not contain a pro-rata, excess only and/or escape clause.
 - e. Contains a cross liability, severability of interest or separation of insureds clause.
2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that PROVIDER shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured. COUNTY is to be notified within forty-eight (48) hours of termination of any of the above-referenced insurance policies.
3. The inclusion of more than one (1) insured shall not operate to impair the rights of one (1) insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one (1) insured shall not operate to increase the limits of the insurer's liability.
4. For claims related to this Agreement, PROVIDER's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to PROVIDER's insurance and will not be used to contribute therewith.
5. Any failure to comply with the provisions of this Agreement, including breach of warranties, shall not affect coverage provided to COUNTY or its agents, officers, officials, employees and volunteers.
6. PROVIDER shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) shall be disclosed to, and approved by, COUNTY. If PROVIDER does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and PROVIDER agrees to pay the cost thereof. COUNTY is also hereby authorized with the discretion to deduct the cost of said insurance from the monies owed to PROVIDER under this Agreement.
7. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any

required insurance aggregate limit is encumbered, and PROVIDER shall be required to purchase additional coverage to meet the above-referenced aggregate limits.

- C. **Insurance Notices.** Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

COUNTY: County of Humboldt
Attention: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501

PROVIDER: Crestwood Behavioral Health Inc. - Pathways
Attention: Controller
520 Capitol Mall, Suite 800
Sacramento, California 95814

7.2 **Indemnification Requirements:**

- A. **Hold Harmless, Defense and Indemnification.** PROVIDER shall hold harmless, defend and indemnify COUNTY and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with PROVIDER's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the COUNTY.

COUNTY shall hold harmless, defend and indemnify PROVIDER and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connections with COUNTY's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the PROVIDER.

- B. **Effect of Insurance.** Acceptance of the insurance required by this Agreement shall not relieve PROVIDER from liability under this provision. This provision shall apply to all claims for damages related to PROVIDER's performance hereunder, regardless of whether any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided hereunder.

8.0 **UTILIZATION MANAGEMENT AND QUALITY IMPROVEMENT:**

8.1 **Utilization Review.**

COUNTY may designate appropriate DHHS – Mental Health staff to perform a utilization and/or professional standards review of all Beneficiaries for which COUNTY is expected to make reimbursement.

8.2 **Additional Utilization Controls:**

PROVIDER recognizes that COUNTY, through the Utilization Management and Quality Improvement processes, may be required to take action requiring consultation with PROVIDER's

Medical Director and/or other mental health professionals regarding the provision or termination of specialty mental health services pursuant to the terms and conditions of this Agreement. PROVIDER further acknowledges that COUNTY may, in the interest of program integrity or the welfare of Beneficiaries, introduce additional utilization controls as may be necessary at any time and without advance notice to PROVIDER. Such additional controls may take effect immediately upon PROVIDER's receipt of notice from COUNTY. PROVIDER shall be entitled to appeal the imposition of additional utilization controls through the grievance procedures set forth in the Organizational Provider Manual, which are incorporated herein by reference and made a part hereof as if set forth in full.

8.3 Compliance with Committee Decisions:

PROVIDER agrees to cooperate and participate with COUNTY in the Quality Improvement and Utilization Review processes set forth in the Organizational Provider Manual, which are incorporated herein by reference and made a part hereof as if set forth in full. PROVIDER shall comply with all final determinations rendered by COUNTY's Utilization Review and Quality Improvement Committees, unless reversed by COUNTY through the appeal procedures set forth in the Organizational Provider Manual, which are incorporated herein by reference and made a part hereof as if set forth in full.

8.4 Grievance and Appeal Procedures:

COUNTY acknowledges that PROVIDER may have complaints, concerns or differences regarding the provision of specialty mental health services covered by this Agreement. Such complaints, concerns or differences shall be resolved through the grievance and appeals procedures set forth in the Organizational Provider Manual, which are incorporated herein by reference and made a part hereof as if set forth in full. PROVIDER agrees that the decisions of COUNTY's Grievance and Appeals Committees shall be binding.

9.0 TERM, TERMINATION AND AMENDMENT:

9.1 Term:

This Agreement shall begin on July 1, 2018 and shall remain in full force and effect until June 30, 2021, unless sooner terminated or amended as provided herein.

