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2 **SERVICE AGREEMENT**

3 This Service Agreement ("Agreement") is dated \_\_\_\_\_ and is between JDT  
4 Consultants, Inc., a California Stock corporation ("Contractor"), and the County of Fresno, a  
5 political subdivision of the State of California ("County").

6 **Recitals**

7 A. The Fresno County Department of Behavioral Health (DBH) is in need of a qualified  
8 agency to provide Therapeutic Behavioral Services (TBS). County Behavioral Health Plans  
9 (BHPs) are required to determine the need for, ensure access to, and provide or arrange for the  
10 provision of TBS as a Medi-Cal Early and Periodic Screening, Diagnosis and Treatment  
11 (EPSDT) supplemental specialty mental health service as defined in Title 9 California Code of  
12 Regulations (C.C.R), section 1810.215. TBS is available for full-scope Medi-Cal beneficiaries  
13 under 21 years of age, who meet BHP medical necessity criteria for specialty mental health  
14 services as defined in Title 9 C.C.R, Division 1, Chapter 11, the State Department of Health  
15 Care Services (DHCS) Mental Health Services Division Letters No. 99-03 (July 23, 1999), and  
16 other relevant letters published from time to time by DHCS.

17 B. TBS is an intensive, individualized, one-to-one behavioral coaching program. TBS can  
18 help children/youth and their parents/caregivers learn strategies and skills to increase the kinds  
19 of behavior that will allow them to be successful in their current environment and learn new  
20 ways of reducing and managing challenging behaviors.

21 C. On March 13, 2025, the County released Request for Proposals ("RFP") No. 25-073  
22 seeking a qualified Contractor to provide Therapeutic Behavioral Services. Addendum No. 1 to  
23 the RFP was released on April 1, 2025, to provide a response to potential bidder questions and  
24 to revise the Medi-Cal Fee For Service reimbursement rates. RFP 25-073 closed on April 17,  
25 2025.

26 D. County has determined that Contractor is qualified and willing to provide Therapeutic  
27 Behavioral Services pursuant to the terms and conditions of this agreement.

28

1 E. This Agreement supersedes County Agreement No. 23-281 as amended by Agreement  
2 No. 25-290.

3 The parties therefore agree as follows:

## 4 **Article 1**

### 5 **Contractor's Services**

6 1.1 **Scope of Services.** The Contractor shall perform all of the services provided in  
7 Exhibit A to this agreement, titled "Fresno County Department of Behavioral Health Scope of  
8 Work".

9 1.2 Contractor shall also perform all services and fulfill all responsibilities as specified in  
10 County's Request for Proposal (RFP) issued under the name of Therapeutic Behavioral  
11 Services RFP No. 25-073 dated March 13, 2025 and Addendum No. One (1) to County's RFP  
12 No. 25-073 dated April 1, 2025 (collectively referred to herein as County's Revised RFP) and  
13 Contractor's response to County's Revised RFP dated April 12, 2025 , all incorporated herein  
14 by reference and made part of this Agreement. In the event of any inconsistency among these  
15 documents, the inconsistency shall be resolved by giving precedence in the following order of  
16 priority: (1) to the Agreement, including all Exhibits; (2) to the Revised RFP; and (3) to the  
17 Response to the Revised RFP. A copy of County's Revised RFP and Contractor's response  
18 thereto shall be retained and made available during the term of this Agreement by County's  
19 Department of Behavioral Health (DBH) Plan Administration Division.

20 1.3 **Representation.** The Contractor represents that it is qualified, ready, willing, and  
21 able to perform all of the services provided in this Agreement.

22 1.4 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all  
23 applicable federal, state, and local laws and regulations in the performance of its obligations  
24 under this Agreement, including but not limited to workers compensation, labor, and  
25 confidentiality laws and regulations. Additionally, Contractor shall comply with laws, regulations,  
26 and requirements in Exhibit B to this agreement, titled "Fresno County Behavioral Health  
27 Requirements".  
28

1 **Article 2**

2 **County's Responsibilities**

3 2.1 The County shall provide oversight and collaborate with Contractor, other County  
4 Departments and community agencies to help achieve program goals and outcomes. In addition  
5 to contractor monitoring of program, oversight includes, but not limited to, coordination with  
6 Department of Health Care Services (DHCS) in regard to program administration and outcomes.

7 2.2 County shall participate in evaluating the progress of the overall program, levels of  
8 care components, and the efficiency of collaboration with the Contractor staff and will be  
9 available to Contractor for ongoing consultation. County shall receive and analyze statistical  
10 outcome data from Contractor throughout the term of contract. County shall notify the  
11 Contractor when additional participation is required. The performance outcome measurement  
12 process will not be limited to survey instruments but will also include, as appropriate, persons  
13 served and staff surveys, chart reviews, and other methods of obtaining required information.

14 **Article 3**

15 **Compensation, Invoices, and Payments**

16 3.1 The County agrees to pay, and the Contractor agrees to receive compensation for  
17 the performance of its services under this Agreement as described in Exhibit C to this  
18 agreement, titled "Fresno County Department of Behavioral Health Financial Terms and  
19 Conditions".

20 3.2 **Additional Fiscal Requirements.** The Contractor shall comply with all additional  
21 requirements in Exhibit C to this Agreement.

22 **Article 4**

23 **Term of Agreement**

24 4.1 **Term.** This Agreement is effective on August 5, 2025 and terminates on June 30,  
25 2028 except as provided in section 4.2, "Extension," or Article 6, "Termination and Suspension,"  
26 below.

