

PURCHASE AGREEMENT DHHS-Mental Health

**Restpadd Inc.
2019/2020**

ROUTE TO:

Department		Approved	Disapproved	Date	Department		Approved	Disapproved	Date
1	Branch Director	<u>UB</u>	___	8-1-19	3	Risk Manager	<u>RLG</u>	___	8/19/19
	Auditor	___	___	___	4	Purchasing	<u>bp</u>	___	8/20/19
2	County Counsel	<u>Sm</u>	___	8/12/19		Other	___	___	___

Comments: Please return fully executed Agreement to the DHHS-Contract Unit (4th Floor/Pro Building).

Contact for Information	Name	Jarod Proffitt
Phone/Ext. Number	Number	441-5469

This Agreement has been reviewed and approved by Counsel and Risk.

Discussion: the Agreement with Restpadd Inc. is to Provide inpatient psychiatric services.
Restpadd Inc.
Attn: Staci Ross
2750 Eureka Way
Redding CA 96001

The contract term date is: 07/01/2019-06/30/2020

The maximum cap for the term of this Agreement shall not exceed: \$55,460.00

8-20 W-A needed added R2 address for this location

**PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
RESTPADD INC.
FOR FISCAL YEAR 2019-2020**

This Agreement, entered into this 20th day of August, 2019, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Restpadd Inc., a California for-profit mental health service organization, hereinafter referred to as "CONTRACTOR," is made upon the following considerations:

WHEREAS, COUNTY is required to provide certain psychiatric inpatient services to eligible Humboldt County Medi-Cal Beneficiaries ("Beneficiaries") as part of COUNTY's Medi-Cal Managed Health Care Program; and

WHEREAS, COUNTY, by and through its Department of Health and Human Services – Mental Health ("DHHS – Mental Health"), desires to retain a qualified out-of-county Psychiatric Health Facility to provide psychiatric inpatient services to eligible Beneficiaries; and

WHEREAS, such work involves the performance of professional, expert and technical services of a temporary and occasional character; and

WHEREAS, COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for the temporary period; and

WHEREAS, CONTRACTOR represents that it is adequately trained, skilled, experienced and qualified to perform the psychiatric inpatient services required by COUNTY.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. DESCRIPTION OF SERVICES:

CONTRACTOR agrees to provide the psychiatric inpatient services described in Exhibit A – Scope of Services, which is attached hereto and incorporated herein by reference as if set forth in full. In providing such psychiatric inpatient services, CONTRACTOR agrees to fully cooperate with the DHHS – Mental Health Director, or a designee thereof, hereinafter referred to as "Director."

2. TERM:

This Agreement shall begin on July 1, 2019 and shall remain in full force and effect until June 30, 2020, unless sooner terminated as provided herein.

3. TERMINATION:

A. Termination for Cause. COUNTY may, in its sole discretion, immediately terminate this Agreement, if CONTRACTOR fails to adequately perform the psychiatric inpatient services required hereunder, fails to comply with the terms or conditions set forth herein, or violates any local, state or federal law, regulation or standard applicable to its performance hereunder.

B. Termination without Cause. Either party may terminate this Agreement without cause upon upon sixty (60) days advance written notice which states the effective date of the termination.

- C. Termination due to 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 CONTRACTOR seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- D. Compensation upon Termination. In the event this Agreement is terminated, CONTRACTOR shall be entitled to compensation for uncompensated psychiatric inpatient services rendered hereunder through and including the effective date of termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this Agreement by CONTRACTOR.

4. COMPENSATION:

- A. Maximum Amount Payable. The maximum amount payable by COUNTY for the psychiatric inpatient services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is Fifty-Five Thousand Four Hundred Sixty Dollars (\$55,460.00). CONTRACTOR agrees to perform all psychiatric inpatient services required hereunder 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 hereunder or terminate this Agreement as set forth herein.
- B. Rate of Compensation. COUNTY shall compensate CONTRACTOR for the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement at the all-inclusive reimbursement rate of Nine Hundred Forty Dollars (\$940.00) per day, per Beneficiary. COUNTY hereby reserves the right to renegotiate the reimbursement rates set forth herein. Any and all renegotiated reimbursement rates shall be documented in writing and made a part of this Agreement in accordance with the amendment provisions set forth herein. CONTRACTOR may submit written requests for rate changes to COUNTY, as necessary, with a frequency of not more than one (1) time per year.
- C. Services Provided Upon Admission and Discharge. COUNTY shall compensate CONTRACTOR for psychiatric inpatient services provided to a Beneficiary on the first (1st) day of hospitalization. However, CONTRACTOR shall not be compensated for costs incurred from the provision of psychiatric inpatient services to a Beneficiary on the day of discharge.
- D. Additional Services. Any additional services not otherwise provided for herein, shall not be rendered by CONTRACTOR, or compensated by COUNTY, without prior written authorization from COUNTY. CONTRACTOR is responsible for ensuring that the total amount claimed for the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement does not exceed the maximum payable amount set forth herein. Any and all unauthorized costs and expenses incurred by CONTRACTOR above the maximum amount payable set forth herein shall be the responsibility of CONTRACTOR. CONTRACTOR shall notify COUNTY in writing, at least six (6) weeks prior to the date upon which CONTRACTOR estimates that the maximum payable amount will be reached.

5. SUBMISSION AND PROCESSING OF SERVICE CLAIMS:

- A. Submission of Service Claims. CONTRACTOR shall submit to COUNTY monthly invoices ("service claims") itemizing any and all psychiatric inpatient services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement within thirty (30) days after the end of each month in which such psychiatric inpatient services were provided.

CONTRACTOR shall submit a final service claim for payment within thirty (30) days after the expiration or termination of this Agreement. Service claims shall include the date that each service was provided, the total number of service hours per day, the total cost per month and any other information needed to process the claim, including, without limitation, a detailed census for each service day claimed and the address at which payment should be sent. Any and all service claims submitted pursuant to the terms and conditions of this Agreement shall be sent to COUNTY at the following address:

COUNTY: Humboldt County DHHS – Mental Health
Attention: Claims Data Management
507 F Street
Eureka, California 95501

- B. Accuracy and Timeliness of Service Claims. CONTRACTOR shall be solely responsible for the accuracy and timeliness of all data and information submitted by CONTRACTOR to COUNTY and/or the California Department of Health Care Services (“DHCS”) in support of service claims for the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement. COUNTY shall have no liability for CONTRACTOR’s failure to comply with any applicable local, state or federal timeframes or accuracy requirements.
- C. Modifications to the Claims Processing System. COUNTY may modify the policies and procedures regarding the submission and processing of service claims, at any time, in order to comply with changes in, or interpretations of, any and all applicable local, state or federal laws, regulations or standards. COUNTY shall notify CONTRACTOR in writing of any modifications of its policies and/or procedures regarding the submission and processing of service claims within thirty (30) days after receiving notification of any modifications to applicable local, state or federal laws, regulations or standards. CONTRACTOR shall comply with any and all written instructions from COUNTY regarding compliance with any policies and procedures regarding the submission and processing of service claims.

6. REIMBURSEMENT OF SERVICE CLAIMS:

- A. Reimbursement Requirements. COUNTY will reimburse CONTRACTOR for the psychiatric inpatient services provided 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 provided by CONTRACTOR.
 - 2. The claimed services are covered under COUNTY’s Medi-Cal Managed Health Care Program according to the laws and regulations in effect at the time such services are provided.
 - 3. The claimed services meet the medical necessity criteria for psychiatric inpatient services set forth in Chapter 11 of Title 9 of the California Code of Regulations (“C.C.R.”).
- B. Provisional Reimbursement. COUNTY shall provisionally reimburse CONTRACTOR for the psychiatric inpatient services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement, based on the reimbursement rates set forth herein, within thirty (30) days after the receipt of approved service claims. If a service claim is not submitted in accordance with the terms and conditions of this Agreement, COUNTY may withhold payment until COUNTY is in receipt of a complete and correct service claim.

- C. Year-End Settlement. Initial year-end settlement shall occur no later than ninety (90) days after COUNTY has submitted its year end-end cost report to DHCS, and will be based on the negotiated reimbursement rates for approved Medi-Cal units of service set forth herein, the annual year-end cost report prepared pursuant to the terms and conditions of this Agreement and the third-party liability requirements set forth herein. CONTRACTOR shall only be reimbursed for psychiatric inpatient services provided during the period of time CONTRACTOR is duly licensed and/or certified to perform such psychiatric inpatient services, and only to the extent required by any and all applicable local, state and federal laws, regulations and standards. If it is determined that the cost reported by CONTRACTOR is less than the actual payments made by COUNTY, CONTRACTOR shall reimburse COUNTY for the overpayment as set forth herein.
- D. Suspension of Payments. COUNTY, in its sole discretion, may suspend any and all payments relating to the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement for good cause. Notice of suspension of payments, which includes, without limitation, a statement of the reasons for such suspension, shall be provided to CONTRACTOR. In the event COUNTY suspends or withholds payment to CONTRACTOR pending receipt of required data or documentation, CONTRACTOR shall hold COUNTY harmless for any and all service claims not submitted within any applicable local, state or federal timeframes.
- E. Payment Appeal Process. CONTRACTOR may appeal final settlement, and/or any denied or modified request for payment made hereunder, by submitting a written appeal request in accordance with the dispute resolution procedures set forth in Exhibit B – Provider Problem Resolution process, which is attached hereto and incorporated herein by reference as if set forth in full.
- F. Effect of Non-Payment. In the event COUNTY cannot, or will not, pay for the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, CONTRACTOR shall hold harmless all Beneficiaries and the State of California.