9.2 Termination:

- A. **Breach of Contract.** If, in the opinion of COUNTY, PROVIDER fails to adequately perform the specialty mental health services required hereunder within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation or other law applicable to its performance herein, COUNTY may terminate this Agreement immediately, upon notice.
- B. **Without Cause.** COUNTY may terminate this Agreement without cause upon thirty (30) days advance written notice. Such notice shall state the effective date of the termination.
- C. **Termination for Insolvency.** COUNTY may terminate this Agreement upon receiving written notice of the institution of bankruptcy, receivership, insolvency, reorganization or other similar proceedings by, or against, PROVIDER under any applicable laws or regulations of the United States, including, without limitation, any section or chapter of the United States Bankruptcy Code, as amended.

- D. **Withdrawal from Practice.** COUNTY may terminate this Agreement immediately upon receiving written notice of PROVIDER's death, dissolution or withdrawal from practice.
- E. **Insufficient Funding.** COUNTY's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is reduced or eliminated, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated. COUNTY shall provide PROVIDER seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- F. **Continuity of Care.** Upon termination of this Agreement for any reason, PROVIDER shall ensure an orderly transition of care for Beneficiaries receiving specialty mental health services pursuant to the terms and conditions of this Agreement, including, but not limited to, the transfer of Beneficiary medical records.

9.3 **Amendment:**

- A. **Amendment by Mutual Agreement.** This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.
- B. **Unilateral Amendment.** This Agreement may be unilaterally amended by COUNTY upon sixty (60) days written notice to PROVIDER. If PROVIDER does not provide COUNTY with written notice of its intent to terminate this Agreement due to its refusal to accept the proposed amendment within thirty (30) days after receiving notice thereof, the proposed amendment shall become part of the Agreement as of the effective date stated in the notice. However, this provision may not be invoked to amend any portion of Section 9.0 of this Agreement.

10.0 **GENERAL PROVISIONS:**

10.1 **Relationship of Parties:**

It is understood that this is an Agreement by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that PROVIDER shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation.

10.2 **Provider Affiliation:**

PROVIDER authorizes COUNTY to inform prospective Beneficiaries, active Beneficiaries and other organizational providers participating in COUNTY's Medi-Cal Provider Network regarding PROVIDER's affiliation with COUNTY.

10.3 **Reference to Laws and Rules:**

In the event any law, regulation, policy, procedure, standard or contractual obligation referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

10.4 **Provisions Required by Law:**

This Agreement is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

10.5 Protocols:

Both parties recognize that the inclusion of additional protocols may be required to make this Agreement specific. All such protocols shall be negotiated, determined and agreed upon by Director and PROVIDER.

10.6 Severability:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

10.7 Assignment:

PROVIDER shall not delegate its duties or assign its rights hereunder, either in whole or in part, without COUNTY's prior written consent. Any assignment by PROVIDER in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by PROVIDER to obtain supplies, technical support or professional services.

10.8 Agreement Shall Bind Successors:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and permitted assigns.

10.9 Waiver of Default:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement. In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement or any default which may then exist on the part of PROVIDER. Nor shall such payment impair or prejudice any remedy available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand repayment of, and PROVIDER shall promptly refund, any funds disbursed to PROVIDER, which in the judgment of COUNTY were not expended in accordance with the terms of this Agreement.

10.10 Non-Liability of County Officials and Employees:

No official or employee of COUNTY shall be personally liable for any default or liability under this Agreement.

10.11 Standard of Practice:

PROVIDER warrants that it has the degree of learning and skill ordinarily possessed by reputable

professionals practicing in similar localities in the same profession and under similar circumstances. PROVIDER's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

10.12 Jurisdiction and Venue:

This Agreement shall be construed in accordance with the laws of the State of California and COUNTY's contractual obligations under the Mental Health Managed Care Agreement (State Standard Agreement No. 12-89364) and the Mental Health Performance Agreement (State Standard Agreement No. 17-94523) that COUNTY has with DHCS. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

10.13 Advertising and Media Release:

All informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. PROVIDER shall inform COUNTY of all requests for interviews by the media related to this Agreement before such interviews take place; and COUNTY shall be entitled to have a representative present at such interviews. All notices required by this provision shall be given to Director.