27 4.2 **Extension.** The term of this Agreement may be extended for no more than two, one-  
28 year periods only upon written approval of both parties at least thirty (30) days before the first

1 day of the next one-year extension period. The County's DBH Director or his or her designee is  
2 authorized to sign the written approval on behalf of the County based on the Contractor's  
3 satisfactory performance. The extension of this Agreement by the County is not a waiver or  
4 compromise of any default or breach of this Agreement by the Contractor existing at the time of  
5 the extension whether or not known to the County.

## 6 **Article 5**

### 7 **Notices**

8 5.1 **Contact Information.** The persons and their addresses having authority to give and  
9 receive notices provided for or permitted under this Agreement include the following:

10 **For the County:**

11 Director, Department of Behavioral Health  
12 County of Fresno  
13 1925 E Dakota Avenue  
Fresno, CA 93726

14 **For the Contractor:**

15 CEO & Founder  
16 JDT Consultants, INC  
4205 West Figarden Drive,  
Fresno, CA 93722

17 5.2 **Change of Contact Information.** Either party may change the information in section  
18 5.1 by giving notice as provided in section 5.3.

19 5.3 **Method of Delivery.** Each notice between the County and the Contractor provided  
20 for or permitted under this Agreement must be in writing, state that it is a notice provided under  
21 this Agreement, and be delivered either by personal service, by first-class United States mail, by  
22 an overnight commercial courier service, by telephonic facsimile transmission, or by Portable  
23 Document Format (PDF) document attached to an email.

24 (A) A notice delivered by personal service is effective upon service to the recipient.

25 (B) A notice delivered by first-class United States mail is effective three County  
26 business days after deposit in the United States mail, postage prepaid, addressed to the  
27 recipient.

28 (C) A notice delivered by an overnight commercial courier service is effective one  
County business day after deposit with the overnight commercial courier service,



1 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to  
2 the recipient.

3 (D) A notice delivered by telephonic facsimile transmission or by PDF document  
4 attached to an email is effective when transmission to the recipient is completed (but, if  
5 such transmission is completed outside of County business hours, then such delivery is  
6 deemed to be effective at the next beginning of a County business day), provided that  
7 the sender maintains a machine record of the completed transmission.

8 **5.4 Claims Presentation.** For all claims arising from or related to this Agreement,  
9 nothing in this Agreement establishes, waives, or modifies any claims presentation  
10 requirements or procedures provided by law, including the Government Claims Act (Division 3.6  
11 of Title 1 of the Government Code, beginning with section 810).

## 12 **Article 6**

### 13 **Termination and Suspension**

14 **6.1 Termination for Non-Allocation of Funds.** The terms of this Agreement are  
15 contingent on the approval of funds by the appropriating government agency. If sufficient funds  
16 are not allocated, then the County, upon at least 30 days' advance written notice to the  
17 Contractor, may:

18 (A) Modify the services provided by the Contractor under this Agreement; or

19 (B) Terminate this Agreement.

### 20 **6.2 Termination for Breach.**

21 (A) Upon determining that a breach (as defined in paragraph (C) below) has  
22 occurred, the County may give written notice of the breach to the Contractor. The written  
23 notice may suspend performance under this Agreement, and must provide at least 30  
24 days for the Contractor to cure the breach.

25 (B) If the Contractor fails to cure the breach to the County's satisfaction within the  
26 time stated in the written notice, the County may terminate this Agreement immediately.

27 (C) For purposes of this section, a breach occurs when, in the determination of the  
28 County, the Contractor has:

- (1) Obtained or used funds illegally or improperly;
- (2) Failed to comply with any part of this Agreement;
- (3) Submitted a substantially incorrect or incomplete report to the County; or
- (4) Improperly performed any of its obligations under this Agreement.

6.3 **Termination without Cause.** In circumstances other than those set forth above, the County may terminate this Agreement by giving at least 30 days advance written notice to the Contractor.

6.4 **Economic Sanctions.** In accordance with Executive Order N-6-22 regarding Economic Sanctions against Russia and Russian entities and individuals, the County may terminate this Agreement if the Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities. The County shall provide at least thirty (30) days advance written notice to the Contractor.

6.5 **No Penalty or Further Obligation.** Any termination of this Agreement by the County under this Article 6 is without penalty to or further obligation of the County.

6.6 **County's Rights upon Termination.** Upon termination for breach under this Article 6, the County may demand repayment by the Contractor of any monies disbursed to the Contractor under this Agreement that, in the County's sole judgment, were not expended in compliance with this Agreement. The Contractor shall promptly refund all such monies upon demand. This section survives the termination of this Agreement.

## **Article 7**

### **Independent Contractor**

7.1 **Status.** In performing under this Agreement, the Contractor, including its officers, agents, employees, and volunteers, is at all times acting and performing as an independent contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the County.

7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the manner or method of the Contractor's performance under this Agreement, but the County may verify that the Contractor is performing according to the terms of this Agreement.

7.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no right to employment rights or benefits available to County employees. The Contractor is solely responsible for providing to its own employees all employee benefits required by law. The Contractor shall save the County harmless from all matters relating to the payment of Contractor's employees, including compliance with Social Security withholding and all related regulations.

7.4 **Services to Others.** The parties acknowledge that, during the term of this Agreement, the Contractor may provide services to others unrelated to the County.