7. THIRD-PARTY LIABILITY:

Except as provided herein, COUNTY shall be solely responsible for compensating CONTRACTOR for the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, and shall at no time seek compensation, including, without limitation, co-payments, from Beneficiaries for the provision of such psychiatric inpatient services. However, nothing herein shall prevent CONTRACTOR from seeking authorized share of cost payments, and/or payments for services not covered under the terms and conditions of this Agreement, from Beneficiaries. To the extent that any applicable third-party revenues received by CONTRACTOR relate to reimbursable costs incurred pursuant to the terms and conditions of this Agreement, such third-party revenues shall be credited to COUNTY either as a reduction of the costs incurred hereunder or a cash refund.

- A. Third-Party Health Insurance Coverage. CONTRACTOR shall notify COUNTY of any psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement that may be covered by private third-party health insurance or another health care program. CONTRACTOR hereby agrees to assist COUNTY in obtaining any potential third-party insurance recoveries.
- B. Potential Tort, Casualty and Workers' Compensation Awards. CONTRACTOR shall notify COUNTY of any potential tort, casualty insurance and workers' compensation awards that may be used to reimburse CONTRACTOR for any psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement.

- C. Beneficiary's Share of Cost. If so instructed by Director, CONTRACTOR shall determine a Beneficiary's share of the cost associated with the psychiatric inpatient 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. Such determinations shall be made any time there is a demonstrable change in a Beneficiary's financial status, but no less than annually. CONTRACTOR agrees that a Beneficiary's inability to pay shall not be a bar to CONTRACTOR's services.

8. RECOVERY OF OVERPAYMENTS:

- A. Recovery of Local, State and Federal Overpayments. Any and all amounts paid to CONTRACTOR for the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement which are found to be un-reimbursable by any local, state or federal governmental agency shall be repaid to COUNTY in accordance with any and all applicable local, state and federal laws, regulations and standards. CONTRACTOR may appeal a determination of overpayment by submitting a written appeal request in accordance with the dispute resolution procedures set forth in Exhibit B – Provider Problem Resolution Process.
- B. Payment of Amounts Due. Any and all payments due to the COUNTY pursuant to the terms and conditions of this Agreement shall be: paid in one (1) cash payment; offset against prior liabilities; deducted from future claims over a period not to exceed three (3) months; deducted from any amounts owed to CONTRACTOR, whether under this Agreement or otherwise; paid by cash payments over a period not to exceed three (3) months; or a combination of any or all of the above. CONTRACTOR shall notify COUNTY as to which of the above-referenced payment options CONTRACTOR requests be used as the method to recover the amount owed to COUNTY within ten (10) days after receiving written notice thereof. Regardless of CONTRACTOR's preferred payment option, final determination of the method of payment shall be at COUNTY's sole discretion. In the event this Agreement is terminated for cause, COUNTY may, in its sole discretion, immediately withhold any amount owed to COUNTY from future claims.
- C. Interest Charges on Delinquent Payments Due to COUNTY. If CONTRACTOR, without good cause, as determined in the sole judgment of Director, fails to pay COUNTY any amount owed to COUNTY pursuant to the terms and conditions of this Agreement within sixty (60) days after the due date, COUNTY may, after providing written notice to CONTRACTOR, assess daily interest charges at a rate equal to COUNTY's General Fund Rate, as determined by the Humboldt County Auditor-Controller. Interest charges shall be paid by cash payment upon demand and/or deducted from any amounts due by COUNTY to CONTRACTOR whether under this Agreement or otherwise. CONTRACTOR shall have sixty (60) days from the date that any payment owed to COUNTY is due to present to Director a good cause justification for CONTRACTOR's failure to pay COUNTY.

9. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: Humboldt County DHHS – Mental Health
Attention: Emi Botzler-Rodgers, Mental Health Director
720 Wood Street
Eureka, California 95501

CONTRACTOR: Restpadd Inc.
Attention: Staci Ross, Administrator
2750 Eureka Way
Redding, California 96001

10. REPORTS:

- A. General Reporting. CONTRACTOR agrees to provide COUNTY with any and all reports that may be required by any local, state and/or federal agencies for compliance with this Agreement. CONTRACTOR shall submit one (1) hard copy and one (1) electronic copy of any and all reports required hereunder in a format that complies with the Americans with Disabilities Act and any other applicable accessibility laws, regulations and standards. Any and all reports required hereunder shall be submitted in accordance with any and all applicable timeframes using the format required by the State of California as appropriate.
- B. Year-End Cost Reports. CONTRACTOR shall submit an unaudited year-end cost report, which includes, an accurate and complete statement of any and all costs and expenses incurred pursuant to the terms and conditions of this Agreement, within ninety (90) days after the end of each fiscal year in which psychiatric inpatient services are provided hereunder. CONTRACTOR shall also submit a final year-end cost report within ninety (90) days after the expiration or termination date of this Agreement. Year-end cost reports shall be separated into each type of service provided pursuant to the terms and conditions of this Agreement in accordance with any and all applicable local, state and federal fiscal reporting requirements, as well as any and all written instructions and/or guidelines provided by COUNTY. COUNTY may suspend any payments due hereunder until past due cost reports are received. If an accurate and complete year-end cost report is not submitted within one hundred (100) days after the end of any fiscal year in which psychiatric inpatient services are provided hereunder, any and all amounts covered by the outstanding year-end cost report shall be repaid to COUNTY as set forth herein.

11. AUDIT AND RETENTION OF PERFORMANCE RECORDS:

- A. Preparation of Performance Records. CONTRACTOR shall prepare and maintain, in accordance with all applicable local, state and federal laws, regulations and standards, any and all records, documents and other evidence relating to the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, including, without limitation, documents regarding CONTRACTOR's accounting procedures and practices, necessary to properly reflect all direct and indirect costs of any nature claimed to have been incurred in the performance of the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, including, but not limited to, any and all matching costs and expenses. The foregoing constitutes "performance records" for the purpose of this provision.
- B. Preservation of Performance Records. CONTRACTOR shall preserve, in accordance with any and all applicable local, state and federal laws, regulations and standards, any and all performance records prepared and maintained pursuant to the terms and conditions of this Agreement for a period of ten (10) years after 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, any and all performance records relating to the terminated services shall be preserved and made available for a period of ten (10) years from the date of any resulting final settlement.

2. If any litigation, claim, negotiation, audit or other action involving any performance records prepared and maintained pursuant to the terms and conditions of this Agreement is initiated before the expiration of the above-referenced ten (10) year period, such performance records shall be retained until completion of the action and resolution of all issues arising therefrom, or until the end of the ten (10) year period, whichever is later.
- C. Storage and Reproduction of Performance Records. Following the receipt of final payment under this Agreement, CONTRACTOR may, at its discretion, reduce any and all performance records prepared and maintained pursuant to the terms and conditions of 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 agency to inspect, audit or obtain copies of said performance records, CONTRACTOR shall supply or make available any and all applicable devices, hardware and/or software necessary to view, copy and/or print such performance records.
 - D. Access to Performance Records and Facilities. CONTRACTOR agrees that its facilities, and any and all performance records prepared and maintained 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 designated representatives, including, without limitation, the Comptroller General of the United States, and any other duly authorized local, state or federal agencies for a period of ten (10) years after final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.
 - E. General Audit and Examination Requirements. CONTRACTOR agrees that 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, shall have the right to review and copy any and all performance records prepared pursuant to the terms and conditions of this Agreement. CONTRACTOR agrees to allow COUNTY, DHCS and any other duly authorized local, state or federal agencies access to such performance records during normal business hours, and to allow interviews of any employees who might reasonably have information related thereto, for a period of ten (10) years after final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.
 - F. Examination and Audit by the California State Auditor. Pursuant to California Government Code Section 8546.7, CONTRACTOR 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. CONTRACTOR shall hold COUNTY harmless for any liability resulting from said audit.
 - G. Audit Settlement. In the event that any audit conducted by COUNTY, DHCS, the California State Auditor, 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, or any other duly authorized local, state or federal agencies, determines that the amounts paid by COUNTY for any psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement are more than the amounts allowable hereunder, CONTRACTOR shall be responsible for repaying the difference to COUNTY as set forth herein. However, if any such audit determines that the amounts paid by COUNTY for any cost reimbursed psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement are less than the amounts allowable hereunder, COUNTY shall be responsible for repaying the difference to CONTRACTOR as set forth herein.

- H. Disallowances. In the event any psychiatric inpatient services provided, claimed or billed pursuant to the terms and conditions of this Agreement are disallowed or denied by COUNTY, or any other local, state or federal agencies as a result of any audit conducted hereunder, CONTRACTOR shall be responsible for repaying any amounts paid for such disallowed or denied services or claims to COUNTY as set forth herein. CONTRACTOR shall hold COUNTY harmless from and against any and all loss resulting from disallowances resulting from any local, state or federal audit conducted pursuant to the terms and conditions of this Agreement.
- I. Effect of Non-Compliance. CONTRACTOR's failure to comply with the requirements set forth herein may result in the imposition of any and all applicable penalties pertaining to obstruction of governmental investigations.

12. LOCAL, STATE AND FEDERAL INSPECTION RIGHTS:

CONTRACTOR 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 the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, and to inspect, evaluate and audit any and all records, documents and facilities maintained by CONTRACTOR, and its subcontractors hereunder, pertaining to such psychiatric inpatient services, at any time during normal business hours, for a period of at least ten (10) years from the close of the DHCS fiscal year in which this Agreement came into effect. For purposes of this provision, "records" and "documents" include, without limitation, any and all physical and electronic records originated or prepared pursuant to CONTRACTOR's performance hereunder, including, but not limited to, working papers, reports, financial records and books of account, client records, prescription files, subcontracts and any other documentation pertaining to the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement. Upon request, at any time during the above-referenced ten (10) year period, CONTRACTOR 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 any 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 records and documents in accordance with any and all applicable local, state and federal laws, regulations and standards.