10.14 Subcontracts:

PROVIDER shall obtain prior written permission from COUNTY before subcontracting any of the specialty mental health services to be provided hereunder. PROVIDER shall ensure that all subcontracts are subject to the applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification, privacy, security, and confidentiality requirements set forth herein. PROVIDER shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts, whether approved by COUNTY or not.

10.15 Survival:

The duties and obligations of the parties set forth in Section 4.2 – Confidential Information, Section 4.3 – Disclosure and Security Requirements, Section 4.7 – Intellectual Property Rights, Section 6.2 – Preparation and Retention of Medical Records and Documentation, Section 6.3 – Audit and Retention of Performance Records, Section 6.4 – Inspection Rights and Section 7.2 – Indemnification Requirements shall survive the expiration or termination of this Agreement.

10.16 Conflicting Terms or Conditions:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this Agreement, the terms and conditions set forth herein shall have priority.

10.17 Interpretation:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one (1) party on the basis that the other party prepared it.

10.18 Independent Construction:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

10.19 Force Majeure:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control, and without fault or negligence, of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

10.20 Notices:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and served by registered or certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective forty-eight (48) hours after being deposited in registered or Certified mail pursuant to the foregoing. Either party may change the address to which notices are to be sent by providing the other party with forty-eight (48) hours prior written notice in the manner provided herein.

COUNTY: Humboldt County DHHS – Mental Health
Attention: Placement Team Sr. Program Manager
720 Wood Street
Eureka, California 95501

PROVIDER: Crestwood Behavioral Health Inc. - Pathways
Attention: Administrator
2370 Buhne Street
Eureka, California.95501

10.21 Entire Agreement:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any and all prior agreements, promises, representations, understandings and negotiations of the parties, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms of this Agreement are hereby ratified.

10.22 Authority to Execute:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the first date written above.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

CRESTWOOD BEHAVIORAL HEALTH INC. - PATHWAYS:

By:  Date: 8/9/2018

Name: George C. Lytal

Title: President - CEO

By:  Date: 8/7/18

Name: GARY BRYSON

Title: CONTRACTOR

COUNTY OF HUMBOLDT:

By:  Date: 9/11/18

Ryan Sundberg
Chair, Humboldt County Board of Supervisors

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By:  Date: 9/5/18
Risk Management

LIST OF EXHIBITS:

- Exhibit A – Scope of Services
- Exhibit B – Acknowledgment of Receipt

EXHIBIT A
SCOPE OF SERVICES

Crestwood Behavioral Health, Inc. – Pathways
For Fiscal Years 2018-2019 Through 2020-2021

The Humboldt County Department of Health and Human Services – Mental Health is responsible for providing an array of mental health, alcohol and drug related services to promote health and mental health as well as treat illness, respect consumer dignity, respond to cultural differences, utilize evidence-based practices and continually evaluate for effectiveness of services. The adult residential treatment services set forth herein are intended to promote independent living and provide COUNTY clients with the skills necessary to succeed in transitioning back into their communities. PROVIDER shall encourage staff to participate in any and all appropriate training regarding wellness and recovery based principles and practices utilized during the provision of the adult residential treatment services set forth herein.

1. ADULT CLIENTS:

PROVIDER shall offer specialty mental health services to full scope Humboldt County Medi-Cal Beneficiaries (“Beneficiaries”) over eighteen (18) years of age, referred by COUNTY, who meet the criteria for needing specialty mental health services and have a primary mental health disorder per the current approved Diagnostic Statistical Manual which meets the specialty mental health target population of medical necessity. The planned length of stay in PROVIDER’s adult residential treatment program will be in accordance with each Beneficiary’s assessed need, with the goal of transitioning the Beneficiary to a lower level of care within one (1) year; however, a length of stay not exceeding a maximum of eighteen (18) months is permitted to ensure successful completion of the treatment plan and appropriate referral. The reasons for a length of stay beyond one (1) year must be documented in the Beneficiary’s case record.

