



AGENDA ITEM NO.

C-31

COUNTY OF HUMBOLDT

For the meeting of: June 28, 2016

Date: June 15, 2016

To: Board of Supervisors *for*

From: Connie Beck, Director
Department of Health and Human Services

Subject: First Amendment to Agreement between Changing Tides Family Services and Humboldt County for the Provision of Mental Health Services for Fiscal Years 2014-15 and 2015-16

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approves and authorizes the Chair to sign three (3) originals of the first amendment to the July 1, 2014 agreement with Changing Tides Family Services for the provision of mental health services (Attachment 1) for fiscal years 2014-15 and 2015-16; and
2. Directs the Clerk of the Board to return two (2) executed originals of the of the first amendment to the Department of Health and Human Services (DHHS)-Contract Unit for forwarding to DHHS- Children and Family Services Administration.

SOURCE OF FUNDING:

Mental Health Fund

DISCUSSION:

The Board of Supervisors has authorized DHHS to contract with Changing Tides Family Services to

Prepared by Jamie Monroe SSA II CAO Approval *[Signature]*

REVIEW: Auditor *[Signature]* County Counsel *[Signature]* Human Resources *[Signature]* Other _____

TYPE OF ITEM:

Consent

Departmental

Public Hearing

Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Sundberg* Seconded by Supervisor *Bass*

Ayes *Sundberg, Fennell, Lovelace, Bohn, Bass*

Nays _____

Abstain _____

Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. C-6; C-12; C-9; D-15; C-27; C-15; C-17; C-14

Meeting of: 10/10/06; 2/16/07; 10/16/07; 6/17/08; 6/22/10; 6/12/12; 8/13/13; 7/1/14

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: June 28, 2016

By: *[Signature]*

Kathy Hayes, Clerk of the Board

provide assessment, evaluation, individual therapy, group therapy, case management, mental health plan development, and mental health rehabilitation services. On July 1, 2014 (item C-14), the Board approved the agreement with Changing Tides Family Services to provide Humboldt County Medi-Cal beneficiaries mental health services. The provision of specialty mental health services to Short-Doyle Medi-Cal beneficiaries meeting medically necessary criteria is, and will remain, the responsibility of DHHS. (*Short-Doyle is one component of the California Medi-Cal program. It is a special program serving the mentally ill, and is operated by the various counties in California which arrange for hospital and clinic services*). The Short-Doyle Medi-Cal population currently utilizes DHHS's maximum clinical, clerical and physical resources. Therefore, DHHS-Mental Health continues to require specialty mental health services from qualified specialty mental health providers such as Changing Tides Family Services.

Over the course of the last three months, the rate of referrals to Changing Tides Family Services to provide mental health services to Humboldt County children has increased. If services are continued at the current rate, Changing Tides Family Services will exceed the contract maximum for FY 2015-16 before the end of the contract.

Therefore, DHHS recommends that the Board approves and authorizes the Chair to sign three (3) originals of the attached first amendment to the July 1, 2014 Agreement for the provision of children's mental health services (Attachment 1) for fiscal year 2015-16 to increase the contract maximum value from \$900,000 to \$1,000,000.

FINANCIAL IMPACT:

The first amendment to the July 1, 2014 agreement with Changing Tides Family Services for the provision of children's mental health services increases the contract maximum to One Million Dollars (\$1,000,000) for FY 2015-16. This first amendment will increase annual provider reimbursement for medically necessary covered services by an amount not to exceed One Hundred Thousand Dollars (\$100,000). Expansion of services to early periodic screening diagnosis and treatment (EPSDT) eligible population will draw additional federal financial reimbursement and has the potential to augment state behavioral health realignment allocations for EPSDT services in Humboldt County.

Related expenditures and revenues for this first amendment to agreement are included in the approved FY 2015-16 budget for DHHS Mental Health Administration Budget Unit 1170-424. Funding for these expenditures is available through federal Medi-Cal financial participation and state realignment for mental health managed care and EPSDT. There is no impact on the county's General Fund.

If federal, state or local funding is reduced or deleted, the maximum value of this amended agreement may be reduced or eliminated.

The services provided under this first amendment meet the Board's Strategic Framework by helping to ensure continued opportunities for improving health and safety for vulnerable members of the community with efficient access to Mental Health Services.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve this first amendment to agreement. However, this would not be a realistic alternative. The current Short-Doyle Medi-Cal population already utilizes DHHS's maximum clinical, clerical and physical resources.

ATTACHMENTS:

Attachment 1: First Amendment to the July 1, 2014 Agreement with Changing Tides Family Services for the provision of mental health services for FY 2015-16 (3 originals)

Attachment 2: July 1, 2014 Agreement with Changing Tides Family Services for the provision of mental health services for FYs 2014-15 and 2015-16

**FIRST AMENDMENT
MENTAL HEALTH ORGANIZATION PROVIDER SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
CHANGING TIDES FAMILY SERVICES
FOR FISCAL YEARS 2014-2015 THROUGH 2015-2016**

This First Amendment to the Mental Health Organizational Provider Agreement dated July 1, 2014, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Changing Tides Family Services, a non-profit mental health service organization, hereinafter referred to as "PROVIDER," is entered into this 28th day of June, 2016.

WHEREAS, COUNTY, by and through its Department of Health and Human Services – Children & Family Services Mental Health, desired to retain a certified Medi-Cal provider to provide mental health services to Humboldt County Medi-Cal Beneficiaries under the age of twenty-one (21) years; and

WHEREAS, on July 1, 2014, COUNTY and PROVIDER entered into a Mental Health Organizational Provider Services Agreement ("Organizational Provider Agreement") regarding the provision of children's mental health services; and

WHEREAS, the parties now desire to amend certain provisions of the Organizational Provider Agreement to increase the maximum amount payable thereunder.

NOW THEREFORE, the parties mutually agree as follows:

1. The Organizational Provider Agreement is hereby amended to delete Exhibit B – Payment Agreement, and replace it in its entirety with the modified Payment Agreement that is attached hereto and incorporated herein by reference. The modified Payment Agreement attached hereto shall supersede any and all prior versions thereof as of the effective date of this First Amendment.
2. Except as modified herein, the Organizational Provider Agreement dated July 1, 2014 shall remain in full force and effect. In the event of a conflict between the provisions of this First Amendment and the original Organizational Provider Agreement, the provisions of this First Amendment shall govern.

[Signatures on Following Page]


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

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

(1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND

(2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

CHANGING TIDES FAMILY SERVICES:

By: 

Date: 6/13/2016

Name: Kerry R. Venegas

Title: Executive Director

By: 

Date: 6/13/2016

Name: CAITUN SCOWN

Title: DEPUTY DIRECTOR

COUNTY OF HUMBOLDT:

By: 

Date: 6/28/16

Mark Lovelace
Chair, Humboldt County Board of Supervisors

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: 
Risk Management

Date: 6/10/16

LIST OF EXHIBITS:

Exhibit B – Payment Agreement

**EXHIBIT B
PAYMENT AGREEMENT
CHANGING TIDES FAMILY SERVICES
FOR FISCAL YEARS 2014-2015 THROUGH 2015-2016**

The maximum amount payable by COUNTY for services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is One Million Nine Hundred Thousand Dollars (\$1,900,000.00). In no event shall the maximum amount paid under this Agreement exceed Nine Hundred Thousand Dollars (\$900,000.00) for fiscal year 2014-2015 and One Million Dollars (\$1,000,000.00) for fiscal year 2015-2016. PROVIDER agrees to perform all services required by this Agreement for an amount not to exceed such maximum amount payable. However, if local, state or federal funding or allowance rates are reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable for services provided hereunder, or may terminate this Agreement as set forth herein.

Any additional services not otherwise provided for herein, shall not be rendered by PROVIDER, or compensated by COUNTY, without prior written authorization from COUNTY. PROVIDER is responsible for tracking the total amount of claims submitted to COUNTY for reimbursement, in order to ascertain that the total does not exceed the maximum payable amount set forth herein. All unauthorized costs and expenses incurred by PROVIDER above the maximum amount payable shall be the responsibility of PROVIDER. PROVIDER shall notify COUNTY in writing at least six weeks prior to the date upon which PROVIDER estimates that the maximum amount payable will be reached.

CHILD CLIENTS (Early and Periodic Screening, Diagnosis and Treatment (EPSDT):

PROVIDER will be reimbursed for medically necessary covered services, as described in Exhibit A – Scope of Services, up to a maximum of Nine Hundred Thousand Dollars (\$900,000.00) for fiscal year 2014-15 and One Million Dollars (\$1,000,000.00) for fiscal year 2015-2016. Expenses incurred beyond this amount shall be the responsibility of PROVIDER, as noted above.

If Day Treatment is provided, mental health services can only be claimed separately outside Day Treatment hours of operation.