## Article 8

## Indemnity and Defense

8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the County (including its officers, agents, employees, and volunteers) against all claims, demands, injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to the performance or failure to perform by the Contractor (or any of its officers, agents, subcontractors, or employees) under this Agreement. The County may conduct or participate in its own defense without affecting the Contractor's obligation to indemnify and hold harmless or defend the County.

**8.2 Survival.** This Article 8 survives the termination of this Agreement.

## Article 9

## Insurance

9.1 The Contractor shall comply with all the insurance requirements in Exhibit D to this Agreement.

## Article 10

## Inspections, Audits, and Public Records

10.1 **Inspection of Documents.** The Contractor shall make available to the County, and the County may examine at any time during business hours and as often as the County deems necessary, all of the Contractor's records and data with respect to the matters covered by this

1 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon  
2 request by the County, permit the County to audit and inspect all of such records and data to  
3 ensure the Contractor's compliance with the terms of this Agreement.

4     **10.2 State Audit Requirements.** If the compensation to be paid by the County under this  
5 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the  
6 California State Auditor, as provided in Government Code section 8546.7, for a period of three  
7 years after final payment under this Agreement. This section survives the termination of this  
8 Agreement.

9     **10.3 Public Records.** The County is not limited in any manner with respect to its public  
10 disclosure of this Agreement or any record or data that the Contractor may provide to the  
11 County. The County's public disclosure of this Agreement or any record or data that the  
12 Contractor may provide to the County may include but is not limited to the following:

13             (A) The County may voluntarily, or upon request by any member of the public or  
14 governmental agency, disclose this Agreement to the public or such governmental  
15 agency.

16             (B) The County may voluntarily, or upon request by any member of the public or  
17 governmental agency, disclose to the public or such governmental agency any record or  
18 data that the Contractor may provide to the County, unless such disclosure is prohibited  
19 by court order.

20             (C) This Agreement, and any record or data that the Contractor may provide to the  
21 County, is subject to public disclosure under the Ralph M. Brown Act (California  
22 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

23             (D) This Agreement, and any record or data that the Contractor may provide to the  
24 County, is subject to public disclosure as a public record under the California Public  
25 Records Act (California Government Code, Title 1, Division 7, Chapter 3.5, beginning  
26 with section 6250) ("CPRA").

27             (E) This Agreement, and any record or data that the Contractor may provide to the  
28 County, is subject to public disclosure as information concerning the conduct of the

1 people's business of the State of California under California Constitution, Article 1,  
2 section 3, subdivision (b).

3 (F) Any marking of confidentiality or restricted access upon or otherwise made with  
4 respect to any record or data that the Contractor may provide to the County shall be  
5 disregarded and have no effect on the County's right or duty to disclose to the public or  
6 governmental agency any such record or data.

7 **10.4 Public Records Act Requests.** If the County receives a written or oral request  
8 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,  
9 and which the County has a right, under any provision of this Agreement or applicable law, to  
10 possess or control, then the County may demand, in writing, that the Contractor deliver to the  
11 County, for purposes of public disclosure, the requested records that may be in the possession  
12 or control of the Contractor. Within five business days after the County's demand, the  
13 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's  
14 possession or control, together with a written statement that the Contractor, after conducting a  
15 diligent search, has produced all requested records that are in the Contractor's possession or  
16 control, or (b) provide to the County a written statement that the Contractor, after conducting a  
17 diligent search, does not possess or control any of the requested records. The Contractor shall  
18 cooperate with the County with respect to any County demand for such records. If the  
19 Contractor wishes to assert that any specific record or data is exempt from disclosure under the  
20 CPRA or other applicable law, it must deliver the record or data to the County and assert the  
21 exemption by citation to specific legal authority within the written statement that it provides to  
22 the County under this section. The Contractor's assertion of any exemption from disclosure is  
23 not binding on the County, but the County will give at least 10 days' advance written notice to  
24 the Contractor before disclosing any record subject to the Contractor's assertion of exemption  
25 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs  
26 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,  
27 failure to produce any such records, or failure to cooperate with the County with respect to any  
28 County demand for any such records.

1 **Article 11**

2 **Data Security**

3 11.1 The Contractor shall be responsible for the privacy and security safeguards, as  
4 identified in Exhibit E, entitled "Data Security." To the extent required to carry out the  
5 assessment and authorization process and continuous monitoring, to safeguard against threats  
6 and hazards to the security, integrity, and confidentiality of any County data collected and stored  
7 by the Contractor, the Contractor shall afford the County access as necessary at the  
8 Contractor's reasonable discretion, to the Contractor's facilities, installations, and technical  
9 capabilities. If new or unanticipated threats or hazards are discovered by either the County or  
10 the Contractor, or if existing safeguards have ceased to function, the discoverer shall  
11 immediately bring the situation to the attention of the other party.

12 **Article 12**

13 **Disclosure of Self-Dealing Transactions**

14 12.1 **Applicability.** This Article 12 applies if the Contractor is operating as a corporation,  
15 or changes its status to operate as a corporation.

16 12.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a  
17 self-dealing transaction, he or she shall disclose the transaction by completing and signing a  
18 "Self-Dealing Transaction Disclosure Form" (Exhibit F to this Agreement) and submitting it to the  
19 County before commencing the transaction or immediately after.

20 12.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is  
21 a party and in which one or more of its directors, as an individual, has a material financial  
22 interest.