13. LOCAL, STATE AND FEDERAL MONITORING:

CONTRACTOR agrees that COUNTY and any other duly authorized local, state or federal agencies, including, without limitation, DHCS and the United States Department of Health and Human Services, have the right to monitor any and all activities related hereto, including the right to review and monitor CONTRACTOR's records, policies, procedures and overall business operations, at any time, in order to ensure compliance with the terms and conditions of this Agreement. CONTRACTOR shall cooperate with a corrective action plan, if deficiencies in CONTRACTOR's records, policies 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 CONTRACTOR's performance hereunder.

14. CONFIDENTIAL INFORMATION:

- A. Legal Compliance. CONTRACTOR hereby agrees to protect any and all confidential records and Beneficiary confidentiality in conformance with any and all applicable local, state and

federal laws, regulations and standards, including, without limitation: California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health and 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. State Contractual Requirements. CONTRACTOR hereby agrees to comply with any and all applicable confidentiality requirements contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) 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.
- C. HIPAA Covered Entity Requirements. Each party hereto represents itself to be a "covered entity," as that term is defined by HIPAA, and agrees to use and disclose any and all confidential information concerning persons receiving psychiatric inpatient services pursuant to this Agreement in accordance with any and all applicable laws, regulations and standards. COUNTY and CONTRACTOR acknowledge that the exchange of such confidential information shall only be for the purposes of treatment, payment and health care operations.
- D. Assistance in Litigation or Administrative Proceedings. CONTRACTOR shall make itself, and any agents, officers, directors, employees or subcontractors assisting CONTRACTOR in the performance of its duties and obligations hereunder, available to DHCS, at CONTRACTOR's expense, to testify as witnesses or otherwise, in the event of any litigation or administrative proceedings being commenced against DHCS, or its agents, officers, directors or employees, based upon claimed violations of HIPAA, or any regulations promulgated thereunder, which involve inactions or actions by COUNTY or CONTRACTOR, except where COUNTY or CONTRACTOR is a named adverse party.
- E. Continuing Compliance with Confidentiality Laws. Each party hereto acknowledges 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 requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws, regulations, standards or contractual requirements.

15. PRIVACY AND DATA SECURITY REQUIREMENTS:

- A. Legal Compliance. CONTRACTOR hereby agrees to comply with any and all applicable local, state and federal privacy and data security requirements, including, without limitation: the Federal Privacy Regulations contained in Parts 160 and 164 of Title 45 of the Code of Federal Regulations ("C.F.R."); the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164; 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.
- B. State Contractual Requirements. CONTRACTOR hereby agrees to comply with any and all applicable privacy and data security requirements contained in the Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) 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.

C. Disclosure of Confidential Information. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:

1. Disclosure of Identifying Information. CONTRACTOR shall protect from unauthorized disclosure the names and other "Identifying Information," including "Personal Information" and "Personally Identifiable Information," concerning persons receiving psychiatric inpatient services pursuant to the terms and conditions of this Agreement or persons whose names or Identifying Information become available, or are disclosed, to CONTRACTOR as a result of the psychiatric inpatient services provided hereunder, 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 and all 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 and all 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, including, but not limited to, finger prints, voice prints and photographs.
2. Unauthorized Disclosures of Identifying Information. CONTRACTOR 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, unless disclosure is required by applicable local, state or federal law.
3. Use of Identifying Information. CONTRACTOR shall not use Identifying Information for any purpose other than carrying out its obligations hereunder.
4. Notification of Requests for Identifying Information. CONTRACTOR shall promptly transmit to COUNTY all requests for disclosure of Identifying Information not emanating from a person whose name or Identifying Information becomes available, or is disclosed, to CONTRACTOR as a result of the psychiatric inpatient services provided hereunder.
5. Use and Disclosure of Protected Health Information. CONTRACTOR 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 or standards.
 - a. Protected Health Information. As used herein, the term "Protected Health Information" ("PHI") shall include, without limitation, any and all individually identifiable health information that is transmitted by, or maintained in, electronic media or any other medium, as defined by the HIPAA Standards for Privacy of Individually Identifiable Health Information 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. CONTRACTOR shall use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of this Agreement.
 7. Legal Standards Pertaining to Protected Health Information. CONTRACTOR shall only use, store, disclose or access PHI in compliance with this Agreement and all applicable local, state and federal laws, regulations and standards.
 8. Downloading Protected Health Information. CONTRACTOR shall not download PHI to any personal device, including, without limitation, flash drives, cell phones or tablets without COUNTY's prior written approval.
 9. Maintenance and Preservation of Disclosure Records. CONTRACTOR 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 ten (10) 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 therefrom.
 10. Accounting Requirements. CONTRACTOR shall comply with the accounting requirements set forth in 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.
- D. Security Incidents and Suspected Breaches of Confidential Information. If CONTRACTOR has reason to believe that PHI, PI or PII transmitted hereunder may have been accessed, disclosed or acquired in breach of this Agreement, CONTRACTOR shall immediately take all actions necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the suspected breach. Such actions shall include, without limitation, the following:
1. Reporting Breaches of Confidential Information. CONTRACTOR 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 any other medium, if the PHI, PI or PII was, or is reasonably believed to have been, accessed or acquired by an unauthorized person.
 2. Reporting Suspected Security Incidents. CONTRACTOR shall notify COUNTY, by telephone call and e-mail or fax, within twenty-four (24) hours after discovering any other 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 laws, regulations or standards.
 - 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 CONTRACTOR as of the first (1st) day on which such breach is known, or by exercising reasonable diligence would have been known, to CONTRACTOR or any person, other than the person committing the suspected breach, who is an employee, officer or other agent of CONTRACTOR.
 3. Reporting Suspected Breaches and Security Incidents to Affected Individuals. To the extent deemed warranted, CONTRACTOR shall provide notice to any and all individuals affected by the suspected breach of, or security incident involving, PHI, PI or PII. CONTRACTOR shall pay the full costs associated with notifying such individuals,

including, without limitation, the costs to retain an outside firm to undertake the notification effort. In addition, CONTRACTOR 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, without limitation, 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 CONTRACTOR 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. CONTRACTOR shall immediately investigate any and all suspected breaches of, or security incidents involving, PHI, PI or PII. Within seventy-two (72) hours after the discovery of such suspected breach or security incident, CONTRACTOR shall submit an updated "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, CONTRACTOR shall:
- a. Corrective Action. Take prompt corrective action to mitigate any risks or damages regarding 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 any and 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, CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR's assistance is required to reinstall software, such assistance shall be provided, at CONTRACTOR's expense, in accordance with COUNTY's policies and standards.
7. Remediation Report. CONTRACTOR 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.

- E. Safeguarding Confidential Information. CONTRACTOR 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 psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, including, without limitation, electronic PHI, PI and PII that CONTRACTOR creates, receives, maintains, uses or transmits on behalf of COUNTY. CONTRACTOR shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of CONTRACTOR's operations and the nature and scope of its activities, including, at a minimum, all of the following safeguards:
1. Personnel Controls. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
 - a. Employee Training. Any and all employees who assist in the performance of CONTRACTOR's duties and obligations hereunder, or access or disclose PHI, PI or PII, must complete, at a minimum, annual confidentiality, data security and privacy training at their own expense. Each employee who receives confidentiality, data security and privacy training pursuant to the terms and conditions of this Agreement must sign a certification indicating the member's name and the date on which the training was completed. Such certifications must be retained for a period of ten (10) years following the expiration or termination of this Agreement.
 - b. Employee Discipline. Appropriate sanctions must be applied against any and all employees who fail to comply with any of the confidentiality, data security or privacy requirements contained herein, including, without limitation, termination of employment where appropriate.
 - c. Confidentiality Statement. Any and all employees that will be accessing 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, prior to gaining access to any such PHI, PI or PII and on an annual basis thereafter. CONTRACTOR shall retain each employee's written confidentiality statement for a period of ten (10) years following the expiration or termination of this Agreement.
 - d. Background Check. A background screening of each employee that will be accessing PHI, PI or PII must be conducted before such employee is allowed to obtain any PHI, PI or PII. The screening should be commensurate with the risk and magnitude of harm that each employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. CONTRACTOR shall retain each employee's background check documentation for a period of ten (10) years following the expiration or termination of this Agreement.
 2. Technical Security Controls. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
 - a. Workstation and Laptop Encryption. Any and all workstations and laptops that store PHI, PI or PII either directly, indirectly 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. Any and all servers containing unencrypted PHI, PI or PII must have sufficient administrative, physical and technical controls in place to protect such data, based upon a risk assessment or system security review.
- c. Minimum Necessary. Only the minimum amount of PHI, PI or PII required to perform necessary business functions may be copied, downloaded or exported.
- d. Removable Media Devices. Any and all electronic files that contain PHI, PI or PII must be encrypted when stored on any removable media or portable device, including, without limitation, USB drives, CD, DVD, and backup tapes. Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- e. Antivirus Software. Any and all workstations, laptops and 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. Any and all workstations, laptops and systems that process and/or store PHI, PI or PII must have critical security patches applied, with system reboot capabilities, if necessary. There must be a documented patch management process which determines installation timeframes based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within thirty (30) days after vendor release. Applications and systems that cannot be patched within the required timeframe due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Any and all applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.
- g. Data Destruction. When no longer needed, all PHI, PI or PII must be wiped using the Gutmann or United States Department of Defense 5220.22-M (7 Pass) standard or by degaussing. Media may also be physically destroyed in accordance with National Institute of Standards and Technology Special Publication 800-88. The use of any other data destruction methods shall require prior written permission of the DHCS – Information Security Office.
- h. User Identification and Password Controls. Any and all users of any system providing access to PHI, PI or PII must be issued a unique user name and password. Usernames must be promptly disabled, deleted or have the password associated therewith changed within twenty-four (24) hours after the transfer or termination of an employee with knowledge of the password. Passwords must be a non-dictionary word that has at least eight (8) characters, and must not be shared or stored in readable format on any computer. Passwords must be changed at least every ninety (90) days, preferably every sixty (60) days. Passwords must be immediately changed if revealed or compromised. Passwords must be composed of characters from at least three (3) of the following four (4) groups from the standard keyboard:
- Upper case letters (A-Z);
 - Lower case letters (a-z);
 - Arabic numerals (0-9);
 - Non-alphanumeric characters (punctuation symbols).