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
C-14

For the meeting of: July 1, 2014

Date: June 9, 2014

To: Board of Supervisors

From: Phillip R. Crandall, Director *Barbara Latta for Phillip R Crandall*
Department of Health and Human Services-Mental Health

Subject: Agreements between Changing Tides Family Services and Humboldt County for the Provision of Mental Health Services and Therapeutic Behavioral Services for Fiscal Years 2014-15 and 2015-16

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve and authorize the Chair to sign three (3) originals of the Agreement with Changing Tides Family Services for the provision of Mental Health Services (Attachment 1) for fiscal years 2014-15 and 2015-16;
2. Approve and authorize the Chair to sign three (3) originals of the Agreement with Changing Tides Family Services for the provision of Therapeutic Behavioral Services (Attachment 2) for fiscal years 2014-15 and 2015-16;and
3. Direct the Clerk of the Board to return two (2) executed originals of each Agreement to the Department of Health and Human Services (DHHS)-Contract Unit for forwarding to DHHS-Children and Family Services.

SOURCE OF FUNDING:

Mental Health Fund

Prepared by: Steve Cordero Staff Services Analyst II

CAO Approval *Amey Olsen*

REVIEW:

Auditor *MSM* County Counsel *KR* Personnel _____ Risk Manager *DL* Other _____

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. C-6; C-12; C-9; D-15; C-27; C-15; C-17

Meeting of: 10/10/06; 2/13/07; 10/16/07; 6/17/08; 6/22/10; 6/12/12; 8/13/13

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Lavelace* Seconded by Supervisor *Bass*

Ayes *Sundberg, Lavelace, Bohn, Fenell, Bass*
 Nays _____
 Abstain _____
 Absent _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *July 1, 2014*
By: *Kathy Hayes*
Kathy Hayes, Clerk of the Board

MENTAL HEALTH ORGANIZATIONAL PROVIDER SERVICES AGREEMENT

Between

HUMBOLDT COUNTY

And

CHANGING TIDES FAMILY SERVICES

For

MENTAL HEALTH SERVICES

This Mental Health Organizational Provider Services Agreement is entered into this 1 day of July, 2014, by and between Changing Tides Family Services (*a Non-Profit Entity*), a Mental Health Service Organization that is certified as a Medi-Cal Provider by Humboldt County Mental Health, hereinafter referred to as "PROVIDER"; and Humboldt County, a political subdivision of the State of California, through its Department of Health and Human Services-Mental Health, hereinafter referred to as "COUNTY".

Organizational Provider

Two authorized signatures are required

By: Carol A Hill
(Signature)

By: Carol A. Hill, Exec. Dir
(Print Name and Title)

Date: 6-5-14

By: Donna Miller-Michaud
(Signature)

By: Donna Miller-Michaud Dep. Dir.
(Print Name and Title)

Date: 6-5-14

Address: 2259 Myrtle Avenue
Eureka, CA 95001

Phone: (707) 444-8293

MENTAL HEALTH ORGANIZATIONAL PROVIDER SERVICES AGREEMENT

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MENTAL HEALTH ORGANIZATIONAL PROVIDER SERVICES AGREEMENT

Recitals:

WHEREAS, Humboldt County Medi-Cal Beneficiaries shall receive all mental health services, hereinafter defined as "Covered Services", through COUNTY's Department of Health and Human Services-Mental Health's Medi-Cal Managed Mental Health Care Program.

WHEREAS, COUNTY shall arrange such Covered Services through mental health services providers or organizational provider contracts.

WHEREAS, Psychiatrist, Mental Health Services Provider or Organizational Provider shall participate in providing Covered Services to Beneficiaries and shall receive payment from COUNTY for the rendering of those Covered Services.

WHEREAS, both parties desire to demonstrate that effective and economical mental health care can be provided through a locally administered program.

NOW, THEREFORE, it is agreed that the above Recitals are true and correct.

SECTION 1 DEFINITIONS

Terms used in this Agreement shall have the meaning as set forth in the COUNTY Provider Manual, hereinafter referred to as "Provider Manual", a copy of which has been provided, except when it is clear from the context that another meaning is intended.

SECTION 2 QUALIFICATIONS

2.1 Psychiatrist

Any physician duly licensed as a Psychiatrist in the State of California may elect to serve Beneficiaries hereunder as a Psychiatrist if that physician meets the qualifications set by COUNTY under Article 2.2.1, 2.2.2, 2.2.3 and 2.2.4.

2.2 Mental Health Services Provider

Any Mental Health Services Provider duly licensed in the State of California to practice psychotherapy independently may elect to serve Beneficiaries hereunder as a Mental Health Services Provider if that Mental Health Services Provider meets the qualifications set by COUNTY as stated below:

- 2.2.1 Is certified and in good standing to provide services under the California Medi-Cal Program including those requirements contained in Article 3, Chapter 3, Subdivision 1, Division 3, of Title 22 of the California Code of Regulations; and
- 2.2.2 Is a Provider practicing within Humboldt County or has been specifically excepted from this requirement by COUNTY;
- 2.2.3 Is a Provider that complies and adheres to Title XIX of the Social Security Act and conforms to all applicable Federal and State statutes and regulations.
- 2.2.4 If a Psychiatrist, is a Psychiatrist under the California Medi-Cal program who maintains a specialty code designation of 26 Psychiatry (child), 27 Psychiatry Neurology, and 36 Psychiatry, or if a Psychologist, is a licensed Psychologist with two (2) years post licensure experience.
- 2.2.5 Providers located out of Humboldt County may be authorized to provide services upon the submission of current copies of their state license, Drug Enforcement Administration certification, Insurance certificate in accordance with Section 7 of this Agreement and furnishing documentation that they have been credentialed and privileged by their local County Mental Health Plan.

2.3 Intern in Marriage and Family Therapy or Associate Social Worker:

Only Mental Health Services Organizational Providers which meet the criteria in Article 2.2.1 for Department of Health Care Services Certification and are credentialed and approved by COUNTY may use Interns and/or Associates, hereinafter referred to as "I/A", to administer services to Beneficiaries if the following requirements are met:

- 2.3.1 Provider must maintain malpractice insurance on I/A under their supervision and maintain an employer - employee relationship.
- 2.3.2 Provider must, prior to assigning Authorized services, submit to COUNTY, the I/A's application, resume, photocopy of I/A's and Supervisor's license, Responsibility Statement for Supervisors, and proof of insurance coverage along with a description of the I/A's training program.
- 2.3.3 Every I/A must meet the following criteria:
 - 2.3.3.1 Individual must be post masters and be certified by the Board of Behavioral Science for internship or associate status.
 - 2.3.3.2 Documented clinical supervision must take place in accordance with current Board of Behavioral Science requirements for Interns and Associates.
 - 2.3.3.3 Individual supervision will be augmented by two (2) documented hours of weekly multi-disciplinary group supervision. This supervision will be required for the first six (6) months of experience and may be required for up to one year.
- 2.3.4 Supervisors must meet regularly to review I/A's performance, develop and schedule training seminar topics, and monitor services provided.
- 2.3.5 Documentation of required supervision shall be provided to COUNTY upon request.

2.4 Unlicensed Mental Health Case Management Service Providers

- 2.4.1 Mental Health Rehabilitation and Plan Development Services, and Case Management/Brokerage may be provided by staff who have at least two (2) years of dealing with adults or children with psychiatric illnesses and principles and methods of Case Management. A minimum of Associate of Arts Degree in a related social science field is preferred.
- 2.4.2 PROVIDER agrees to provide clinical supervision of this level of staff by a Licensed Mental Health Professional which includes Physicians, Doctor of Osteopathy, Psychologists, Licensed Clinical Social Workers, Marriage and Family Therapists or a Registered Nurse with a Master's degree in Psychiatric Nursing.

SECTION 3 COVERED SERVICES AND REQUIREMENTS

3.1 Covered Services

Mental Health Provider services are Covered Services when rendered by individual and organizational providers who meet the appropriate licensure requirements to render Covered Services outlined in Exhibit A hereto attached, and these services have been rendered in accordance with policies and procedures described in the Provider Manual that has been provided.

3.2 Prior Authorization(s)

PROVIDER agrees to adhere to the Prior Authorization policies and procedures described in the Provider Manual that has been provided.

3.3 Referrals and Time Frame

PROVIDER agrees to schedule initial appointments within ten (10) working days of referrals.

3.4 Imposition of Additional Controls If Necessary

PROVIDER recognizes the possibility that COUNTY, through the Utilization Management and Quality Improvement processes, may be required to take action requiring consultation with its Medical Director or with other Mental Health Professionals regarding the provision of Covered Services or to terminate this Agreement. In the interest of program integrity or the welfare of Beneficiaries, COUNTY may introduce additional utilization controls as may be necessary at any time and without advance notice to PROVIDER. In the event of such change, the change may take effect immediately upon receipt by PROVIDER of notice from the COUNTY Mental Health Branch Director, but PROVIDER shall be entitled to appeal such action to the Provider Grievance Process.