23 **Article 13**

24 **Disclosure of Ownership and/or Control Interest Information**

25 13.1 **Applicability.** This provision is only applicable if Contractor is disclosing entities,  
26 fiscal agents, or managed care entities, as defined in Code of Federal Regulations (C.F.R.),  
27 Title 42 §§ 455.101, 455.104 and 455.106(a)(1),(2).  
28

1       13.2   **Duty to Disclose.** Contractor must disclose the following information as requested in  
2 the Provider Disclosure Statement, Disclosure of Ownership and Control Interest Statement,  
3 Exhibit G:

4           (A) Disclosure of 5% or More Ownership Interest:

5               (1) In the case of corporate entities with an ownership or control interest in the  
6 disclosing entity, the primary business address as well as every business location  
7 and P.O. Box address must be disclosed. In the case of an individual, the date of  
8 birth and Social Security number must be disclosed.

9               (2) In the case of a corporation with ownership or control interest in the  
10 disclosing entity or in any subcontractor in which the disclosing entity has a five  
11 percent (5%) or more interest, the corporation tax identification number must be  
12 disclosed.

13              (3) For individuals or corporations with ownership or control interest in any  
14 subcontractor in which the disclosing entity has a five percent (5%) or more interest,  
15 the disclosure of familial relationship is required.

16              (4) For individuals with five percent (5%) or more direct or indirect ownership  
17 interest of a disclosing entity, the individual shall provide evidence of completion of a  
18 criminal background check, including fingerprinting, if required by law, prior to  
19 execution of Contract. (42 C.F.R. § 455.434)

20           (B) Disclosures Related to Business Transactions:

21               (1) The ownership of any subcontractor with whom Contractor has had business  
22 transactions totaling more than \$25,000 during the 12-month period ending on the  
23 date of the request.

24               (2) Any significant business transactions between Contractor and any wholly  
25 owned supplier, or between Contractor and any subcontractor, during the 5-year  
26 period ending on the date of the request. (42 C.F.R. § 455.105(b).)

27           (C) Disclosures Related to Persons Convicted of Crimes:  
28

(1) The identity of any person who has an ownership or control interest in the provider or is an agent or managing employee of the provider who has been convicted of a criminal offense related to that person's involvement in any program under the Medicare, Medicaid, or the Title XXI services program since the inception of those programs. (42 C.F.R. § 455.106.)

(2) County shall terminate the enrollment of Contractor if any person with five percent (5%) or greater direct or indirect ownership interest in the disclosing entity has been convicted of a criminal offense related to the person's involvement with Medicare, Medicaid, or Title XXI program in the last 10 years.

13.3 Contractor must provide disclosure upon execution of Contract, extension for renewal, and within thirty-five (35) days after any change in Contractor ownership or upon request of County. County may refuse to enter into an agreement or terminate an existing agreement with Contractor if Contractor fails to disclose ownership and control interest information, information related to business transactions and information on persons convicted of crimes, or if Contractor did not fully and accurately make the disclosure as required.

13.4 Contractor must provide the County with written disclosure of any prohibited affiliations under 42 C.F.R. § 438.610. Contractor must not employ or subcontract with providers or have other relationships with providers Excluded from participation in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in 42 C.F.R. §438.610.

13.5 **Reporting.** Submissions shall be scanned pdf copies and are to be sent via email to [DBHPlanAdministration@fresnocountyca.gov](mailto:DBHPlanAdministration@fresnocountyca.gov) with a copy sent via email to the assigned DBH Contract Analyst. County may deny enrollment or terminate this Agreement where any person with five (5) percent or greater direct or indirect ownership interest in Contractor has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last ten (10) years. County may terminate this Agreement where any person with five (5) percent or greater direct or indirect ownership interest in the Contractor did



not submit timely and accurate information and cooperate with any screening method required in C.F.R, Title 42, Section 455.416

## **Article 14**

### **Disclosure of Criminal History and Civil Actions**

**14.1 Applicability.** Contractor is required to disclose if any of the following conditions apply to them, their owners, officers, corporate managers, or partners (hereinafter collectively referred to as "Contractor"):

(A) Within the three (3) year period preceding the Agreement award, they have been convicted of, or had a civil judgment tendered against them for:

(1) Fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;

(2) Violation of a federal or state antitrust statute;

(3) Embezzlement, theft, forgery, bribery, falsification, or destruction of records;

or

(4) False statements or receipt of stolen property.

(B) Within a three (3) year period preceding their Agreement award, they have had a public transaction (federal, state, or local) terminated for cause or default.

**14.2 Duty to Disclose.** Disclosure of the above information will not automatically eliminate Contractor from further business consideration. The information will be considered as part of the determination of whether to continue and/or renew this Agreement and any additional information or explanation that Contractor elects to submit with the disclosed information will be considered. If it is later determined that the Contractor failed to disclose required information, any contract awarded to such Contractor may be immediately voided and terminated for material failure to comply with the terms and conditions of the award.

Contractor must sign a "Certification Regarding Debarment, Suspension, and Other Responsible Matters – Primary Covered Transactions" in the form set forth in Exhibit H. Additionally, Contractor must immediately advise the County in writing if, during the term of the

1 Agreement: (1) Contractor becomes suspended, debarred, excluded or ineligible for  
2 participation in Federal or State funded programs or from receiving federal funds as listed in the  
3 excluded parties list system (<http://www.epls.gov>); or (2) any of the above listed conditions  
4 become applicable to Contractor. Contractor shall indemnify, defend, and hold County harmless  
5 for any loss or damage resulting from a conviction, debarment, exclusion, ineligibility, or other  
6 matter listed in the signed Certification Regarding Debarment, Suspension, and Other  
7 Responsibility Matters.