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- i. System Timeout. Any and all systems providing access to PHI, PI or PII must have an automatic timeout feature which requires re-authentication of the user session after no more than twenty (20) minutes of inactivity.
 - j. Warning Banners. Any and all systems providing access to PHI, PI or PII must display a warning banner which states that data contained therein is confidential and that system use is restricted to authorized users for business purposes and will be logged. Users must be directed to log off if they disagree with such requirements.
 - k. System Logging. Any and all systems providing access to PHI, PI or PII must maintain an automated audit trail that can be used to identify any user or process which alters PHI, PI or PII. The audit trail must be date and time stamped, log both successful and failed accesses, be read only and restricted to authorized users. If PHI, PI or PII is stored in a database, logging functionality must be enabled. Audit trail data must be archived for at least ten (10) years after occurrence.
 - l. Access Controls. Any and all systems providing access to PHI, PI or PII must use role-based user authentication controls that enforce the principle of least privilege.
 - m. Transmission Encryption. Any and all 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 applies to any type of PHI, PI or PII in motion such as website access and e-mail.
 - n. Intrusion Detection. Any and all systems involved in accessing, holding, transporting or 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, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
- a. System Security Review. CONTRACTOR must ensure audit control mechanisms which record and examine system activity are in place. Any and all systems processing and/or storing PHI, PI or PII must have at least an annual system risk assessment or security review, including, without limitation, vulnerability scanning, which provides assurance that administrative, physical and technical controls are functioning effectively and providing adequate levels of protection.
 - b. Log Reviews. Any and 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. Any and 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, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
- a. Emergency Mode Operation Plan. CONTRACTOR 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.

For purposes of this provision, "emergency" means any circumstance or situation that causes normal computer operations to become unavailable for performing the work required under this Agreement for more than twenty-four (24) hours.

- b. Data Backup Plan. CONTRACTOR must have documented procedures to backup PHI, PI or PII which allows retrievable exact copies of PHI, PI or PII to be maintained. Such procedures 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 lost PHI, PI or PII. At a minimum, the schedule must include weekly data backup and monthly offsite storage.
5. Paper Document Controls. By executing this Agreement, CONTRACTOR, 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 in vehicles or airplanes 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, including, without limitation, 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 CONTRACTOR 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 CONTRACTOR's locations to another of CONTRACTOR'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 to the extent possible. Mailings which include five hundred (500) or more individually identifiable records in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless prior written permission to use another method is obtained.

16. PREPARATION AND RETENTION OF CLINICAL RECORDS AND DOCUMENTATION:

- A. Preparation of Clinical Records. CONTRACTOR shall timely prepare and maintain, in accordance with any and all applicable local, state and federal laws, regulations and standards, an accurate, complete and legible "Clinical Record" for each Beneficiary who receives psychiatric inpatient services pursuant to the terms and conditions of this Agreement. Clinical 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. For purposes of this provision,

“Clinical Records” shall include, without limitation, any and all physical and electronic books, records, documents and other evidence of mental health treatment originated as part of CONTRACTOR’s performance of the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, including, but not limited to, any and all treatment records, medical charts, prescription files and other documentation pertaining to the psychiatric inpatient services provided hereunder.

- B. Preparation of Clinical Documentation. CONTRACTOR shall timely prepare and maintain, in accordance with any and all applicable local, state and federal laws, regulations and standards, any and all “Clinical Documentation,” necessary to disclose how CONTRACTOR discharged its duties hereunder. Clinical Documentation shall identify all of the following: the quantity and quality of the psychiatric inpatient 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 CONTRACTOR administered the provision of such services; and the cost of, and the manner and amount of payment made for, such services. For purposes of this provision, “Clinical Documentation” shall include, without limitation, any and all physical and electronic books, records, documents and other evidence of mental health treatment originated as part of CONTRACTOR’s performance of the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, including, but not limited to, working papers, performance reports, financial records and other documentation pertaining to the psychiatric inpatient services provided hereunder.

- C. Maintenance and Preservation of Clinical Records and Documentation. CONTRACTOR shall preserve any and all Clinical Records and Clinical Documentation prepared and maintained pursuant to the terms and conditions of this Agreement for a period of ten (10) years after 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, any Clinical Records and/or Clinical Documentation relating to the terminated services shall be preserved and made available for a period of ten (10) years from the date of any resulting final settlement.
 - 2. If any litigation, claim, negotiation, audit or other action involving any Clinical Records and/or Clinical Documentation prepared and maintained pursuant to the terms and conditions of this Agreement is initiated before the expiration of the above-referenced ten (10) year period, such Clinical Records and/or Clinical Documentation shall be retained until completion of the action and resolution of all issues arising therefrom, or until the end of the regular ten (10) year period, whichever is later.

- D. Access to Clinical Records and Documentation. CONTRACTOR agrees that any and all Clinical Records and/or Clinical Documentation prepared and maintained 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 designated representatives, including, without limitation, the Comptroller General of the United States, and any other duly authorized local, state or federal agencies, for a period of ten (10) years after final payment hereunder, and for such longer period, if any, as required by applicable statute or any provision of this Agreement.

17. ADMISSION REQUIREMENTS:

- A. Admission Policies and Procedures. In order to ensure equal access to the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, CONTRACTOR

shall develop, implement and maintain comprehensive policies and procedures that are designed to assure compliance with all of the following admission requirements:

1. CONTRACTOR shall confirm that all referrals made pursuant to the terms and conditions of this Agreement have been authorized by COUNTY's access clinician prior to making the final admission decision.
2. CONTRACTOR shall schedule initial appointments with clients within ten (10) business days after the receipt of a referral made pursuant to the terms and conditions of this Agreement.
3. CONTRACTOR shall establish appropriate mechanisms to record the date on which a particular referral was received, the date of the first (1st) offered appointment and the date of the first (1st) face-to-face appointment, which account for staff cancellations and failure to appear, as applicable.
4. CONTRACTOR shall immediately notify Director of, and the reasons leading to, the denial of any referral made pursuant to the terms and conditions of this Agreement.
5. CONTRACTOR shall ensure that any and all referrals made pursuant to the terms and conditions of this Agreement are accepted and evaluated in accordance with any and all applicable local, state and federal anti-discrimination laws, regulations, policies, procedures and standards.
6. CONTRACTOR shall ensure that any and all required informational notices, including, without limitation, the Therapeutic Behavioral Services and general Early and Periodic Screening, Diagnosis and Treatment notice, are given to Beneficiaries under twenty-one (21) years of age at the time of an emergency psychiatric hospitalization.
7. CONTRACTOR shall accept, and participate in, the overall care plan for clients referred to CONTRACTOR pursuant to the terms and conditions of this Agreement, including, without limitation, discharge planning, as a condition of acceptance of such clients.
8. CONTRACTOR shall provide COUNTY with periodic reports of openings in its facility, and give priority to the admission of clients referred thereto pursuant to the terms and conditions of this Agreement.

B. Discharge Requirements. CONTRACTOR shall provide COUNTY with discharge instructions on the day that each Beneficiary is discharged from CONTRACTOR's facility. In addition, CONTRACTOR must, within fourteen (14) days from the date of discharge of each Beneficiary, provide COUNTY with copies of the following medical records:

1. A Payment Authorization Request in the form of an invoice.
2. A comprehensive psychiatric evaluation of, and treatment plan for, the Beneficiary.
3. Any and all orders of the Beneficiary's treating physicians.
4. Any and all progress notes relating to the psychiatric inpatient services provided to the Beneficiary pursuant to the terms and conditions of this Agreement.
5. Any other clinical information CONTRACTOR deems appropriate.

- C. Submission of Admission and Discharge Records. Any and all admission and discharge records or instructions submitted by CONTRACTOR pursuant to the terms and conditions of this Agreement shall be sent to COUNTY at the following address:

COUNTY: Humboldt County DHHS – Mental Health
Attention: Medi-Cal Managed Care Unit
720 Wood Street
Eureka, California 95501

- D. Effect of Non-Compliance. CONTRACTOR's failure to comply with the admission and discharge requirements set forth herein may result in the disallowance of claims for psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement.

18. HOURS OF OPERATION:

CONTRACTOR shall offer Beneficiaries hours of operation that are no less than the hours of operation offered to commercial enrollees. If CONTRACTOR serves only Medi-Cal Beneficiaries, CONTRACTOR 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 Mental Health Plan.