3.5 Discrimination Prohibited

3.5.1 Consistent with the requirements of applicable federal or state law, such as but not limited to Title 42, Code of Federal Regulations, section 438.6(d)(3) and (4), PROVIDER shall not engage in any unlawful discriminatory practices in the admission of Beneficiaries, assignments of accommodations, treatment, evaluation, employment or personnel, or in any other respect on the basis of race, religion or religious creed, color, age (over 40), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics) mental or physical handicap or disability (including HIV status and AIDS), military service, or any other classifications protected by federal, state, or local laws or ordinances. PROVIDER shall not discriminate against Beneficiaries on the basis of health status or

need for health care services, pursuant to Title 42, Code of Federal Regulations, section 438.6(d)(3).

- 3.5.2 During the performance of this Agreement, PROVIDER shall not unlawfully discriminate against any employee or applicant for employment because of race, religion or religious creed, color, age (over 40), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics) mental or physical handicap or disability (including HIV status and AIDS), military service, or any other classifications protected by federal, state, or local laws or ordinances. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. PROVIDER shall comply with the Disabilities Act of 1990, the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), and the applicable regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285 et seq.). PROVIDER shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5, Division 4 of Title 2, California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as it set forth in full. PROVIDER shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- 3.5.3 PROVIDER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or the State Department of Health Care Services, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state PROVIDER's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- 3.5.4 PROVIDER shall, in all solicitations or advancements for employees placed by or on behalf of the PROVIDER, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- 3.5.5 PROVIDER shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers'

representative of PROVIDER's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- 3.5.6 PROVIDER shall comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 Code of Federal Regulations part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 3.5.7 PROVIDER shall furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 Code of Federal Regulations part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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

- 3.5.8 Notwithstanding other provisions of this section, PROVIDER may require a determination of medical necessity pursuant to Title 9, California Code of Regulations, section 1820.205, Section 1830.205 or Section 1830.210, prior to providing covered services to a Beneficiary.

3.6 Compliance With Committee Decisions

PROVIDER shall cooperate and participate with COUNTY in Quality Improvement and Utilization Review Programs and grievance procedures, and comply with all final

determinations rendered by the Quality Improvement, Utilization Review and Grievance Committees, unless decision is reversed by COUNTY on appeal.

3.7 Provider Authority

Nothing expressed or implied herein shall require the Psychiatrist or Provider to provide to the Beneficiary, or order on behalf of the Beneficiary, Covered Services that, in the professional opinion of the Psychiatrist or Provider, are not required.

3.8 Benefit Restrictions

Covered Services provided will be subject to the limitations and procedures listed in the Provider Manual unless PROVIDER is notified by COUNTY of modification in that policy.

3.9 Location Expansion

PROVIDER shall not provide services under this Agreement at a location other than those locations it uses as of the date of this Agreement without prior written permission by COUNTY.

3.10 Advance Directives and Physician Incentive Plans

PROVIDER shall comply with COUNTY's policies and procedures on advance directives. PROVIDER shall comply with COUNTY's obligations for Physician Incentive Plans, if applicable, based on the services provided under this Agreement.

**SECTION 4
RESPONSIBILITIES OF PROVIDER**

4.1 Medi-Cal Eligibility

For the entire duration of the Agreement, PROVIDER shall verify the Medi-Cal eligibility of Beneficiaries who present themselves at the time of service.

4.2 Documentation

PROVIDER shall provide COUNTY with required copies of licensure and other documentation and adhere to the terms and conditions detailed in the Provider Manual and any Provider (update) Bulletins.

**SECTION 5
PAYMENTS AND CLAIMS PROCESSING**

5.1 Conditions for Payment

COUNTY will reimburse PROVIDER for Covered Services rendered to Beneficiaries if the following conditions are met:

- 5.1.1 The Beneficiary is eligible for Medi-Cal Program benefits at the time the Covered Service is rendered by PROVIDER;
- 5.1.2 The service is a Covered Service under COUNTY's Medi-Cal Managed Health Care Program according to regulations in effect at that time; and
- 5.1.3 Service provision is based on the client meeting specialty mental health medical necessity criteria as per Title 9 California Code of Regulations, Chapter 11.
- 5.1.4 Adherence to the COUNTY Claims Processing procedures detailed in the Provider Manual, a copy of which has been provided to PROVIDER.

5.2 Claims

Psychiatrists and Mental Health Services Providers shall obtain and complete such claim forms as are currently in use in the Mental Health Managed Care Medi-Cal Program for Covered Services rendered to Beneficiaries, and submit completed claims to COUNTY within thirty (30) days from the end of the month that Covered Services were rendered. Upon submission of a complete and uncontested clean claim within the timelines defined in the Provider Manual, payment shall be made to PROVIDER within thirty (30) days; An uncontested clean claim shall include all information needed to process the claim.

Organizational providers shall adhere to Medi-Cal claims processing procedures, including, but not limited to: completion of a daily contact log by each service provider; and meeting the internal Mental Health documentation standards.

5.3 Reimbursement

- 5.3.1 Service reimbursement is contingent on the client being Medi-Cal eligible and enrolled during the service period and the service meeting medical necessity criteria.
- 5.3.2 Reimbursement to PROVIDER for rendering Covered Services to Beneficiaries provided by PROVIDER or by an I/A shall be made at the negotiated reimbursement rate(s) in effect with COUNTY for such services.
- 5.3.3 Current negotiated reimbursement rate(s) are considered to be interim payment in full subject to third party liability and patient share of costs for specialty mental health services to a Beneficiary, and the provisions of Section 12 of this Agreement.

- 5.3.4 COUNTY reserves the right to re-negotiate rates based on final rate negotiations with State Department of Health Care Services.
- 5.3.5 PROVIDER shall bill COUNTY at the PROVIDER's negotiated reimbursement rate(s) for all services described in Exhibit A of this Agreement. PROVIDER shall review and submit to COUNTY, in writing, requested rate changes with a frequency of not more than one (1) time per quarter, as necessary.
- 5.3.6 If State, Federal, or County funding is eliminated, COUNTY may, by amendment, reduce the maximum amount payable under this Agreement, or may terminate the Agreement as provided by Section 9 of this Agreement.
- 5.3.7 PROVIDER is responsible for tracking the total amount of claims submitted to COUNTY for reimbursement, in order to ascertain that the total does not exceed the maximum amount set forth in Exhibit B. All costs and expenses incurred by PROVIDER above the maximum shall be the responsibility of PROVIDER. It shall be the responsibility of PROVIDER to notify COUNTY in writing, at least six weeks prior to the date upon which PROVIDER estimates that the maximum will be reached.
- 5.3.8 PROVIDER shall be subject to the examination and audit of the Department of Health Care Services or State Auditor for a period of three (3) years after final payment under this Agreement pursuant to Government Code Section 8546.7. PROVIDER shall hold COUNTY harmless for any liability resulting from said audit.

5.4 Beneficiary Liability

Unless Beneficiary has other health insurance coverage, PROVIDER shall look only to COUNTY for compensation for Covered Services and, with the exception of authorized Share of Cost payments, and/or non-covered services, shall at no time seek compensation from Beneficiaries.

5.5 No Reimbursement From State

The PROVIDER shall hold harmless the State of California, and Beneficiaries in the event COUNTY cannot or will not pay for Covered Services rendered by PROVIDER pursuant to the terms of the Agreement.

SECTION 6
RECORDS, ACCOUNTS, REPORTING AND RECOVERIES

6.1 Medical Record

- 6.1.1 PROVIDER shall maintain for each Beneficiary who has received Covered Services, a legible medical record, kept in detail consistent with appropriate medical and professional practice and requirements of the Provider Manual, which permits effective internal professional review, external medical audit process, and which facilitates an adequate system for follow-up treatment. PROVIDER agrees to maintain and preserve, until seven (7) years after termination of this Agreement and final payment from the State Department of Health Care Services, to permit the State Department of Health Care Services or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this Agreement and to allow interviews of any employees who might reasonably have information related to such records.
- 6.1.2 PROVIDER shall maintain such books and records as are necessary to disclose how PROVIDER discharged its obligations under this Agreement. These books and records shall identify the quantity of covered services provided under this Agreement, the quality of those services, the manner and amount of payment made for those services, the Beneficiaries who received covered services, the manner in which the PROVIDER administered the provision of specialty mental health services and the cost thereof.