## 8 **Article 15**

### 9 **General Terms**

10 15.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this  
11 Agreement may not be modified, and no waiver is effective, except by written agreement signed  
12 by both parties. The Contractor acknowledges that County employees have no authority to  
13 modify this Agreement except as expressly provided in this Agreement.

14 (A) Notwithstanding the above, non-material changes to services, staffing, and  
15 responsibilities of the Contractor, as needed, to accommodate changes in the laws  
16 relating to service requirements, may be made with the signed written approval of  
17 County's DBH Director, or designee, and Contractor through an amendment approved  
18 by County's County Counsel and the County's Auditor-Controller/Treasurer-Tax  
19 Collector's Office. Said modifications shall not result in any change to the maximum  
20 compensation amount payable to Contractor, as stated herein.

21 (B) **Rate Modification.** In addition, changes to service rates on Exhibit C –  
22 Attachment A that do not exceed 5% of the approved rate, or that are needed to  
23 accommodate state-mandated rate increases, may be made with the written approval of  
24 the DBH Director, or designee, subject to applicable legislation, availability of funds and  
25 review of Contractor performance. These rate changes may not add or alter any other  
26 terms or conditions of the Agreement. Said modifications shall not result in any change  
27 to the annual maximum compensation amount payable to Contractor, as stated herein.  
28

1       15.2    **Budget Modification.** Changes to Account/Line Item amounts, which, when  
2 aggregated, do not exceed ten percent (10%) of the total maximum compensation payable to  
3 Contractor for the entire contract term, may be made with the written approval of Contractor(s)  
4 and County's DBH Director or designee. Said modifications are subject to County's DBH review  
5 in accordance with the Budget Modification Request Guide available at  
6 [https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/Contract-Provider-](https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/Contract-Provider-Resources/Notifications-Associated-Documents)  
7 [Resources/Notifications-Associated-Documents.](https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/Contract-Provider-Resources/Notifications-Associated-Documents)

8       15.3    **Non-Assignment.** Neither party may assign its rights or delegate its obligations  
9 under this Agreement without the prior written consent of the other party.

10       15.4    **Governing Law.** The laws of the State of California govern all matters arising from  
11 or related to this Agreement.

12       15.5    **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno  
13 County, California. Contractor consents to California jurisdiction for actions arising from or  
14 related to this Agreement, and, subject to the Government Claims Act, all such actions must be  
15 brought and maintained in Fresno County.

16       15.6    **Construction.** The final form of this Agreement is the result of the parties' combined  
17 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be  
18 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement  
19 against either party.

20       15.7    **Days.** Unless otherwise specified, "days" means calendar days.

21       15.8    **Headings.** The headings and section titles in this Agreement are for convenience  
22 only and are not part of this Agreement.

23       15.9    **Severability.** If anything in this Agreement is found by a court of competent  
24 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in  
25 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of  
26 this Agreement with lawful and enforceable terms intended to accomplish the parties' original  
27 intent.

1       15.10 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall  
2 not unlawfully discriminate against any employee or applicant for employment, or recipient of  
3 services, because of race, religious creed, color, national origin, ancestry, physical disability,  
4 mental disability, medical condition, genetic information, marital status, sex, gender, gender  
5 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to  
6 all applicable State of California and federal statutes and regulation.

7 Contractor shall take affirmative action to ensure that services to intended Medi-Cal  
8 beneficiaries are provided without use of any policy or practice that has the effect of  
9 discriminating on the basis of race, color, religion, ancestry, marital status, national origin,  
10 ethnic group identification, sex, sexual orientation, gender, gender identity, age, medical  
11 condition, genetic information, health status or need for health care services, or mental or  
12 physical disability.

13       15.11 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation  
14 of the Contractor under this Agreement on any one or more occasions is not a waiver of  
15 performance of any continuing or other obligation of the Contractor and does not prohibit  
16 enforcement by the County of any obligation on any other occasion.

17       15.12 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement  
18 between the Contractor and the County with respect to the subject matter of this Agreement,  
19 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,  
20 publications, and understandings of any nature unless those things are expressly included in  
21 this Agreement. If there is any inconsistency between the terms of this Agreement without its  
22 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving  
23 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the  
24 exhibits.

25       15.13 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to  
26 create any rights or obligations for any person or entity except for the parties.

27       15.14 **Authorized Signature.** The Contractor represents and warrants to the County that:  
28

1 (A) The Contractor is duly authorized and empowered to sign and perform its  
2 obligations under this Agreement.

3 (B) The individual signing this Agreement on behalf of the Contractor is duly  
4 authorized to do so and his or her signature on this Agreement legally binds the  
5 Contractor to the terms of this Agreement.

6 15.15 **Electronic Signatures.** The parties agree that this Agreement may be executed by  
7 electronic signature as provided in this section.

8 (A) An "electronic signature" means any symbol or process intended by an individual  
9 signing this Agreement to represent their signature, including but not limited to (1) a  
10 digital signature; (2) a faxed version of an original handwritten signature; or (3) an  
11 electronically scanned and transmitted (for example by PDF document) version of an  
12 original handwritten signature.