19. UTILIZATION MANAGEMENT AND QUALITY IMPROVEMENT:

- A. Utilization Review. COUNTY may designate appropriate DHHS – Mental Health staff to perform a utilization and/or professional standards review of all Beneficiaries receiving psychiatric inpatient services pursuant to the terms and conditions of this Agreement for which COUNTY is expected to make reimbursement. In the event any psychiatric inpatient services provided or claimed 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 claims process or error correction procedure, CONTRACTOR shall be responsible for repaying any amounts paid for such disallowed or denied claims to COUNTY as set forth herein. CONTRACTOR shall hold COUNTY harmless from and against any and all disallowances resulting from any local, state or federal claims process or error correction procedures.
- B. Additional Utilization Controls. CONTRACTOR will abide by the authorization procedures set forth herein in providing psychiatric inpatient services to Beneficiaries pursuant to the terms and conditions of this Agreement. Tracking numbers will be treated as authorization numbers for purposes of this Agreement. COUNTY shall not rescind or modify an authorization or tracking number after CONTRACTOR renders any psychiatric inpatient services in reliance thereon. CONTRACTOR follows Interqual guidelines in making its case management decisions and COUNTY shall not deny any psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement that meet such guidelines.
- C. Medical and Clinical Justification. COUNTY shall evaluate all psychiatric inpatient services provided hereunder for clinical justification based on medical necessity and will designate acute days. COUNTY's decisions regarding medical and clinical justification shall be made in accordance with any and all applicable local, state and federal, laws, regulations, and guidelines. CONTRACTOR shall comply with any and all final determinations regarding medical and clinical justification rendered by COUNTY, unless reversed in accordance with the dispute resolution procedures set forth in Exhibit B – Provider Problem Resolution Process.
- D. Dispute Resolution Procedures. Any and all complaints, concerns or differences of opinion regarding the provision of the psychiatric inpatient services required pursuant to the terms and

conditions of this Agreement shall be resolved in accordance with the dispute resolution procedures set forth in Exhibit B – Provider Problem Resolution Process. CONTRACTOR agrees that any and all decisions made by COUNTY in accordance with the dispute resolution procedures set forth in Exhibit B – Provider Problem Resolution Process shall be binding.

20. PATIENTS' RIGHTS:

- A. Legal Compliance. Each party hereto shall comply with any and all applicable local, state and federal laws, regulations and standards relating to patients' rights, including, without limitation, California Welfare and Institutions Code Section 5325, 9 C.C.R. Sections 862 through 868 and 42 C.F.R. Section 438.100.
- B. Specific Rights. During the performance of this Agreement, each party 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 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, without limitation, 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 without adversely affecting the way in which he or she is treated by CONTRACTOR.
- 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.

21. REQUIRED DISCLOSURES:

- A. Notification of Change in Ownership and Control. CONTRACTOR shall notify COUNTY of any change in ownership or control of its business within thirty-five (35) days after the occurrence thereof, and provide COUNTY with any and all information relating thereto upon request. The disclosures to be provided hereunder shall include, without limitation:
1. The name and address of any individual or corporation with an ownership or control interest in CONTRACTOR's business. The address for corporate entities shall include, as applicable, a primary business address, each business location and a P.O. Box address;

2. Date of birth and social security number, in the case of an individual;
3. Tax identification number, in the case of a corporation with an ownership or control interest in CONTRACTOR's business or in the business of any subcontractor in which CONTRACTOR has a five percent (5%) or more interest;
4. Whether the individual or corporation with an ownership or control interest in CONTRACTOR's business is related to another person with an ownership or control interest in the same or any other COUNTY contractor as a spouse, parent, child or sibling;
5. Whether the individual or corporation with an ownership or control interest in the business of any subcontractor in which CONTRACTOR has a five percent (5%) or more interest is related to another person with ownership or control interest in CONTRACTOR's business as a spouse, parent, child or sibling;
6. The name of any other disclosing entity in which CONTRACTOR has an ownership or control interest; and
7. The name, address, date of birth and social security number of any managing employee of CONTRACTOR.

B. Disclosures Related to Business Transactions. In accordance with 42 C.F.R. Sections 455.101 through 455.106, CONTRACTOR shall submit the following disclosures regarding certain business transactions within thirty-five (35) days after receiving COUNTY's request for such information:

1. The ownership of any subcontractor with whom CONTRACTOR has had business transactions totaling more than Twenty-Five Thousand Dollars (\$25,000.00) within twelve (12) months prior to the date of the request; and
2. Any significant business transactions between CONTRACTOR and any wholly owned supplier, or any subcontractor, within five (5) years prior to the date of the request.

C. Disclosures Related to Persons Convicted of Crimes. Upon request by COUNTY, CONTRACTOR shall submit the following 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):

1. The identity of any managing employee of CONTRACTOR who has been convicted of a crime related to federal health care programs; and
2. The identity of any agent of CONTRACTOR who has been convicted of a crime related to federal health care programs. For purposes of this provision, the term "agent" has the meaning set forth in 42 C.F.R. Section 455.101.

22. SUSPENSION AND DEBARMENT:

A. Legal Compliance. CONTRACTOR agrees to comply with any and all applicable local, state and federal suspension and debarment laws, regulations and standards, including, without limitation, 7 C.F.R. Part 3017, 45 C.F.R. Part 76, 40 C.F.R. Part 32 and 34 C.F.R. Part 85.

- B. Certification of Eligibility. By executing this Agreement, CONTRACTOR certifies, to the best of its knowledge and belief, that it and its principals, assignees and successors in interest:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency.
 2. Have not, within a three (3) year period preceding the effective date of this Agreement, been convicted of, or had a civil judgment rendered against it, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public transaction or contract at the local, state or federal level; violation of local, state or federal antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records or receiving stolen property.
 3. Are not presently indicted for, or otherwise criminally or civilly charged by a local, state or federal governmental entity with, commission of any of the offenses referenced herein.
 4. Have not, within a three (3) year period preceding the effective date of this Agreement, had one (1) or more public transactions with a local, state or federal entity terminated for cause or default.
 5. Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, debarred, suspended, declared ineligible or voluntarily excluded from participation in such transaction, unless specifically authorized to do so by DHCS.
- C. Construction of Provision. The terms and definitions used herein shall have the meanings set forth in the definitions and coverage sections of the rules implementing Federal Executive Order 12549.
- D. Effect of Non-Compliance. Failure to meet any of the requirements set forth herein shall constitute a material breach of this Agreement, upon which COUNTY may, in addition to any other available remedies, immediately suspend any and all payments due hereunder or terminate this Agreement as provided herein.
- E. Incorporation of Provisions. CONTRACTOR agrees to include the provisions contained herein, without substantial modification, in all lower tier covered transactions as well as all solicitations for lower tier covered transactions.

23. FEDERAL HEALTH CARE PROGRAM EXCLUSION:

- A. Certification of Eligibility. By executing this Agreement, CONTRACTOR certifies that neither it nor any of its 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, and that CONTRACTOR will notify COUNTY in writing, within thirty (30) days from receipt of a fully executed copy of this Agreement, of any event that would require the mandatory exclusion of CONTRACTOR, or one (1) or more of its staff members, from participation in a federally funded health care program and/or any exclusionary action taken by any agency of the federal government barring CONTRACTOR, or one (1) or more of its staff members, from participation in a federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

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- B. Employment of Ineligible or Excluded Individuals or Entities. CONTRACTOR shall not employ or contract with providers, or other individuals or 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, 1156 or 1842(j)(2) of the Social Security Act. Federal funding 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. CONTRACTOR shall screen, on a monthly basis, all staff employed or retained to provide services related to this Agreement to ensure that they are not designated as ineligible or excluded from participation in federally funded health care programs. Screening shall be conducted against the California "Medi-Cal Suspended and Ineligible List," the United States Health and Human Services – Office of Inspector General "List of Excluded Individuals and Entities," the "United States System Award Management Database" and any other list pursuant to 42 C.F.R. Section 438.214(d). CONTRACTOR shall screen prospective staff prior to hire or engagement.
- D. Eligibility Notification. CONTRACTOR shall provide COUNTY with written attestations that CONTRACTOR and its staff are eligible to participate in federally funded health care programs on a monthly basis.
- E. Disclosure Requirements. CONTRACTOR shall immediately disclose to COUNTY any debarment, exclusion or other event that causes CONTRACTOR, or any member of its staff to be ineligible for, or excluded from, participation in federally funded health care programs. If CONTRACTOR discovers that a staff member has become ineligible for, or excluded from, participation in any federally funded health care program, CONTRACTOR shall remove such individual from responsibility for, or involvement with, business or health care operations related to this Agreement.
- F. Defense and Indemnification. CONTRACTOR shall hold harmless, defend and indemnify COUNTY against any and all loss or damage arising from any exclusion of CONTRACTOR, or any of its staff members, from participation in federally funded health care programs.
- G. Effect of Non-Compliance. Failure to meet any of the requirements set forth herein shall constitute a material breach of this Agreement, upon which COUNTY may, in addition to any other available remedies, immediately suspend any and all payments due hereunder or terminate this Agreement as provided herein.

24. INTELLECTUAL PROPERTY RIGHTS:

CONTRACTOR 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. 17-94583) 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, CONTRACTOR, 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 CONTRACTOR or DHCS as a direct or indirect result of this Agreement.

- a. For purposes of this Agreement, "Intellectual Property" means any and all recognized and protectable rights and interests, including, without limitation, patents, whether issued or not, 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, design flows, methodologies, devices, business processes, developments, innovations, know how, 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 any state, the United States or any other 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. The term "works" does not include articles submitted to peer review, reference journals or independent research projects.
2. In the performance of this Agreement, CONTRACTOR will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, CONTRACTOR 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, CONTRACTOR shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purpose without DHCS' prior written permission. Except as otherwise set forth herein, neither CONTRACTOR 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, CONTRACTOR accesses any third-party Intellectual Property that is licensed to DHCS, CONTRACTOR agrees to abide by any and all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
3. CONTRACTOR 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 CONTRACTOR enters into any agreements or subcontracts with other parties in order to perform its duties and obligations hereunder, CONTRACTOR shall require the terms of such agreements or subcontracts to include all of the Intellectual Property provisions set forth herein. Such terms must include, without limitation, 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, CONTRACTOR or DHCS as a direct or indirect result of this Agreement or any subcontract related hereto.
4. CONTRACTOR further agrees to assist and cooperate with DHCS in all reasonable respects, execute all documents, give testimony, subject to reasonable availability, and take all further acts reasonably necessary to acquire, transfer, maintain and enforce DHCS' Intellectual Property rights and interests.