Such books and records shall include, but are not limited to, all physical records originated or prepared pursuant to performance under this Agreement including: working papers, reports submitted to COUNTY or the State Department of Health Care Services, financial records, all medical and treatment records, medical charts and prescription files, and other documentation pertaining to services rendered to beneficiaries. These books and records shall be maintained for a minimum of seven (7) years after the final payment is made and all pending matters closed, or, in the event PROVIDER has been notified that the COUNTY, State Department of Health Care Services, United States Department of Health and Human Services, or the Comptroller General of the United States or their duly authorized representatives, have commenced an audit or investigation of the contract, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later.

6.2 Audit and Record Retention

- 6.2.1 PROVIDER shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.

- 6.2.2 PROVIDER's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- 6.2.3 PROVIDER agrees that the State Department of Health Care Services, the State Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. PROVIDER agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.
- 6.2.4 PROVIDER shall preserve and make available his/her records (1) for a period of seven (7) years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement or by subparagraphs (1) or (2) below.
- (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of seven (7) years from the date of any resulting final settlement.
- (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven (7)-year period, whichever is later.
- 6.2.5 PROVIDER shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code section 10115.10, if applicable.
- 6.2.6 PROVIDER may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, PROVIDER must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

6.3 Inspection Rights

PROVIDER shall make all books and records pertaining to the goods and services furnished under the terms of this Agreement available for inspection, examination, or copying:

- 6.3.1 By COUNTY, the State Department of Health Care Services, the United States Department of Health and Human Services, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives.

- 6.3.2 At all reasonable times at PROVIDER's normal place of business or at such other mutually-agreeable location in California.
- 6.3.3 In a form maintained in accordance with the general standards and COUNTY standards applicable to such book or record keeping.6.3.4 For a term of at least seven (7) years from the close of the State Department of Health Care Services fiscal year in which this Agreement was in effect.
- 6.3.4 Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Agreement including working papers, reports, financial records and books of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for Beneficiaries.

6.4 Confidentiality of Beneficiary Information

- 6.4.1 PROVIDER shall protect the confidentiality of all Beneficiaries and shall comply with applicable laws and regulations, including, but not limited to, Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health & Safety Code sections 1280.15 and 130203 as applicable; the California Information Practices Act as applicable; Title 42 Section 431.300 et seq. and Title 45 Section 205.50 of the Code of Federal Regulations; the United States Health Information Portability and Accountability Act of 1996 ("HIPAA"); the United States and the Health Information Technology and Clinical Health Act (HITECH).
- 6.4.2 COUNTY and PROVIDER acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. PROVIDER agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations.
- 6.4.3 PROVIDER shall further comply with the applicable privacy, security, and confidentiality requirements under any Mental Health Managed Care contract COUNTY has with the State Department of Health Care Services.
- 6.4.4 PROVIDER shall protect from unauthorized disclosure the names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available to PROVIDER or are disclosed to the PROVIDER as a result of services performed under this Agreement, except for statistical information not identifying any such person.

- 6.4.5 For purposes of these subsections, identifying information shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print, or a photograph. Such identifying information shall not be used for any purpose other than carrying out PROVIDER's duties and obligations hereunder.
- 6.4.6 PROVIDER shall promptly transmit to COUNTY all requests for disclosure of such identifying information not emanating from a Beneficiary or person whose name or identifying information become available to PROVIDER or is disclosed to PROVIDER as a result of services performed under this Agreement.
- 6.4.7 PROVIDER shall use or disclose only the minimum amount of Protected Health Information "PHI" necessary to accomplish the intended purpose of this Agreement. PROVIDER shall not use or disclose PHI in any manner that would constitute a breach of this Agreement or a violation of local, state or federal law.
- 6.4.8 PROVIDER shall comply with the accounting requirements of 45 Code of Federal Regulations section 164.528 and any associated regulations or informal guidance issued by the U.S. Department of Health and Human Services, Office of Civil Rights, all as may be amended or changed from time to time.
- 6.4.9 PROVIDER shall only use, store, disclose, or access PHI in compliance with this Agreement and all applicable local, state and federal laws, regulations, rules and standards. PROVIDER shall not download PHI to any personal device, including, but not limited to, flash drives, cell phones, iPads, or tablets without the prior written approval of COUNTY.
- 6.4.10 If PROVIDER has reason to believe that PHI transmitted pursuant to this Agreement may have been accessed, disclosed, or acquired in breach of the terms and conditions herein, PROVIDER shall immediately take all actions necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the suspected breach. PROVIDER shall give highest priority to immediately mitigating and remediating the suspected breach, and shall devote such resources as may be required to accomplish that goal. In addition, PROVIDER shall cooperate with COUNTY's mitigation and remediation efforts, including providing any and all information necessary to enable COUNTY to fully understand the nature and scope of the suspected breach, including, but not limited to, identification of each individual whose unsecured PHI may have been improperly accessed, acquired, or disclosed. In the event that PROVIDER's assistance is required to reinstall software, such assistance shall be provided at no cost to COUNTY and in accordance with COUNTY's policies and standards.
- 6.4.11 PROVIDER shall notify COUNTY, by telephone call and/or e-mail, immediately after discovering a suspected breach of PHI in computerized form, if the PHI was, or is reasonably believed to have been acquired by an unauthorized person. PROVIDER shall notify COUNTY, by telephone call or e-mail, within twenty four (24) hours after discovering any other suspected security incident, intrusion, loss or unauthorized use or

disclosure of PHI in violation of this Agreement or any applicable local, state or federal law. A breach shall be treated as discovered by PROVIDER as of the first day on which such breach is known thereto (including any employee, officer, or other agent thereof) or reasonably should have been known thereby.

- 6.4.12 To the extent deemed warranted, the PROVIDER shall provide notice to any or all individuals affected by the suspected breach. PROVIDER shall pay the full costs associated with notifying the impacted individuals, which may include, but are not limited to, the costs to retain an outside consulting firm to undertake the notification effort. In addition, PROVIDER shall consult with COUNTY regarding the steps required to notify impacted individuals and any other persons, media outlets or governmental agencies, and must supply COUNTY with the following information:

A brief description of the circumstances surrounding the suspected breach, including the date of occurrence and discovery thereof, if known.

A description of the types of unsecured PHI that were involved in the suspected breach (such as the full name, Social Security number, date of birth, home address, account number, or disability code of all affected third parties).

A brief description of what PROVIDER is doing to remediate the breach, mitigate losses and protect against any further breaches.

- 6.4.13 PROVIDER agrees to timely prepare accurate and complete performance records relating to the use and disclosure of PHI transmitted pursuant to this Agreement, and to maintain and preserve said records for at least seven (7) years from the date of expiration or termination of this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising there from.
- 6.4.14 PROVIDER shall make itself available to the State Department of Health Care Services at no cost to testify as witnesses, or otherwise, in the event of any litigation or administrative proceedings being commenced against the State Department of Health Care Services, its directors, officers or employees based upon claimed violations of HIPAA, or the HIPAA regulations, which involves inactions or actions by COUNTY, except where COUNTY or PROVIDER is a named adverse party.
- 6.4.15 All workforce members who assist in the performance of functions or activities on behalf of PROVIDER, or access or disclose PHI, Personal Identifying Information "PII" or Personal Information "PI" must complete information privacy and security training, at least annually, at their own expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following termination of this Agreement.

- 6.4.16 Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- 6.4.17 All persons that will be working with PHI, PII, or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to PHI, PII, or PI. The statement must be renewed annually. PROVIDER shall retain each person's written confidentiality statement for inspection for a period of six (6) years following termination of this Agreement.
- 6.4.18 Before a member of the workforce may access PHI, PII, or PI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. PROVIDER shall retain each workforce member's background check documentation for a period of three (3) years.
- 6.4.19 All workstations and laptops that store PHI, PII, or PI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the California Department of Health Care Services Information Security Office.

6.5 Computer Security Requirements

- 6.5.1 Servers containing unencrypted PHI, PII, or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- 6.5.2 Only the minimum necessary amount of PHI, PII, or PI required to perform necessary business functions may be copied, downloaded, or exported.
- 6.5.3 All electronic files that contain PHI, PII, or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- 6.5.4 All workstations, laptops and other systems that process and/or store PHI, PII, or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- 6.5.5 All workstations, laptops and other systems that process and/or store PHI, PII, or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all

applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.

- 6.5.6 All users must be issued a unique user name for accessing PHI, PII, or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed at least every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- 1) Upper case letters (A-Z)
 - 2) Lower case letters (a-z)
 - 3) Arabic numerals (0-9)
 - 4) Non-alphanumeric characters (punctuation symbols)
- 6.5.7 When no longer needed, all PHI, PII, or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the California Information Security Office.
- 6.5.8 The system providing access to PHI, PII, or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- 6.5.9 All systems providing access to PHI, PII, or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- 6.5.10 The system must maintain an automated audit trail which can identify the user or system process which alters PHI, PII, or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If PHI, PII, or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- 6.5.11 The system providing access to PHI, PII, or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.