13 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed  
14 equivalent to a valid original handwritten signature of the person signing this Agreement  
15 for all purposes, including but not limited to evidentiary proof in any administrative or  
16 judicial proceeding, and (2) has the same force and effect as the valid original  
17 handwritten signature of that person.

18 (C) The provisions of this section satisfy the requirements of Civil Code section  
19 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,  
20 Part 2, Title 2.5, beginning with section 1633.1).

21 (D) Each party using a digital signature represents that it has undertaken and  
22 satisfied the requirements of Government Code section 16.5, subdivision (a),  
23 paragraphs (1) through (5), and agrees that each other party may rely upon that  
24 representation.

25 (E) This Agreement is not conditioned upon the parties conducting the transactions  
26 under it by electronic means and either party may sign this Agreement with an original  
27 handwritten signature.  
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15.16 **Counterparts.** This Agreement may be signed in counterparts, each of which is an original, and all of which together constitute this Agreement.

[SIGNATURE PAGE FOLLOWS]

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The parties are signing this Agreement on the date stated in the introductory clause.

JDT Consultants, Inc.

COUNTY OF FRESNO

  
\_\_\_\_\_  
Jana D. Todd, CEO & Founder  
4205 West Figarden Drive  
Fresno, CA 93722

\_\_\_\_\_  
Ernest Buddy Mendes, Chairman of the  
Board of Supervisors of the County of Fresno

**Attest:**  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By: \_\_\_\_\_  
Deputy

For accounting use only:

Org No.: 56302666  
Account No.: 7295  
Fund No.: 0001  
Subclass No. 10000

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**FRESNO COUNTY  
DEPARTMENT OF BEHAVIORAL HEALTH  
SCOPE OF WORK**

**I. PROGRAM NAME**

Therapeutic Behavioral Services

**II. BACKGROUND**

Since June 1999, a Medi-Cal mental health service known as Therapeutic Behavioral Services (TBS) has been available to children and youth under age 21. California is required to provide TBS as the result of a class action lawsuit in the federal court in Los Angeles County, Emily Q. v. Bonta (C.D. Cal. 2001) 208 F.Supp.2d 1078.

**III. TARGET POPULATION**

TBS is an intensive, individualized, one-to-one behavioral coaching program for outpatient services, available to children/youth up to age 21 that are experiencing emotional or behavioral challenges in their current living environment or experiencing a stressful life transition. TBS is only available to those children/youth with full-scope Medi-Cal benefits who are receiving ongoing mental health services and meet medical necessity and class certification criteria as outlined in the TBS Documentation Manual.

TBS is available to children/youth who meet one or more of the following criteria:

1. Has been admitted to a psychiatric hospital during the past 24 months;
2. Is currently residing in a Short Term Residential Treatment Program;
3. Is in danger of being placed in a Level 12 – 14 Short Term Residential Treatment Program;
4. Has received TBS within the past 12 months.
5. Child/youth is currently receiving Specialty Mental Health Services and thus:
  - a. Meets medical necessity criteria;
  - b. Has had a complete assessment or is currently being assessed;
6. Child/youth is exhibiting behaviors that are:
  - a. Jeopardizing placement or blocking transition to a lower level of care;
  - b. Amenable to interventions by a TBS provider and not due solely to an ongoing chronic condition such as a developmental delay, autism, or other conditions;
  - c. Not the reason for placement in the current facility;
7. Treatments less restrictive than TBS have been attempted.

**A. Medical Necessity for TBS:**

1. Medical necessity criteria must be met for reimbursement of specialty mental health services through the Medi-Cal Program. For medical necessity to be met for the person served under 21 years of age, a county mental health plan shall provide all



medically necessary specialty mental health services required pursuant to Section 1396d(r) of Title 42 of the United States Code;

2. Additionally, youth must have an impairment as a result of a mental health disorder that would be responsive to short-term behavioral interventions; and
3. There must be an expectation that the short-term behavioral interventions would significantly diminish the impairment, prevent deterioration, or allow for individually appropriate developmental progress.

B. Class Certification for TBS:

4. Child-Youth is placed in a Short-Term Residential Treatment Program facility or in a locked treatment facility for the treatment of mental health needs; or
5. Child/Youth is being considered by the county for placement in a facility described above; or
6. Child/Youth has undergone at least one emergency psychiatric hospitalization related to their current presenting mental health diagnosis within the preceding 24 months; or
7. Child/Youth has previously received TBS while a member of the certified class; or
8. Child/Youth is at risk of psychiatric hospitalization.

TBS is only available to those children/youth with full-scope Medi-Cal benefits who are receiving ongoing specialty mental health services.

#### **IV. DESCRIPTION OF SERVICES**

A. Summary of Services

TBS is a one-to-one behavioral health intervention. TBS can help children, youth, parents, caregivers, foster parents, group home staff, and school personnel learn new ways of reducing and managing challenging behaviors, as well as strategies and skills to increase the kinds of behaviors that will enable children and youth to succeed in their current environment..

TBS behavior coaches or specialists work intensively with a child in their home or community. The service is guided by the needs of each child. TBS specialists may design, structure, model, and support one-to-one interventions to modify target behaviors of concern or teach appropriate alternative behaviors, so that children/youths and their family members (caregivers) can manage on their own. Transition plans are developed to help each child and their family (caregivers) learn to use new skills by which to sustain improvements after TBS concludes.