- B. Retained Rights and License Rights. By executing this Agreement, CONTRACTOR, 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 CONTRACTOR or DHCS as a direct or indirect result of this Agreement, CONTRACTOR 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. CONTRACTOR 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 or perform, distribute and dispose CONTRACTOR's Intellectual Property resulting from this Agreement, unless CONTRACTOR 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 CONTRACTOR from using any ideas, concepts, know-how, methodology or techniques related to the performance of its duties and obligations hereunder, provided that CONTRACTOR's use does not infringe the patent, copyright, trademark, license or other Intellectual Property rights of DHCS or any third-party, or result in a breach of this Agreement or violation of any local, state or federal laws, regulations or standards relating to confidentiality.
- C. Copyright. By executing this Agreement, CONTRACTOR, for itself, and its assignees and successors in interest, agrees as follows:
1. CONTRACTOR agrees that for purposes of copyright law, all works, as defined herein, of authorship made by or on behalf of CONTRACTOR in connection with the performance of its duties and obligations hereunder shall be deemed "works made for hire." CONTRACTOR further agrees that the work of each person utilized by CONTRACTOR in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of CONTRACTOR or has entered into an agreement with CONTRACTOR to perform the work. CONTRACTOR shall enter into a written agreement with any such person which provides that: all work performed for CONTRACTOR shall be deemed a "work made for hire" under the Copyright Act; and such person shall assign all right, title and interest to DHCS to any work product made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS as a direct or indirect result of this Agreement.
 2. Any and all materials, including, without limitation, visual works or text, reproduced or distributed pursuant to the terms and conditions of this Agreement that include Intellectual Property made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS as a direct or indirect result of this Agreement, shall include DHCS' notice of copyright, which shall read in three (3) millimeter 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 CONTRACTOR in the performance of its duties and obligations hereunder, which did not result from research and development specifically included in Exhibit A – Scope of Services, CONTRACTOR hereby grants to DHCS a license for any and all devices or materials incorporating, or made through the use of,

such inventions. If such inventions result from research and development work specifically included within Exhibit A – Scope of Services, CONTRACTOR 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, CONTRACTOR agrees that the performance of its obligations and duties hereunder shall not be dependent upon or include any Intellectual Property of CONTRACTOR or third-party without first: obtaining DHCS' prior written approval; and granting to or obtaining for DHCS, without additional compensation, a license, as described herein, for any of CONTRACTOR'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 CONTRACTOR's performance of, this Agreement, CONTRACTOR shall obtain a license under terms acceptable to DHCS.
- F. Warranties. By executing this Agreement, CONTRACTOR, 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, any and all rights and licenses necessary for the performance of its duties and obligations hereunder.
 3. Neither CONTRACTOR'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 or performance, distribution and disposition of the Intellectual Property made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS as a direct or indirect result of 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 CONTRACTOR.
 4. Neither CONTRACTOR's performance of its duties and obligations hereunder, nor any part thereof, will violate the privacy rights of, or constitute a libel or slander against, any person or entity.
 5. It has secured, and will secure, any and all rights and licenses necessary for the use of Intellectual Property, including, without limitation, consents, waivers or releases from all authors of music or performances, talent, including radio, television and motion picture talent, and owners of any interest in sites, 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 might derogate, encumber or interfere with any of the rights granted to DHCS hereunder.
 7. It has appropriate systems and controls in place to ensure that state funds will not be used to acquire, operate or maintain 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 that could affect in any way CONTRACTOR's performance of its duties and obligations hereunder.

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

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

1. CONTRACTOR shall indemnify, defend and hold harmless DHCS, and 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, whether or not rightful, arising from any and all actions or claims by any third-party or expenses related thereto, including, without limitation, 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, regardless of whether or not CONTRACTOR is a party to any pending or threatened litigation, which arise out of or are related to: the incorrectness or breach of any of the representations, warranties, covenants or agreements of CONTRACTOR pertaining to Intellectual Property; or any Intellectual Property infringement, or 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 or display, license and disposition of the Intellectual Property made, conceived, derived from or reduced to practice by CONTRACTOR or DHCS as a direct or indirect result of this Agreement. CONTRACTOR's indemnity obligations set forth herein 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, at CONTRACTOR's expense, any such infringement action brought against DHCS.
2. Should any Intellectual Property licensed by CONTRACTOR to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, CONTRACTOR shall exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with the terms and conditions of this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel, at CONTRACTOR's expense, in any such claim or action. In the defense or settlement of the claim, CONTRACTOR 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 available rights and remedies.
3. CONTRACTOR agrees that damages alone would be inadequate to compensate DHCS for CONTRACTOR's breach of the Intellectual Property provisions set forth herein. CONTRACTOR 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 this Agreement; except as provided in 37 C.F.R. Section

401.14; however, the federal government shall have a worldwide, non-exclusive, nontransferable, irrevocable, paid-up license to use, duplicate or dispose of such Intellectual Property 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.

25. NON-DISCRIMINATION COMPLIANCE:

- A. Compliance with Anti-Discrimination laws. CONTRACTOR 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, Federal 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, regulations and standards, 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 Professional Services. Consistent with the requirements of any and all applicable local, state and federal laws, regulations and standards, including, without limitation, 42 C.F.R. Section 438.3(d)(3)-(4), CONTRACTOR shall not engage in any unlawful discriminatory practices in the admission of Beneficiaries, assignments of accommodations, treatment, evaluation, employment or personnel or any other respect on the basis of: race; religion or religious creed; color; age (over forty (40) years of age); sex, including, without limitation, gender identity and expression, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality; national origin; ancestry; marital status; medical condition, including, without limitation, cancer and genetic characteristics; mental or physical disability, including, without limitation, HIV status and AIDS; political affiliation; military service; denial of family care leave; or any other classifications protected by local, state or federal laws, regulations or standards. CONTRACTOR shall not discriminate against Beneficiaries on the basis of health status or need for health care services, pursuant to 42 C.F.R. Section 438.3(d)(3).
- C. Employment Practices. In connection with the services provided hereunder, CONTRACTOR, 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, without limitation, gender identity and expression, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality; national origin; ancestry; marital status; medical condition, including, without limitation, 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 laws, regulations or standards. CONTRACTOR shall take affirmative action to ensure that qualified applicants are employed, and that during employment, employees are treated 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, but not limited to, apprenticeship. Nothing herein shall be construed to require the employment of unqualified persons.

- D. Solicitations for Employment. Any and all solicitations or advancements for employees placed by, or on behalf of, CONTACTOR shall 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. CONTRACTOR 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 (Section 4212 of Title 38 United States Code ("U.S.C.")). Such notices shall state CONTRACTOR's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin, physical or mental 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. CONTRACTOR 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 CONTRACTOR'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. CONTRACTOR 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 11246, as amended by Federal Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and 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 the regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.
- H. Access to Records Regarding Non-Discrimination Compliance. CONTRACTOR shall furnish any and all information and reports required by Federal Executive Order 11246, as amended, including by Federal Executive Order 11375 – "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by 41 C.F.R. Part 60 – "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," the Rehabilitation Act of 1973, and by the rules, regulations and orders of the Secretary of Labor, 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 CONTRACTOR's non-compliance with the requirements 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 CONTRACTOR may be declared ineligible for further state and federal contracts in accordance with procedures authorized in Federal Executive Order 11246, as amended, and such other sanctions that may be imposed, and remedies invoked, as provided in Federal Executive Order 11246, as amended, including by Federal 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 any and all applicable local, state and federal laws, regulations and standards.

- J. Determination of Medical Necessity. Notwithstanding anything set forth herein to the contrary, CONTRACTOR may require a determination of medical necessity pursuant to 9 C.C.R. Sections 1820.205, 1830.205 or 1830.210, prior to providing covered services to a Beneficiary.
- K. Incorporation of Provisions. CONTRACTOR shall include the foregoing provisions in every subcontract related to the services provided pursuant to the terms and conditions of this Agreement, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Federal Executive Order 11246, as amended, including by Federal 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,” Section 503 of the Rehabilitation Act of 1973 or 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. CONTRACTOR shall take such action with respect to any subcontract related to the services provided hereunder, 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 CONTRACTOR becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, CONTRACTOR 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.

26. SMOKE-FREE WORKPLACE CERTIFICATION:

- A. Legal Requirements. The United States Pro-Children Act of 1994 (“PCA”), requires that smoking not be permitted in any portion of any indoor facility owned or leased by an entity and used routinely or regularly for the provision of health, day care, early childhood development, education or library services to children under eighteen (18) years of age, if the services are funded by federal programs, either directly or through local or state governments, or 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 substance use disorder 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, CONTRACTOR certifies that it will comply with the requirements of the PCA, and will not allow smoking within any indoor facility used for the provision of services for children as defined thereby.
- C. Effect of Non-Compliance. Failure to comply with 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. CONTRACTOR further agrees that it will incorporate the provisions contained herein into any subcontracts related to the services provided hereunder.

27. DRUG-FREE WORKPLACE CERTIFICATION:

By executing this Agreement, CONTRACTOR certifies that it will provide a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350, *et seq.*), 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:
 - 1. The dangers of drug abuse in the workplace;
 - 2. CONTRACTOR'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 services hereunder will:
 - 1. Receive a copy of CONTRACTOR's Drug-Free Policy Statement; and
 - 2. Agree to abide by CONTRACTOR's Drug-Free Policy as a condition of employment.
- D. Effect of Non-Compliance. Failure to comply with the requirements set forth herein may result in termination of this Agreement and/or ineligibility for award of future contracts.

28. NUCLEAR-FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

By executing this Agreement, CONTRACTOR certifies that it is not a Nuclear Weapons Contractor, in that CONTRACTOR 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. CONTRACTOR 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 CONTRACTOR subsequently becomes a Nuclear Weapons Contractor.