- 6.5.12 All data transmissions of PHI, PII, or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI, PII, or PI in motion such as website access, file transfer, and E-Mail.
- 6.5.13 All systems involved in accessing, holding, transporting, and protecting PHI, PII, or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

6.6 System Audit Controls

- 6.6.1 PROVIDER must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing PHI, PII, or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- 6.6.2 All systems processing and/or storing PHI, PII, or PI must have a routine procedure in place to review system logs for unauthorized access.
- 6.6.3 All systems processing and/or storing PHI, PII, or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

6.7 Business Continuity / Disaster Recovery Controls

- 6.7.1 PROVIDER must establish a documented plan to enable continuation of critical business processes and protection of the security of PHI, PII, or PI held in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.
- 6.7.2 PROVIDER must have established documented procedures to backup PHI to maintain retrievable exact copies of PHI, PII, or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore PHI, PII, or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of data.

6.8 Paper Document Controls

- 6.8.1. PHI, PII, or PI 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, PII, or PI in

paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

- 6.8.2 Visitors to areas where PHI, PII, or PI is contained shall be escorted and PHI, PII, or PI shall be kept out of sight while visitors are in the area.
- 6.8.3 PHI, PII, or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- 6.8.4 Only the minimum necessary PHI, PII, or PI may be removed from the premises of PROVIDER except with express written permission. PHI, PII, or PI shall not be considered "removed from the premises" if it is only being transported from one of PROVIDER's locations to another of PROVIDER's locations.
- 6.8.5 Faxes containing PHI, PII, or PI 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.
- 6.8.6 Mailings containing PHI, PII, or PI shall be sealed and secured from damage or inappropriate viewing of such PHI, PII, or PI to the extent possible. Mailings which include 500 or more individually identifiable records of PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission to use another method is obtained.

6.9 Subcontracts

PROVIDER shall not subcontract services without prior written permission by COUNTY and such assignment or delegation of this Agreement shall be void. In the event that PROVIDER sees the need to subcontract services and COUNTY grants written permission to PROVIDER to proceed with such undertaking, PROVIDER shall ascertain that all subcontractors possess and maintain the necessary licensing or certification. PROVIDER shall ensure that all subcontractors are subject to the applicable terms and conditions of this Agreement including, but not limited to, the privacy, security, and confidentiality requirements.

6.10 Other Insurance Coverage

6.10.1 Health Insurance Other Than Medi-Cal

PROVIDER shall inform COUNTY of all potential third party insurance recoveries. PROVIDER shall notify COUNTY that health insurance or another health program may cover any Covered Services provided by PROVIDER whenever PROVIDER discovers this potential coverage. The requirements concerning notification and recoveries in the current Provider Manual shall apply. PROVIDER also shall cooperate with and assist COUNTY in obtaining such recoveries.

6.10.2 Medicare Coverage

Services to Beneficiaries of both Medicare and Medi-Cal will continue to be paid through the current Fee-For-Service system, EDS. Authorization by COUNTY is NOT required.

6.11 Beneficiaries' Potential Tort, Casualty, or Workers' Compensation Awards

PROVIDER shall notify COUNTY that a potential tort, casualty insurance, or Workers' Compensation award may reimburse PROVIDER for any Covered Services rendered by PROVIDER whenever PROVIDER discovers such potential awards. If such an award is granted, PROVIDER shall reimburse COUNTY the amount of any paid claims.

SECTION 7 INSURANCE AND INDEMNIFICATION

- 7.1. THIS AGREEMENT SHALL NOT BE EXECUTED BY COUNTY and PROVIDER is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.
- 7.2. Without limiting PROVIDER'S indemnification obligations provided for herein, PROVIDER shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Agreement and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of PROVIDER, its agents, officers, directors employees, licensees, invitees, assignees or subcontractors:
- 7.2.1 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 \$1,000,000 per occurrence for any one incident, including, personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.
- 7.2.2 Automobile/Motor liability insurance with a limit of liability of not less than one million dollars (\$1,000,000) combined single limit coverage. Such insurance shall include coverage of all "owned", "hired" and "non-owned" vehicles or coverage for "any auto".
- 7.2.3 Workers Compensation and Employers Liability Insurance providing workers compensation benefits as required by the Labor Code of the State of California. Said policy shall contain or be endorsed to contain a waiver of subrogation against

COUNTY, its officers, agents, and employees. In all cases, the above insurance shall include Employers Liability coverage with limits of not less than one million dollars (\$1,000,000) per accident for bodily injury and disease.

7.2.4 Professional liability insurance/errors and omission coverage in an amount no less than One Million Dollars (\$1,000,000) for each occurrence (Three Million Dollars [\$3,000,000] general aggregate). Said insurance shall be maintained for the statutory period during which the professional may be exposed to liability. PROVIDER shall require that the aforementioned professional liability insurance coverage language be incorporated into its contract with any other entity with which it contracts for professional services.

7.2.5 Insurance Notices:

County of Humboldt
Attn: Risk Management
825 5th Street, Room 131
Eureka, CA 95501

7.3 Special Insurance Requirements.

Said policies shall unless otherwise specified herein be endorsed with, the following provisions:

7.3.1 The Comprehensive General Liability Policy shall provide that the COUNTY, its officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:

- a. Includes contractual liability.
- b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- c. Is primary insurance as regards to County of Humboldt.
- 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.

7.3.2 The policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section 10.5. It is further understood that PROVIDER shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.

- 7.3.3 The inclusion of more than one insured shall not operate to impair the rights of one 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 insured shall not operate to increase the limits of the insurer's liability.
- 7.3.4 For claims related to this project, PROVIDER'S insurance is primary coverage to the COUNTY, and any insurance or self-insurance programs maintained by the COUNTY are excess to PROVIDER'S insurance and will not be called upon to contribute with it.
- 7.3.5 Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to COUNTY, its officers, officials, employees, and volunteers.
- 7.3.6 PROVIDER shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement by COUNTY. The endorsements shall be on forms as approved by the COUNTY'S Risk Manager or COUNTY Counsel. Any deductible or self-insured retention over \$100,000 shall be disclosed to and approved by COUNTY. If PROVIDER does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and PROVIDER agrees to pay the cost of said insurance. COUNTY is also hereby authorized with the discretion to deduct the cost thereof from the monies owed to PROVIDER under this Contract.
- 7.3.7 COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and PROVIDER shall be required to purchase additional coverage to meet the aggregate limits set forth above.

7.4 Notification of Termination

COUNTY shall be informed by PROVIDER within forty-eight (48) hours of notification of termination of liability insurance.

7.5 Notification of Litigation

COUNTY shall be informed by PROVIDER within forty-eight (48) hours of notification of professional litigation.

7.6 Indemnity Agreement

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

**SECTION 8
GRIEVANCES, APPEALS, AND SANCTIONS**

Appeals and Grievances

It is understood that PROVIDER may have complaints, concerns, or differences, which may arise as a mental health care provider under contract with COUNTY. These complaints, concerns, or differences shall be resolved through the mechanisms as reflected in the Provider Manual, a copy of which has been provided. PROVIDER and COUNTY shall be bound by the decisions of COUNTY's grievance and appeal mechanisms.

**SECTION 9
TERM, TERMINATION, AND AMENDMENT**

9.1 Term

The term of this Agreement shall be from July 1, 2014 until June 30, 2016. This contract may be terminated or amended as hereinafter provided.

9.2 Termination Without Cause

This Agreement may be terminated by either party without cause as follows:

9.2.1 If terminated by PROVIDER, termination shall require sixty (60) days advance written notice of such intent to terminate, or thirty (30) days notice if done in response to a contract amendment instituted pursuant to Section 9.6.2. The notice shall state the effective date of the termination.

9.2.2 If termination is initiated by COUNTY, the date of such termination shall be set by consideration for the welfare of Beneficiaries and necessary allowance for notification of Beneficiaries, and PROVIDER shall be notified as hereinafter provided. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice.

9.3 Termination for Cause

9.3.1 COUNTY shall terminate this Agreement effective immediately in the following situation: loss of licensure by PROVIDER.

9.3.2 COUNTY may terminate this Agreement effective immediately in the following situations: charges to Beneficiaries by PROVIDER other than the authorized share of cost payments; PROVIDER's failure to comply with COUNTY's Utilization Review procedures; PROVIDER's failure to abide by Grievance and/or Quality Improvement Committee decisions; PROVIDER's failure to maintain adequate levels of insurance as specified in Section 7 herein; PROVIDER's failure to meet COUNTY qualification criteria; any other violation or breach of the provisions of this Agreement or of the

requirements of State or Federal law; where termination is recommended by the Peer Review Sub-Committee; or filing of a bankruptcy petition.

9.4 Practice / Business Closure

In the event of the death or withdrawal of PROVIDER from practice, this Agreement shall terminate immediately.