TBS can help children/youth, and their parents/caregivers learn strategies and skills to increase the kinds of behavior that will allow them to be successful in their current environment and learn new ways of reducing and managing challenging behaviors. TBS is not a stand-alone service and must be delivered as an adjunct to regular Specialty Mental Health Services (SMHS) already in place. It must be used to support an ongoing primary mental health service with a licensed or Licensed Practitioner of the Healing Arts (LPHA), a registered/waiver LPHA or trained staff members who are under the direction of a LPHA. TBS may not supplant a child/youth's other mental health services and may not be

provided as a convenience of the family, caregivers, treating professionals or teacher, or to provide supervision or assure compliance with terms and conditions of Juvenile Justice Probation.

B. Location of Services:

Contractor shall perform TBS at sites agreed upon by the youth and parent/caregiver. Sites may include Contractor's facility site, the family's home, foster homes, group homes, schools, day treatment programs, and other areas in the community as needed on a case-by-case basis. The County does not have a designated location for office-based services. Contractor's facility site will be certified triennially by Department of Behavioral Health (DBH) Plan Administration to ensure compliance with Federal and State regulation and requirements.

C. Hours of Operation:

1. Standard hours of operation to access services shall be Monday through Friday from 8:00 AM to 5:00 PM.
2. Contractor shall provide additional services outside of standard office hours of operation, to include evenings and weekends, as needed, to address child/youth or family concerns and/or provide services for person served and families who are unavailable for services during standard business hours.

D. Schedule of Services:

1. Contractor shall develop the TBS Plan of Care for each person served. The TBS Plan of Care clearly identifies specific target behaviors and the intended interventions needed to address the target behaviors. The TBS Plan of Care shall be completed within ten (10) working days of assessment completion and shall be reviewed with and agreed upon by the referring mental health clinician on a monthly basis.
2. Contractor shall notify the referring party if they are unable to contact the referred individual within ten (10) working days of receiving the referral.
3. Contractor shall make collateral contacts with family members, caregivers, and other significant persons in the life of the person served.
4. Contractor shall provide all services and fulfill all responsibilities as outlined in the Fresno County Mental Health Plan Organizational Provider Manual, which can be accessed by the following link:  
<https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/Contract-Provider-Resources/Provider-Manual> and in accordance with the California Department of Health Care Services (DHCS) (formerly referred to as the California Department of Mental Health (DMH)) Letters No. 99-03, No. 04-11, and other relevant

letters published from time to time by DHCS, California Code of Regulations and Emily Q. v. Bonta decision.

E. Average Person Served Length of Stay:

Length of stay is to be determined on a case-by-case basis as clinically appropriate for each person served.

F. Referral Sources and Referral Process:

Referrals shall be received by the Children's SMHS Authorization Team at the Fresno County DBH Plan Administration Division from the in-network mental health provider of the person served.

Referrals determined to be clinically appropriate will be forwarded by DBH Plan Administration to the Contractor.

Reauthorization shall be required for each subsequent thirty (30) day authorization period specifying number of hours of service to be provided and will be the responsibility of Contractor. The TBS reauthorization is completed by the Contractor and identified treating therapist of the person served, and a copy of the TBS reauthorization is submitted to the Children's SMHS Authorization team at DBH Plan Administration. County shall not be obligated to compensate Contractor for services rendered during a non-authorized period, for services in excess of the number of authorized hours, or for services provided to ineligible individuals.

G. Care Coordination/Transition Plan:

1. Contractor shall ensure that all care, treatment and services provided are coordinated among all providers who are serving the person served, including all other SMHS providers, as well as providers of Non-Specialty Mental Health Services (NSMHS), substance use disorder treatment services, physical health services, dental services, regional center services, and all other services as applicable to ensure a person served-centered and whole-person approach to services.
2. Contractor shall ensure that care coordination activities support the monitoring and treatment of comorbid substance use disorder and/or health conditions.
3. Contractor shall engage in care coordination activities beginning at intake and throughout the treatment and discharge planning processes.
4. Contractor must be compliant with California Health Insurance Portability and Accountability Act (HIPAA) laws by obtaining a release of information (ROI) prior to facilitating care coordination. The ROI will allow the sharing of the individual's information with and among the person served's designated treatment team.

5. Contractor must complete “Fresno County Department of Behavioral Health Attestation to Legal Right to Consent” or “Caregivers Authorization Affidavit”, which can be access by the following link: [Continuum of Care Info/Referrals OP/ICM/FSP - County of Fresno](#) as needed, to ensure the timely provision of services.

H. Level of Care/Modality of Services:

Therapeutic Behavioral Services are one-to-one mental health services for persons served with serious behavioral problems who are experiencing a stressful transition or life crisis and need additional short-term support to prevent placement in a short term residential treatment program or a locked facility for the treatment of mental health needs, including acute care; or to enable a transition from any of those levels to a lower level of residential care.