29. INDEMNIFICATION:

- A. Hold Harmless, Defense and Indemnification. CONTRACTOR shall hold harmless, defend and indemnify COUNTY and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages and liabilities of any kind or nature, including, without limitation, attorney's fees and other costs of litigation, arising out of, or in connection with, CONTRACTOR's negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

- B. Effect of Insurance. Acceptance of the insurance required by this Agreement shall not relieve CONTRACTOR from liability under this provision. This provision shall apply to all claims for damages related to CONTRACTOR'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.

30. INSURANCE REQUIREMENTS:

This Agreement shall not be executed by COUNTY, and CONTRACTOR is not entitled to any rights hereunder, unless certificates of insurance, or other 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 CONTRACTOR's indemnification obligations set forth herein, CONTRACTOR shall, and shall require that all subcontractors hereunder, take out and maintain, throughout the entire term of this Agreement, and any extensions thereof, the following policies of insurance, placed with insurers authorized to do business in 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 in connection with the activities of CONTRACTOR and its agents, officers, directors, employees 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 One Million Dollars (\$1,000,000.00) per occurrence for any one (1) incident, including, without limitation, 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, and be at least as broad as Insurance Service Offices Form Code 1 (any auto).
 3. Workers' Compensation Insurance, as required by the California Labor Code, 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 One Million Dollars (\$1,000,000.00) for each occurrence (Three Million Dollars (\$3,000,000.00) general aggregate). Said insurance shall be maintained for the statutory period during which CONTRACTOR may be exposed to liability. CONTRACTOR 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, CONTRACTOR. 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 property damage caused by explosion or collapse of structures or underground damage, 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 requirements set forth herein. It is further understood that CONTRACTOR shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
 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, CONTRACTOR's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to CONTRACTOR's insurance and will not be used to contribute therewith.
 5. Any failure to comply with the provisions of this Agreement shall not affect the coverage provided to COUNTY or its agents, officers, officials, employees and volunteers.
 6. CONTRACTOR 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. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) shall be disclosed to, and approved by, COUNTY. If CONTRACTOR does not keep all required policies in full force and effect, COUNTY may, in addition to any other available remedies, take out the necessary insurance and deduct the cost of said insurance from the monies owed to CONTRACTOR 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 CONTRACTOR shall be required to purchase additional coverage to meet the above-referenced aggregate limits.
- C. Insurance Notices. Any and all insurance notices required hereunder shall be sent to the addresses set forth below in accordance with the notice requirements contained herein.

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

CONTRACTOR: Restpadd Inc.
Attention: Staci Ross, Administrator
2750 Eureka Way
Redding, California 96001

31. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agents, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that CONTRACTOR shall not be entitled to any benefits to which COUNTY employees are entitled, including, without limitation, overtime, retirement, leave or workers' compensation benefits.

32. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND STANDARDS:

- A. General Legal Requirements. CONTRACTOR agrees to comply with any and all local, state and federal laws, regulations, policies, procedures and standards applicable to the psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement, including, without limitation, any and all applicable laws, regulations and standards pertaining to the Medicaid program.
- B. Licensure Requirements. CONTRACTOR agrees to comply with any and all local, state and federal licensure, certification and accreditation standards applicable to the services provided pursuant to the terms and conditions of this Agreement. CONTRACTOR shall be responsible for ensuring that any and all personnel providing psychiatric inpatient services pursuant to the terms and conditions of this agreement are in compliance with any and all applicable professional licensure requirements set forth in the California Welfare and Institutions Code and the California Business and Professions Code.
- C. Accessibility Requirements. CONTRACTOR agrees to comply with any and all applicable accessibility requirements set forth in the Americans with Disabilities Act, Section 508 of the Rehabilitation Act of 1973, as amended, California Government Code Section 1135 and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, the federal accessibility standards set forth in 36 C.F.R. Section 1194.1, all as may be amended from time to time.
- D. Conflict of Interest Requirements. CONTRACTOR agrees to comply with any and all applicable conflict of interest requirements set forth in the California Political Reform Act and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, COUNTY's Conflict of Interest Code, all as may be amended from time to time. CONTRACTOR hereby covenants that neither it nor any of its agents, officers, officials, employees or subcontractors presently has any interest, and shall not acquire any interest, either direct or indirect, which would conflict in any manner or degree with the administration of this Agreement or the performance of any services to be provided hereunder. CONTRACTOR further assures that no person having such an interest shall be employed to administer this Agreement or perform any of the services to be provided hereunder. In addition, upon the request of COUNTY, CONTRACTOR and/or its agents, officers, officials, employees and subcontractors shall complete, and submit to Director, "Statements of Economic Interest" which disclose any and all any actual and/or potential conflicts of interest.

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- E. Humboldt County Mental Health Managed Care Agreement. CONTRACTOR agrees to comply with any and all applicable provisions of the Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) that COUNTY has with DHCS, which are incorporated herein by reference and made a part hereof as if set forth in full. In the event, of any conflict in the terms and conditions set forth in COUNTY's Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) and the terms and conditions set forth in this Agreement, the terms and conditions set forth in COUNTY's Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) shall have priority. COUNTY's Mental Health Managed Care Agreement (State Standard Agreement No. 17-94583) can be obtained online at www.humboldt.gov.org.
- F. Humboldt County Mental Health Performance Agreement. CONTRACTOR agrees to comply with any and all applicable provisions of 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. In the event, of any conflict in the terms and conditions set forth in COUNTY's Mental Health Performance Agreement (State Standard Agreement No. 17-94523) and the terms and conditions set forth in this Agreement, the terms and conditions set forth in COUNTY's Mental Health Performance Agreement (State Standard Agreement No. 17-94523) shall have priority. COUNTY's Mental Health Performance Agreement can be obtained online at www.humboldt.gov.org.
- G. Humboldt County Policies and Procedures Regarding Advance Directives. CONTRACTOR 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, recognized under the laws of the State of California, such as a living will or durable power of attorney for health care, relating to the provision of health care when the individual is incapacitated as defined in 42 C.F.R. Section 489.100.
- H. Humboldt County Physician Incentive Plans. CONTRACTOR agrees to comply with COUNTY's obligations for Physician Incentive Plans, if applicable, based on the psychiatric inpatient 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 psychiatric inpatient services provided to any Beneficiary as set forth in 42 C.F.R. Section 422.208(a).

33. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the terms, conditions 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.

34. REFERENCE TO LAWS, REGULATIONS AND STANDARDS:

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

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35. PROTOCOLS:

Both parties agree 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 both parties hereto.

36. NOTIFICATION OF LITIGATION:

CONTRACTOR shall notify COUNTY of any claim for damages, lawsuit or other professional litigation filed against CONTRACTOR, which relates to the services provided pursuant to the terms and conditions of this Agreement, within forty-eight (48) hours after being informed of the commencement of such claim for damages, lawsuit or other professional litigation.

37. 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.

38. ASSIGNMENT:

Neither party shall delegate its duties or assign its rights hereunder, either in whole or in part, without the other party's prior written consent. Any assignment by CONTRACTOR 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 either party to obtain supplies, technical support or professional services.

39. 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.

40. WAIVER OF DEFAULT:

The waiver by either party of any breach 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 which may then exist on the part of CONTRACTOR. 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 CONTRACTOR shall promptly refund, any funds disbursed to CONTRACTOR, which COUNTY determines were not expended in accordance with the terms of this Agreement.

41. 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.

42. AMENDMENT:

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.

43. STANDARD OF PRACTICE:

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

44. 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. 17-94583) and the Mental Health Performance Agreement (State Standard Agreement No. 17-94523) that COUNTY has with DHCS. Any dispute 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.

45. ADVERTISING AND MEDIA RELEASE:

Any and all informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media, including, without limitation, television, radio, newspapers and internet. CONTRACTOR 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 in accordance with the notice requirements set forth herein.

46. SUBCONTRACTS:

CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services to be provided pursuant to the terms and conditions of this Agreement. Any and all subcontracts shall be subject to all applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification, privacy, security and confidentiality requirements set forth herein. CONTRACTOR shall remain legally responsible for the performance of all terms and conditions of this Agreement, including, without limitation, any and all services provided by third-parties under subcontracts, whether approved by COUNTY or not.

47. ATTORNEYS' FEES:

If either party shall commence any legal action, including, without limitation, an action for declaratory relief, against the other by reason of the alleged failure of the other to perform any of its obligations hereunder, the party prevailing in said action shall be entitled to recover court costs and reasonable attorneys' fees, including, but not limited to, the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

48. SURVIVAL OF PROVISIONS:

The duties and obligations of the parties set forth in Section 3(D) – Compensation upon Termination, Section 10 – Audit and Retention of Performance Records, Section 12 – Local, State and Federal Inspection Rights, Section 14 – Confidential Information, Section 15 – Privacy and Data Security

Requirements, Section 16 – Preparation and Retention of Clinical Records and Documentation, Section 24 – Intellectual Property Rights and Section 29 – Indemnification shall survive the expiration or termination of this Agreement.

49. 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.

50. 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.

51. INDEPENDENT CONSTRUCTION:

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

52. 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 the 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.

53. 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 their 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.

54. COUNTERPART EXECUTION:

This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. A signed copy of this Agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement, and any amendments hereto.