9.5 Assignment

This Agreement is a service agreement and shall not be transferred or assigned to any other person or entity.

9.6 Amendment

9.6.1 Amendment by Mutual Agreement

This Agreement may be amended at any time upon the written Agreement of both parties.

9.6.2 Amendment by COUNTY

This Agreement may be amended by COUNTY upon sixty (60) days written notice to PROVIDER. If PROVIDER does not give written notice of termination within 30 days of receipt of the notice to amend, the amendment by COUNTY shall become part of the Agreement as of the effective date stated in the notice. However, this Section may not be invoked to amend any portion of Section 9 of this Agreement.

9.7 Continuity of Care

Upon termination of this Agreement for any reason, PROVIDER shall ensure an orderly transition of care for patients under treatment, including but not limited to the transfer of Beneficiary medical records.

**SECTION 10
GENERAL PROVISIONS**

10.1 Reference to Laws and Rules

In the event any part of this Agreement is found to be unlawful or legislation modifies the entitlement of Beneficiaries or other provision(s) hereunder, the Agreement shall automatically and without prior notice be modified to reflect that which is lawful and all other provisions shall remain in full force and effect.

10.2. Provider's Affiliation

PROVIDER authorizes COUNTY to inform prospective Beneficiaries, active Beneficiaries and other COUNTY participating providers regarding PROVIDER's affiliation with COUNTY.

10.3 Medi-Cal Regulations

Unless specifically accepted by COUNTY in this Agreement, in amendments to this Agreement, or in Provider Manual or Bulletins, PROVIDER shall follow the regulations of the State Medi-Cal program.

10.4 No Waiver of Default

The waiver by COUNTY of any one or more defaults, if any, on the part of PROVIDER hereunder, shall not be construed to operate as waiver by COUNTY of any other or future default in the same obligation or any other obligation in this Agreement.

10.5 Notices

Whenever either party amends or terminates this Agreement, notice shall be given in writing and shall be served by Registered or Certified U.S. Mail, Return Receipt Requested, addressed as follows:

10.5.1 If served on COUNTY, it shall be addressed to:

**Humboldt County Medi-Cal Managed Mental Health Care
Department of Health and Human Services - Mental Health Branch Director
720 Wood Street
Eureka, CA 95501**

10.5.2 If served on PROVIDER, it shall be addressed to PROVIDER at the address appearing on the cover page of this Agreement.

10.5.3 Any such notice so mailed shall be deemed to have been served upon and received by the addressee forty-eight (48) hours after the same has been deposited in Registered or Certified U.S. Mail, Return Receipt Requested. Either party shall have the right to change the place to which notice is to be sent by giving forty-eight (48) hours written notice to the other of any change of address.

10.6 Relationship of Parties

None of the provisions of this Agreement is intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other hereunder solely for the purpose of effecting the provisions

of this Agreement. Neither of the parties hereto, nor any of their respective employees, shall be construed to be the agent, the employee or the representative of the other.

10.7 Co-Payment

PROVIDER is prohibited from charging Medi-Cal Beneficiaries a co-payment according to Federal law.

10.8 Hours of Operation

PROVIDER shall offer to Humboldt County Medi-Cal Beneficiaries hours of operation that are no less than the hours of operation offered to commercial enrollees, if PROVIDER also serves enrollees of a commercial health plan, or that are comparable to the hours PROVIDER makes available for Medi-Cal services that are not covered by COUNTY or another Mental Health Plan, if PROVIDER serves only Medi-Cal clients.

10.9 Media Release

All press releases and informational material related to this Agreement shall receive approval from COUNTY prior to being released to the media (television, radio, newspapers, Internet). In addition, PROVIDER shall inform COUNTY of requests for interviews by media related to this Agreement prior to such interviews taking place. COUNTY reserves the right to have a representative present at such interviews. All notices required by this provision shall be given to the Director of the County Department of Health and Human Services or his/her designee.

10.10 Monitoring

PROVIDER agrees to extend to the Humboldt County Mental Health Director, the State Department of Health Care Services or their designees, the right to review and monitor records, programs or procedures, at any time, in regards to beneficiaries, as well as the overall operation of PROVIDER'S programs in order to ensure compliance with the terms and conditions of this Agreement. PROVIDER agrees to provide a corrective action plan if deficiencies are identified.

10.11 Notification of Change in Ownership or Control

In the event of a change in PROVIDER's ownership or control, within thirty five (35) days, or upon request of COUNTY, PROVIDER, shall notify COUNTY of any change in ownership or control and provide information as requested by COUNTY. The disclosures to be provided shall include, but not be limited to:

- i. The name and address of any person (individual or corporation) with an ownership or control interest in PROVIDER. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;
 - a. Date of birth and Social Security Number (in the case of an individual);

- b. Other tax identification number (in the case of a corporation with an ownership or control interest in PROVIDER or in any subcontractor in which PROVIDER has a 5 percent or more interest);
- c. Whether the person (individual or corporation) with an ownership or control interest in PROVIDER is related to another person with ownership or control interest in the same or any other COUNTY provider as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which PROVIDER has a 5 percent or more interest is related to another person with ownership or control interest in PROVIDER as a spouse, parent, child, or sibling;
- d. The name of any other disclosing entity in which PROVIDER has an ownership or control interest; and
- e. The name, address, date of birth, and Social Security Number of any managing employee of PROVIDER.

10.12 Disclosures Related to Business Transactions

Within thirty five (35) days, upon request by COUNTY, in accordance with 42 Code of Federal Regulations sections 455.101 through 455.106, PROVIDER shall submit disclosures regarding certain business transactions. The following information must be disclosed:

- i. The ownership of any subcontractor with whom PROVIDER has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and
- ii. Any significant business transactions between PROVIDER and any wholly owned supplier, or between PROVIDER and any subcontractor, during the 5-year period ending on the date of the request.

10.13 Disclosures Related to Persons Convicted of Crimes

Upon request by COUNTY, PROVIDER shall submit disclosures regarding its owners, persons with controlling interest, agents, and managing employees' criminal convictions related to federal health care programs pursuant to 42 Code of Federal Regulations section 455.106(a)(1) and (2). PROVIDER shall submit the following disclosures:

- i. The identity of any person who is a managing employee of PROVIDER who has been convicted of a crime related to federal health care programs (42 Code of Federal Regulations section 455.106(a)(1), (2)); and
- ii. The identity of any person who is an agent of PROVIDER who has been convicted of a crime related to federal health care programs. (42 Code of Federal Regulations section 455.106(a)(1), (2)). For this purpose, the word "agent" has the meaning described in 42 Code of Federal Regulations section 455.101.

10.14 Intellectual Property Rights

PROVIDER shall comply with all applicable Intellectual Property Rights Provisions in any Mental Health Managed Care contract COUNTY has with the State Department of Health Care Services as follows:

A. Ownership

- i. Except where the State Department of Health Care Services has agreed in a signed writing to accept a license, the State Department of Health Care Services shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by PROVIDER or the State Department of Health Care Services and which result directly or indirectly from this Agreement.
- ii. For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - a. For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- iii. In the performance of this Agreement, PROVIDER will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, PROVIDER may access and utilize certain of the State Department of Health Care Services' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, PROVIDER shall not use any of the State Department of Health Care Services' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of the State Department of Health Care Services. Except as otherwise set forth

herein, neither PROVIDER nor the State Department of Health Care Services shall give any ownership interest in or rights to its Intellectual Property to the other Party. If during the term of this Agreement, PROVIDER accesses any third-party Intellectual Property that is licensed to the State Department of Health Care Services, PROVIDER agrees to abide by all license and confidentiality restrictions applicable to the State Department of Health Care Services in the third-party's license agreement.

- iv. PROVIDER agrees to cooperate with the State Department of Health Care Services in establishing or maintaining the State Department of Health Care Services' exclusive rights in the Intellectual Property, and in assuring the State Department of Health Care Services' sole rights against third parties with respect to the Intellectual Property. If PROVIDER enters into any agreements or subcontracts with other parties in order to perform this Agreement, PROVIDER shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to the State Department of Health Care Services all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, PROVIDER, or the State Department of Health Care Services and which result directly or indirectly from this Agreement or any subcontract.
- v. PROVIDER further agrees to assist and cooperate with the State Department of Health Care Services in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce the State Department of Health Care Services' Intellectual Property rights and interests.

B. Retained Rights / License Rights

- i. Except for Intellectual Property made, conceived, derived from, or reduced to practice by PROVIDER or the State Department of Health Care Services and which result directly or indirectly from this Agreement, PROVIDER shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. PROVIDER hereby grants to the State Department of Health Care Services, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose PROVIDER's Intellectual Property resulting from this Agreement, unless PROVIDER assigns all rights, title and interest in the Intellectual Property as set forth herein.
- ii. Nothing in this provision shall restrict, limit, or otherwise prevent PROVIDER from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that PROVIDER's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of the State Department of Health Care Services or third party, or result in a breach or default of any provisions of this Section or result in a breach of any provisions of law relating to confidentiality.