2. SPECIALTY MENTAL HEALTH SERVICES:

A. Adult Residential Treatment Services. PROVIDER shall provide, in a therapeutic, non-institutional residential setting, adult residential treatment services, including, without limitation, development of a comprehensive mental health treatment plan and the provision of mental health therapy, rehabilitation and assessment services, that are designed to restore, maintain, and apply interpersonal and independent living skills to Beneficiaries who would be at risk of hospitalization, or other institutional placement if they were placed in PROVIDER’s residential treatment program. The adult residential treatment services provided pursuant to the terms and conditions of this Agreement shall include, without limitation: all of the following:

1. Provision of continuous observation, assessment and supervision, including, without limitation, a written assessment of each Beneficiary, upon admission, which includes, at a minimum, evaluation of the Beneficiary’s health and psychiatric histories, psychosocial skills, social support skills, meal planning, shopping and budgeting skills and medical, psychological, educational, vocational and other functional needs and/or limitations.
2. Development and implementation of mental health treatment plans, in conjunction with COUNTY staff, that include access to daily rehabilitative activities, utilization of community resources, including, without limitation, referral to community based alcohol and other drug treatment programs and mental health services.
3. Development of community support systems that are designed to increase utilization of non-mental health community resources, including, without limitation, educational opportunities, in order to minimize the risk of hospitalization and enhance the capability for independent living.

4. Provision of supportive individual and group counseling, including, without limitation, counseling with available members of a Beneficiary's family, as appropriate.
5. Provision of crisis intervention services, including, without limitation, communication with prescribing physicians to ensure stabilization of Beneficiaries on medication.
6. Provision of supervised morning routines, including, without limitation, medication administration and assistance in accessing daily rehabilitative activities, as appropriate.
7. Provision of three (3) nutritional meals, and snacks in between meals, on a daily basis, including the preparation of special diets as prescribed by a physician.
8. Provision of planned activities that are designed to assist Beneficiaries in developing, testing and/or refining social, interpersonal, advocacy and independent living skills, including, without limitation, vocational, financial, transactional and transportation related training and/or counseling.
9. Assistance in modifying maladaptive behavior patterns and developing alternative methods of managing life stressors, including, without limitation, training pertaining to medication administration and adherence, personal hygiene and grooming and cooking and other household skills, that will enable Beneficiaries to live in less restrictive settings.
10. Assistance, if needed, in cleaning personal living quarters and laundry.
11. Assistance, if needed, in planning, arranging and/or providing transportation to medical, dental and clinical appointments.
12. Notification, as needed, to any and all appropriate persons and/or agencies regarding Beneficiary needs.

B. Discharge Planning and Coordination Services. PROVIDER shall communicate with COUNTY on a monthly basis, and more frequently as needed, to coordinate plans for discharge of Beneficiaries receiving adult residential treatment services pursuant to the terms and conditions of this Agreement to less restrictive levels of care.

3. AVAILABILITY:

Any and all adult residential treatment services provided pursuant to the terms and conditions of this Agreement shall be made available to Beneficiaries twenty-four (24) hours per day, seven (7) days per week, twelve (12) months per year, as necessary.

4. QUALITY ASSURANCE & IMPROVEMENT:

The adult residential treatment services provided pursuant to the terms and conditions of this Agreement shall be designed to benefit Beneficiaries in all of the following ways:

- Address the underlying issues which impair, or will likely lead to the deterioration of, the Beneficiary functioning in self-care, school, family, community and/or other life functioning area.
- Facilitate assessment, treatment planning and client, program and system outcome evaluation.

- Reduce future psychiatric hospitalizations, homelessness and incarceration, as well as to reintegrate the Beneficiary back into the community at their highest level of independence.

5. **REPORTING REQUIREMENTS:**

PROVIDER agrees to prepare, and submit to COUNTY, performance and incident reports in accordance with the requirements set forth herein and the Organizational Provider Manual.

A. **Preparation of Performance Reports.** PROVIDER shall provide COUNTY with monthly performance reports, via invoice or supplemental reports, as needed. Performance reports shall include, without limitation, all the following information with regard to the prior month:

1. Daily census records including, without limitation, Beneficiary names, dates of admission, anticipated lengths of stay, dates of discharge and number of Beneficiaries served.
2. Documentation of any and all reviews of each Beneficiary's mental health treatment plan and needs appraisal.
3. Documentation of any and all updates made to each Beneficiary's specific mental health treatment plan and needs appraisal.
4. Documentation of the methods that will be used to evaluate each Beneficiary's treatment progress, including, without limitation, the due dates for completion of updates to each Beneficiary's mental health treatment plan and needs appraisal.
5. Documentation of any and all adult residential treatment services provided pursuant to the terms and conditions of this Agreement, including, without limitation, a description of the specific services provided to each Beneficiary in order to address identified treatment needs.
6. Documentation of any and all progress notes made by direct care staff, licensed clinicians and psychiatrists, including, without limitation, any and all information pertaining to medication adherence, diagnosis, personal services plans, progress reviews and discharge plans.
7. Documentation of any and all current or anticipated difficulties in providing the adult residential treatment services set forth herein.
8. Documentation of whether or not the adult residential treatment services provided pursuant to the terms and conditions of this Agreement are benefiting each Beneficiary as anticipated.

B. **Submission of Performance Reports.** Any and all performance reports prepared pursuant to the terms and conditions of this Agreement shall be sent to COUNTY at the following address by the tenth (10th) day of the month following the month in which services were rendered:

COUNTY: Humboldt County DHHS – Mental Health
Attention: CCT Supervisor, Supervising Mental Health Clinician
720 Wood St
Eureka, California 95501

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C. **Preparation of Incident Reports.** PROVIDER shall provide COUNTY with written incident reports for any and all situations in which a Beneficiary has engaged in illegal activity, self-injury, violence

towards others or property destruction.

- D. **Submission of Incident Reports.** PROVIDER shall immediately notify COUNTY, by telephone, email or fax of any and all incidents in which a Beneficiary has engaged in illegal activity, self-injury, violence towards others or property destruction. Any and all written incident reports prepared pursuant to the terms and conditions of this Agreement shall be sent to COUNTY at the following address by the tenth (10th) day of the month following the month in which the incident occurred:

COUNTY: Humboldt County DHHS – Mental Health
Attention: CCT Supervisor, Placement Coordinator
720 Wood St
Eureka, California 95501

- E. **Additional Reporting.** The parties hereby acknowledge and understand that additional reporting, including, without limitation, accomplishment and demographic reports, may be required upon reasonable request by COUNTY.

6. **DESIRED OUTCOMES:**

It is expected that the adult residential treatment services provided pursuant to the terms and conditions of this Agreement will have all of the following outcomes:

- Maintenance of independent living without having to be hospitalized at, or returned to, an Institution for Mental Disease (“IMD”) or Mental Health Rehabilitation Center (“MHRC”) within ninety (90) days after enrollment in PROVIDER’s adult residential treatment program.
- Reduction of inpatient psychiatric hospitalization rates and IMD bed days.
- Increased independence and ability to live in satellite supportive housing within twelve (12) months after enrollment in PROVIDER’s adult residential treatment program.

7. **PERFORMANCE MEASURES:**

- At least eighty percent (80%) of Beneficiaries receiving adult residential treatment services pursuant to the terms and conditions of this Agreement will not need to be hospitalized or returned to an IMD or MHRC facility within ninety (90) days of enrollment.
- At least eighty percent (80%) of Beneficiaries receiving adult residential treatment services pursuant to the terms and conditions of this Agreement transition into a satellite or independent living situation within twelve (12) months from their date of admission.
- At least a seventy percent (70%) reduction in the aggregate number of inpatient psychiatric hospitalization days and IMD or MHRC bed days since enrollment compared to twelve (12) months prior to enrollment in PROVIDER’s adult residential treatment program.

8. **PLACE OF PERFORMANCE:**

PROVIDER will provide the adult residential treatment services set forth herein at its adult residential treatment facility located at 2370 Buhne Street, Eureka, California 95501.

EXHIBIT B
ACKNOWLEDGMENT OF RECEIPT
Crestwood Behavioral Health Inc. – Pathways
For Fiscal Years 2018-2019 through 2020-2021

By executing this Acknowledgment of Receipt, Crestwood Behavioral Health Inc. – Pathways hereby certifies that it received a full and complete copy of the Humboldt County Organizational Provider Manual for Outpatient Specialty Mental Health Services from the Humboldt County Department of Health and Human Services on _____, 2018.

CRESTWOOD BEHAVIORAL HEALTH INC. - PATHWAYS:

By: 

Date: 8/17/18

Name: GARY LYNCH

Title: CONTROLLER