55. AUTHORITY TO EXECUTE:

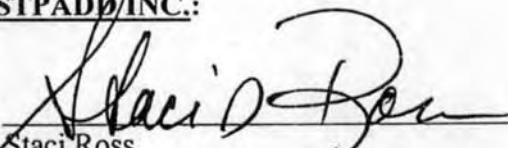
Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations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

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

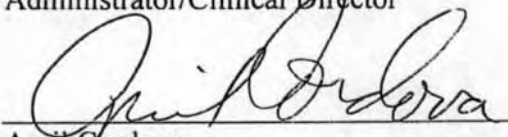
TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

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

RESTPAD/INC.:

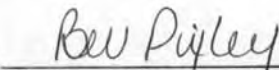
By: 
Staci Ross
Administrator/Clinical Director

Date: 6-13-19

By: 
April Cordova
Controller/Director of Business Support

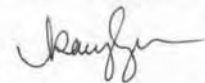
Date: 6-13-19

COUNTY OF HUMBOLDT:

By: 
Humboldt County Purchasing Agent

Date: 8-20-2019

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: 
Risk Management

Date: 07/30/2019

LIST OF EXHIBITS:

- Exhibit A – Scope of Services
- Exhibit B – Provider Problem Resolution Process

EXHIBIT A
SCOPE OF SERVICES
Restpadd Inc.
For Fiscal Year 2019-2020

1. SERVICES:

CONTRACTOR will provide psychiatric inpatient services to eligible Humboldt County Medi-Cal Beneficiaries ("Beneficiaries") between eighteen (18) to sixty-four (64) years of age.

A. Basic Service Level. The psychiatric inpatient services set forth herein are intended to allow for the stabilization of Beneficiaries suffering from acute psychiatric conditions and to prepare such Beneficiaries for the initial transition or subsequent return to a less restrictive facility. The parties hereto agree that the minimum level of psychiatric inpatient services provided to Beneficiaries shall comply with any and all local, state and federal laws and regulations, and promote legislative purposes set forth in California Welfare and Institutions Code Section 5001. The psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement shall be comprised of medically necessary clinical, medical and ancillary services that are generally recognized and accepted for the diagnosis and treatment of behavioral disorders or psychological injuries, including, without limitation:

1. Provision of twenty-four (24) hour nursing care, including, without limitation, clinical laboratory services and administration and supervision of prescribed psychotropic medications, pharmaceuticals and biologicals.
3. Provision of dietary services, including, without limitation, the preparation of special diets as prescribed by a physician.
4. Provision of medical and psychiatric evaluations and other psychological and social assessments, as necessary.
5. Provision of crisis intervention services, including, without limitation, communication with prescribing physicians to ensure stabilization of Beneficiaries taking medication.
6. Provision of individual and group therapy, including, without limitation, art, recreational and vocational therapy.
7. Provision of social services that include access to daily rehabilitative activities which focus on the development of daily living skills.
8. Provision of psychiatric and/or psychological services that are not included in the regulatory provisions pertaining to Medi-Cal Beneficiaries.
9. Provision of any other "Psychiatric Inpatient Hospital Services" as that term is defined in Title 9 of the California Code of Regulations Section 1810.350.

B. Enhanced Service level. Upon the written consent of both parties, CONTRACTOR may provide additional one (1) to one (1) services to Beneficiaries when such augmented supervision and specialized mental health intervention are necessary to keep a Beneficiary safe.

C. Discharge Planning. The length of each Beneficiary's placement at CONTRACTOR's Psychiatric Health Facility shall be determined based on the medical necessity criteria for the

psychiatric inpatient services provided pursuant to the terms and conditions of this Agreement. CONTRACTOR shall communicate with COUNTY to develop a discharge plan for each Beneficiary receiving psychiatric inpatient services pursuant to the terms and conditions of this Agreement.

2. ACCEPTANCE CRITERIA:

The effectiveness of the psychiatric inpatient services provided to Beneficiaries pursuant to the terms and conditions of this Agreement shall be reviewed based on accomplishment of the legislative purposes set forth in California Welfare and Institutions Code Section 5001.

3. REPORTING REQUIREMENTS:

- A. Service Reports. CONTRACTOR shall provide COUNTY with reports documenting the services rendered to each Beneficiary pursuant to the terms and conditions of this Agreement on a concurrent basis.
- B. Phone Reviews. CONTRACTOR shall participate in phone reviews with COUNTY's Managed Care Unit at least every other business day or more often if required by a beneficiary's acuity.
- C. Additional Reporting. CONTRACTOR will notify COUNTY of any current or anticipated difficulty in providing services, or if the services do not appear to be providing the anticipated benefit to a particular Beneficiary. CONTRACTOR shall notify COUNTY within ten (10) days from the provision of emergency services to Beneficiaries. This notification shall be made via phone to COUNTY's Managed Care Line at (707) 268-2955 Option 2 or via fax at (707) 476-4096, Attention: Utilization Review.

4. PLACE OF PERFORMANCE:

CONTRACTOR will provide the psychiatric inpatient services set forth herein at its Psychiatric Health Facility located at 2750 Eureka Way, Redding, California 96001.

EXHIBIT B
PROVIDER PROBLEM RESOLUTION PROCESS

Restpadd Inc.
For Fiscal Year 2019-2020

Good relations between the Humboldt County Department of Health and Human Services – Mental Health (“DHHS – Mental Health”) and CONTRACTOR are essential to the effective delivery of mental health services. The following outlines the mechanism by which CONTRACTOR may address concerns to DHHS – Mental Health on any issue including payment for services, service authorization and processing delays.

Grievances and Appeals must be in writing and submitted to:

COUNTY: Humboldt County DHHS – Mental Health
Attention: Kayleigh Emry, Quality Improvement Coordinator
720 Wood Street
Eureka, California 95501

CONTRACTOR may use the Provider Problem Resolution Form attached to this exhibit.

The Humboldt County Provider Problem Resolution Process provides for two types of problem resolution:

Grievance – an expression of dissatisfaction with DHHS – Mental Health regarding contract interpretation, policies, authorization process, timeliness of payment, or any situation believed to be unjust or inequitable in the relations between CONTRACTOR and DHHS – Mental Health.

Appeal – an appeal of denial or modification of an authorization request, or denial of payment for services by DHHS – Mental Health.

GRIEVANCE PROCEDURE

There shall be a sixty (60) working day resolution period during which time the responsible DHHS – Mental Health staff shall review the grievance issue(s) and make a decision regarding resolution. The decision will be communicated in writing to CONTRACTOR within the sixty day timeframe.

If no satisfactory resolution is proposed, CONTRACTOR may request review of the grievance by the Mental Health Director, whose decision shall be final.

APPEAL PROCEDURE

CONTRACTOR may appeal a denied or modified request for treatment authorization or a denial of payment of a claim within ninety (90) calendar days of CONTRACTOR’s receipt of the decision. The appeal must be in writing and include supporting documentation. Supporting documentation shall include, but is not limited to:

- A copy of the original decision received from DHHS – Mental Health.
- Any documentation supporting allegations related to timeliness, if at issue, including copies of fax records, phone records or memos.
- Clinical records supporting the existence of medical necessity, if at issue.

- A summary of reasons why DHHS – Mental Health should have approved treatment authorization or a more intensive level of treatment.
- A contact person(s) name, address and phone number.

There shall be a sixty (60) working day resolution period during which time DHHS – Mental Health staff shall review the appeal and make a decision regarding resolution. The decision will be communicated in writing within the sixty day timeframe, and will address each issue raised by CONTRACTOR, and any action required by CONTRACTOR to implement the decision.

If the appeal concerns the denial or modification of a payment authorization request due to lack of medical necessity, DHHS – Mental Health shall utilize personnel not involved in the initial denial or modification decision to determine the appeal decision.

If the Appeal is granted, CONTRACTOR has thirty (30) calendar days from the date of receipt of Humboldt County’s decision to submit a revised request for payment authorization.

If DHHS – Mental Health does not respond within sixty (60) calendar days to the appeal, the appeal shall be considered denied.

Hospital Providers: If payment authorization for emergency services is denied for lack of timely notification or submission of the payment request or for lack of medical necessity, CONTRACTOR has the right to appeal through the California Department of Health Care Services. If CONTRACTOR chooses to do so, the appeal shall be submitted in writing, along with supporting documentation, within thirty (30) calendar days of the date of receipt of the non-approval of payment or within thirty (30) calendar days of DHHS – Mental Health’s failure to act on the request. Supporting documentation shall include, but not be limited to:

- Any documentation supporting allegations of timeliness, if at issue, including fax records, phone records or memos.
- Clinical records supporting the existence of medical necessity if at issue.
- A Summary of reasons why DHHS – Mental Health should have approved the payment authorization.
- A contact person(s) name, address and phone number.
- Copies of the above will also be sent to DHHS – Mental Health’s Quality Improvement Coordinator at the above address.

Exception to this Appeals Process: CONTRACTORs who receive payment from the State’s fiscal intermediary, currently Xerox State Healthcare, LLC, may file appeals concerning the processing or payment of those claims directly to the fiscal intermediary.

Reference:

- 9 CCR Sections 1850.305, 1850.310, 1850.320, 1850.325 and 1850.350
- 28 CCR Section 1300.70
- 9 CCR 1810.440 (a)(5)
- 42 CFR Section 438.416



MENTAL HEALTH QI-85 PROVIDER PROBLEM RESOLUTION REQUEST

(Please check one) Grievance Appeal

Provider Name: _____ Phone #: _____
Mailing Address: _____

Name and Title of Person Filing Grievance / Appeal: _____
Phone #: _____

Is this an appeal of a denied or modified request for services? Yes No

Is this a dispute concerning the processing or payment of a claim? Yes No

Description of issue: _____

Provider Signature: _____ Date: _____
(Attach documentation for request for authorization or denied / disputed claims)

Mail form to: DHHS Mental Health
 Quality Improvement Coordinator
 720 Wood Street
 Eureka, CA 95501
FOR ANY QUESTIONS CALL (707) 268-2955, option 1

DHHS-MH INTERNAL USE ONLY:
Resolution/Action Taken: _____

Signature of Manager _____ Date: _____