C. Copyright

- i. PROVIDER agrees that for purposes of copyright law, all works [as defined above] of authorship made by or on behalf of PROVIDER in connection with PROVIDER's performance of this Agreement shall be deemed "works made for hire". PROVIDER further agrees that the work of each person utilized by PROVIDER in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of PROVIDER or that person has entered into a written agreement with any such person that: (1) all work performed for PROVIDER shall be deemed a "work made for hire" under the Copyright Act and (2) that person shall assign all right, title, and interest to the State Department of Health Care Services to any work product made, conceived, derived from, or reduced to practice by PROVIDER or the State Department of Health Care Services and which result directly or indirectly from this Agreement.
- ii. All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by PROVIDER or the State Department of Health Care Services and which result directly or indirectly from this Agreement, shall include the State Department of Health Care Services' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

D. Patent Rights

With respect to inventions made by PROVIDER in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, PROVIDER hereby grants to the State Department of Health Care Services a license as described under Section B. of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then PROVIDER agrees to assign to the State Department of Health Care Services, without additional compensation, all its right, title and interest in and to such inventions and to assist the State Department of Health Care Services in securing United States and foreign patents with respect thereto.

E. Third-Party Intellectual Property

Except as provided herein, PROVIDER agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of PROVIDER or third party without first: (1) obtaining the State Department of Health Care Services' prior written approval; and (2) granting to or obtaining for the State Department of Health Care Services, without additional compensation, a license, as described in Section B of this provision, for any of PROVIDER's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and the State Department of Health Care Services determines that Intellectual property should be included in or is required for PROVIDER's performance

of this Agreement, PROVIDER shall obtain a license under terms acceptable to the State Department of Health Care Services.

F. Warranties

- i. PROVIDER represents and warrants that:
 - a. It is free to enter into and fully perform this Agreement.
 - b. It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
 - c. Neither PROVIDER's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by PROVIDER or the State Department of Health Care Services and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by PROVIDER.
 - d. either PROVIDER's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
 - e. It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
 - f. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to the State Department of Health Care Services in this Agreement.
 - g. It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - h. It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way PROVIDER's performance of this Agreement.
- ii. The State Department of Health Care Services makes no warranty that the Intellectual Property resulting from this Agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

G. Intellectual Property Indemnity

- i. PROVIDER shall indemnify, defend and hold harmless the State Department of Health Care Services and its licensees and assignees, and its officers, directors,

employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not PROVIDER is a party to any pending or threatened litigation, which arise out of or are related to (1) the incorrectness or breach of any of the representations, warranties, covenants or agreements of PROVIDER pertaining to Intellectual Property; or (2) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of the State Department of Health Care Services' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by PROVIDER or the State Department of Health Care Services and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. The State Department of Health Care Services reserves the right to participate in and/or control, at PROVIDER's expense, any such infringement action brought against the State Department of Health Care Services.

- ii. Should any Intellectual Property licensed by PROVIDER to the State Department of Health Care Services under this Agreement become the subject of an Intellectual Property infringement claim, PROVIDER will exercise its authority reasonably and in good faith to preserve the State Department of Health Care Services' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to the State Department of Health Care Services. The State Department of Health Care Services shall have the right to monitor and appear through its own counsel (at PROVIDER's expense) in any such claim or action. In the defense or settlement of the claim, PROVIDER may obtain the right for the State Department of Health Care Services 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, the State Department of Health Care Services shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- iii. PROVIDER agrees that damages alone would be inadequate to compensate the State Department of Health Care Services for breach of any term of these Intellectual Property provisions by PROVIDER. PROVIDER acknowledges the State Department of Health Care Services would suffer irreparable harm in the

event of such breach and agrees the State Department of Health Care Services 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, the State Department of Health Care Services may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

I. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement.

**SECTION 11
PROVIDER COMPLIANCE CLAUSES**

11.1 Compliance with Laws

PROVIDER agrees to comply with all local, State and Federal laws and regulations, including but not limited to the Americans with Disabilities Act. PROVIDER further agrees to comply with any applicable Federal, State and local licensing standards or criteria established locally or by the State or Federal governments. This Agreement shall be governed by and construed in accordance with all laws and regulations and COUNTY's contractual obligations under any Mental Health Managed Care contract COUNTY has with the State Department of Health Care Services. PROVIDER agrees to comply with all provisions applicable to subcontractors in any Mental Health Managed Care contract COUNTY has with the State Department of Health Care Services.

11.2 Reporting

PROVIDER agrees to provide COUNTY with any reports that may be required by COUNTY, State or Federal agencies for compliance with this Agreement.

11.3 Provider Manual

PROVIDER agrees to comply with the provisions and guidelines stated in the Provider Manual that has been provided.

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11.4 Nuclear Free Humboldt County Ordinance Compliance

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

11.5 Clean Air/Pollution

For Contracts of amounts in excess of \$100,000 (unless exempt under 40 Code of Federal Regulations section 15.5): PROVIDER agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 Code of Federal Regulations part 15). Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 USC 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

11.6 Federal Health Care Program Exclusion

PROVIDER shall not employ or contract with providers or other individuals and entities excluded from participation in Federal health care programs (as defined in section 1128B(F) of the Social Security Act) under either Section 1128, 1128A, or 1156 of the Social Security Act. Federal financial participation is not available for amounts expended for providers excluded by Medicare, Medicaid or the State Children's Insurance Program, except for emergency services.

PROVIDER hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part.

PROVIDER shall screen all staff employed or retained to provide services related to this Agreement to ensure that they are not designated as "Ineligible" or "Excluded" as defined hereunder. Screening shall be conducted against both the California "Medi-Cal Suspended and Ineligible List", and the United States, Health and Human Services, Office of Inspector General "List of Excluded Individuals/Entities" or any other list pursuant to 42 C.F.R. 438.214(d). PROVIDER shall screen prospective staff prior to hire or engagement.

PROVIDER shall screen all current staff at least monthly, and shall notify COUNTY in writing that PROVIDER and PROVIDER's staff are eligible to participate in Federally funded programs. This notification shall be performed by completing the Organizational Provider Employee Screening form (QI 67)

PROVIDER and staff shall be required to disclose to COUNTY immediately any debarment, exclusion or other event that makes PROVIDER or any staff person an Ineligible or Excluded person. If the Provider becomes aware that a staff member has become an Ineligible or Excluded person, Provider shall remove such individual from responsibility for, or involvement with, business or health care operations related to this Agreement.

PROVIDER shall indemnify and hold COUNTY harmless against any and all loss or damage COUNTY may suffer arising from any Federal exclusion of PROVIDER or its staff members from such participation in a Federally funded health care program.

Failure by PROVIDER to meet the requirements of this Section, 11.6, shall constitute a material breach of Agreement upon which COUNTY may immediately terminate or suspend this Agreement.

11.7 Certification Regarding Environmental Tobacco Smoke

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by Federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this Agreement, PROVIDER certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

11.8 Patients' Rights

PROVIDER shall comply with applicable laws and regulations relating to patients' rights.

SECTION 12 PROVISIONS FOR ORGANIZATIONAL PROVIDERS

Organizational providers shall adhere and agree to all of the stipulations contained in the Agreement, including the following provisions:

- 12.1 Adhere to all of the requirements contained in the current Provider Manual and any updates;
- 12.2 Agree to reimbursement at the interim rates in effect with COUNTY;
- 12.3 Agree to adhere to all Medi-Cal regulations, including Clinic Certification, audits, and documentation standards directed by COUNTY.

12.4 Administrative Fees

Administrative fees will be computed by COUNTY on a quarterly basis using the number of units of services claimed by PROVIDER for that quarter divided by the total number of units of service claimed by all the Medi-Cal Providers (who have the administrative fee clause in their Agreements) for that quarter multiplied by the COUNTY's administrative cost to process that quarter's service claims. Total administrative fees shall not exceed 15% of total claims submitted by PROVIDER per fiscal year. COUNTY will invoice PROVIDER for administrative fees and PROVIDER shall pay the stated amount to COUNTY within thirty (30) calendar days of receipt of invoice.

12.5 Cost Reports and Settlement

12.5.1 No later than ninety (90) calendar days following the close of COUNTY's fiscal year (June 30), PROVIDER shall submit a Cost Report to COUNTY in the format provided by COUNTY, summarizing all costs incurred and the units of service generated in providing each type of service.

12.5.2 Initial year end settlement will be based on the lower of actual cost as determined by the year end Cost Report per Section 12.5.1, or COUNTY negotiated rate for approved Medi-Cal units of service. Initial year end settlement will occur no later than ninety (90) calendar days after COUNTY has submitted their year-end Cost Report to the State. Settlement may result in reimbursement by PROVIDER to COUNTY for overpayment.

12.6 Audit and Settlement

12.6.1 PROVIDER shall reimburse COUNTY for any billings which are denied by the State or are disallowed upon County, State or Federal audit.

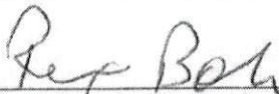
12.6.2 Audit settlement will occur as per Section 12.6.3 below.

12.6.3 PROVIDER shall pay to COUNTY the amount of any liability imposed on COUNTY, by State or Federal audit that is attributable to PROVIDER's costs or to services rendered by PROVIDER. COUNTY shall be responsible for costs which are attributable to COUNTY.

12.6.4 PROVIDER will reimburse COUNTY at 100% of any paid claims in the event that services or claims are disallowed upon County, State or Federal audit.


12.6.5 PROVIDER will allow COUNTY to monitor the services provided under this Agreement and cooperate with a corrective action plan if deficiencies are identified.

COUNTY OF HUMBOLDT



Chair, Board of Supervisors of the County of Humboldt of the State of California

ATTEST:
CLERK OF THE BOARD

By: 
Kathy Hayes

HUMBOLDT COUNTY COUNSEL:

By: 

HUMBOLDT COUNTY RISK MANAGER

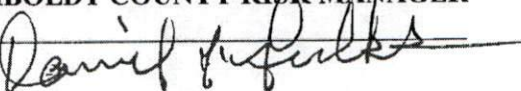
By: 

EXHIBIT A SCOPE OF SERVICES

The Humboldt County Department of Health and Human Services - Mental Health is responsible for providing a broad array of effective, evidence-informed specialty mental health, alcohol and drug related services to promote health and mental health as well as treat illness, respect consumer dignity, build and support natural support systems, respond to children and families in a culturally respectful way, utilize evidence-based practices and maintain accountability by continually evaluating for effectiveness of services. PROVIDER has demonstrated competence in delivering Specialty Mental Health services that support the mission, vision, and operating principles of the Department of Health and Human Services.

CHILD CLIENTS

PROVIDER shall offer Specialty Mental Health (SMH) services through EPSDT (Early and Periodic Screening, Diagnosis, and Treatment) to the following child client population(s) only:

- Full scope Medi-Cal beneficiaries under age 21 years old who meet the criteria for needing SMH services and have a primary Mental Health Disorder per the current approved Diagnostic Statistical Manual (DSM) which meets the Specialty Mental Health Target Population of medical necessity per current provider manual. Once they turn 21 years, they are considered adults.

SPECIALTY MENTAL HEALTH SERVICES

PROVIDER shall offer the following SMH services to COUNTY child clients as appropriate (see Provider Manual for definition of terms below):

- Assessment: Code 1538C
- Evaluation: Code 1539C
- Individual Therapy/Collateral: Code 1549C
- Group Therapy (to be computed at service rate per minute multiplied by number of minutes for the group therapy session, divided by number of clients attending group therapy): Code 1559C
- Case Management/Brokerage: Code 1501C
- Mental Health Plan Development: Code 1509C
- Mental Health Rehabilitation Services: Code 1503C

(Travel and documentation time is included in the total service claimed.)

SYSTEM OF CARE

SMH services are part of the local System of Care (SOC), therefore PROVIDER will operate within the guiding principles of SOC including:

1. Providing effective, community-based services and supports for children and their families which coordinate with other systems to address their emotional, social, educational, and physical needs, including traditional and nontraditional services as well as natural and informal supports.
2. Provide individualized services in accordance with the unique potentials and needs of each child and family, guided by a strengths-based planning process and an individualized service plan developed in true partnership with the child and family.

3. Ensure that services and supports include evidence-informed, promising practices, and/or interventions supported by practice-based evidence, as agreed upon with COUNTY, to ensure the effectiveness of services and to improve outcomes for children and their families. This includes selecting, training, and implementing practices with fidelity and tracking of outcomes associated with intervention using a standardized outcome measurement tool(s).
4. Deliver services and supports within the least restrictive, most normative environments that are clinically appropriate.
5. Ensure that families, other caregivers, and youth are full partners in all aspects of the planning and delivery of their own services. PROVIDER is also encouraged to include family and youth voice in development and implementation of policies and procedures that govern care for children and youth in their organization.
6. Ensure that services are well coordinated with other child-serving agencies with which the child/family may be involved to assure integrated care management.
7. Practice and/or engage with care management at the service level to ensure that multiple services are delivered in a coordinated and therapeutic manner and that children and their families can move through the system of services in accordance with their changing needs.
8. Provide developmentally appropriate mental health services and supports that promote optimal social-emotional outcomes for young children and their families in their homes and community settings when the PROVIDER serves children 0-5 years of age.
9. Provide developmentally appropriate services and supports to facilitate the transition of youth age 18 to 21 years to adulthood and to the transition age youth and adult service systems as needed.
10. Encourage participation in local mental health promotion, prevention, and early identification and intervention opportunities.
11. Incorporate continuous accountability and quality improvement mechanisms to track, monitor, and manage the quality, effectiveness, and outcomes at the program level, practice level, and child and family level.
12. Protect the rights of children and families and promote effective advocacy efforts.
13. Provide services and supports without regard to race, religion, national origin, gender, gender expression, sexual orientation, physical disability, socio-economic status, geography, language, immigration status, or other characteristics, and ensure that services are sensitive and responsive to these differences.

AVAILABILITY

If a client/family indicates that it is not possible for them to participate in services on a weekday during PROVIDER'S established business hours, PROVIDER will make services available on Saturday or extended hour weekday services upon request. Services must be available year round. Where PROVIDER is currently serving children in outlying communities, PROVIDER shall provide year round services in these outlying communities to child clients, who during school breaks would otherwise be required to travel further distances (e.g.: to a Eureka office) for services or stop receiving needed services.

QUALITY ASSURANCE & IMPROVEMENT

These services are expected to benefit the client in the following way(s):

To address the underlying issues which impair or likely will lead to the deterioration of client functioning in self-care, school, family, community and/or other life functioning area.

To facilitate assessment, treatment planning, and client/program/system outcome evaluation, all clients will be assessed initially and at established intervals using the Child and Adolescent Needs and Strengths (CANS) tool. The Provider will ensure their staff are and remain certified in administering the CANS. Copies of all completed CANS tools will be submitted to County per the current policy.

ACCOUNTABILITY

PROVIDER shall provide COUNTY with reports documenting the services rendered on a monthly basis or as specified in the Provider Manual. PROVIDER 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 the client.

PROVIDER shall maintain current licenses and/or certifications as follows:

1. Licensed Mental Health Professional in the State of California, i.e. Physicians, Psychologists, Licensed Clinical Social Worker, Marriage Family Therapist or Registered Nurse with a Master's Degree in Psychiatric Nursing.
2. Compliance with all other standards and requirements as described in the Provider Manual.

PERFORMANCE MEASURES:

- CANS is completed for every child at the frequency established in the current policy.
- Assessments are completed within timelines established by current policy or DHHS is notified per contract instructions when capacity issues result in inability to meet timelines.
- Average length of service does not exceed six months.
- PROVIDER documentation verifies that clients served meet specialty mental health medical necessity criteria with a 95% accuracy rate or better.
- PROVIDER documentation demonstrates that assessment and treatment goals are congruent with a 95% accuracy rate or better.
- PROVIDER progress notes consistently link to congruent diagnosis and treatment goals per policy and demonstrate progress with a 95% accuracy rate or better.
- Required reports are submitted timely.

**EXHIBIT B
PAYMENT AGREEMENT**

Payment for services pursuant to this Agreement shall not exceed \$900,000.00 for child Beneficiaries per fiscal year. The COUNTY fiscal year is from July 1 through June 30. PROVIDER is responsible for tracking the total amount of claims submitted to COUNTY for reimbursement, in order to ascertain that the total does not exceed the maximum set forth in this Exhibit. All costs and expenses incurred by PROVIDER above the maximum shall be the responsibility of PROVIDER. It shall be responsibility of PROVIDER to notify COUNTY in writing at least six weeks prior to the date upon which the PROVIDER estimates the maximum will be reached.

If State, Federal or County funding is reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable under this Agreement, or may terminate the Agreement as provided by Section 9 of this Agreement.

CHILD CLIENTS (Early and Periodic Screening, Diagnosis and Treatment (EPSDT):

PROVIDER will be reimbursed for medically necessary covered services, as described in Exhibit A, Scope of Services, up to a maximum of \$900,000.00 charged to COUNTY per fiscal year. Expenses incurred beyond this amount will be the responsibility of the PROVIDER, as noted above.

If Day Treatment is provided, Mental Health Services can only be claimed separately outside Day Treatment hours of operation.