I. Evidence-Based Practice(s):

Contractor shall utilize trauma Evidence-Based practices which may include but are not limited to:

- Trauma Focused-Cognitive Behavior Therapy (TF-CBT)
- Cognitive Behavioral Therapy (CBT)
- Dialectical Behavior Therapy (DBT)
- Parent Management Training (PMT)
- Positive Parent Program Training (PPT)

J. CONTRACTOR shall:

1. Perform all services and fulfill all responsibilities as outlined in the provider manual, and in accordance with the DMH Letters No. 99-03, No. 04-11, and all other relevant letters published from time to time by DMH, California Code of Regulations and Emily Q. v. Bonta decision, and the Medi-Cal Manual for Intensive Care Coordination (ICC), Intensive Home Based Services (IHBS) and Therapeutic Foster Care (TFC) for Katie A. Subclass persons served, as incorporated herein.
2. Serve as the TBS Coordinator and contact the caregiver within three (3) working days of receipt of referral to schedule initial assessment. A follow-up appointment must be offered within ten (10) working days of the initial assessment.
3. Provide the TBS Plan of Care to the referring mental health clinician as an addendum to the current Plan of Care.
4. Be responsible for meeting with the person served at the agreed upon times, following the intervention plan, and adhering to ethical standards as outlined in the Provider Manual.
5. Provide services established in the Plan of Care, which may include such activities as behavioral modeling, structure and support, and one-to-one behavioral interventions, which assist the person served in engaging in appropriate activities, minimizing

impulsivity, and increasing social and community competencies by building or reinstating those daily living skills that will assist the person served to live successfully in the community.

6. Serve as a positive role model and assist in developing the person served's ability to sustain self-directed appropriate behavior, internalize a sense of social responsibility, and/or enable participation proactively in community activities. These activities/interventions may include but are not limited to:
  - a) Providing immediate behavioral reinforcements
  - b) Providing time-structuring activities
  - c) Preventing inappropriate responses
  - d) Providing appropriate de-escalation techniques
  - e) Providing coping strategies and other behavioral interventions
  - f) Collaboration with and support for the family caregivers' efforts to provide a positive environment for the person served.
7. Complete all TBS forms as required in the Provider Manual to include the "Fresno County Mental Health Plan TBS Assessment and Plan of Care" and "Fresno County Mental Health Plan TBS Progress Notes". Any applicable Notice of Action forms required by DMH shall be completed and submitted to County.
8. Perform all services and fulfill all responsibilities as outlined in the Medi-Cal Manual for Intensive Care Coordination (ICC), Intensive Home-Based Services (IHBS) and Therapeutic Foster Care (TFC) for Katie A. Subclass persons served, including but not limited to attending an Intensive Care Coordination meeting to coordinate mental health services and potentially attending Child Family Team meetings
9. Ensure staff is knowledgeable about the cultures and communities in which they work and sensitive to and aware of multicultural issues. All services provided to children and their families shall be delivered in a culturally sensitive and competent manner.
10. Develop and maintain positive communication and working relationships with TBS Team of persons served.
11. Serve on the TBS team to review and modify the Plan of Care, interventions and goals for TBS as needed until the targeted behavior is reduced or eliminated.
12. Track costs for TBS and verify hours worked and billed to County are consistent with time documented in the progress note for each person served.

K. COUNTY shall:

1. Assist Contractor's efforts to evaluate the needs of each person served on an ongoing basis to ensure that the level of care they are receiving is clinically appropriate.
2. Provide oversight and collaborate with Contractor and other County Departments and community agencies to help achieve State program goals and outcomes. Oversight includes, but is not limited to, contract monitoring and coordination with the State Department of Health Care Services and other oversight agencies regarding program administration and outcomes.
3. Assist Contractor in making linkages with the total mental health system of care. This will be accomplished through regularly scheduled meetings as well as formal and informal consultation.
4. Participate in evaluating overall program progress and efficiency and be available to Contractor for ongoing consultation.
5. Gather outcome information from target person served groups and Contractor throughout each term of the resulting Agreement. County shall notify Contractor when their participation is required. The performance outcome measurement process shall not be limited to survey instruments but will also include, as appropriate, person served and staff interviews, chart reviews, data analysis and other methods of obtaining required information. Contractor will be required to adapt data collection and reporting, in collaboration with the department, as new requirements become known.
6. Assist Contractor's efforts toward cultural and linguistic responsiveness by providing technical assistance regarding cultural responsiveness requirements.

V. **STAFFING**

Contractor shall maintain staffing plans/patterns sufficient to deliver the volume of services needed to meet the community's need. Clinical Supervisors and the clinical training program must meet the California Board of Behavioral Sciences.

A. Staffing/Person Served Ratio:

1. Suggested Supervisor case load size is a minimum of 1:13.
2. Suggested Coach case load size is a maximum of 1:7 and varies based off the acuity of assigned persons served.

B. Staffing Plan

1. TBS supervisor staff may include the following:
  - a. Licensed Marriage and Family Therapists, LCSW
  - b. Licensed Clinical Social Worker, LCSW

- c. Associate Social Worker, ASW
  - d. Associate Professional Clinical Counselor, APCC
2. TBS Coach staff must meet one of the following qualifications:
- a. Master's or Bachelor's Degree in the behavioral sciences field and a minimum of one year of experience working with children with behavioral/emotional challenges similar to those of TBS persons served;
  - b. AA Degree and a minimum of two years experience working with children with behavioral/emotional challenges similar to those of TBS persons served;
  - c. 18 or more semester units from an accredited college or university in any of the following disciplines: Social Work, Psychology, Rehabilitation Counseling, Educational Counseling, or Marriage and Family Counseling, plus a minimum of two years experience working with children with behavioral/emotional challenges similar to those of the TBS persons Served.
3. Non-Direct Clinical Services Staff:
- a. Administrative Assistant
  - b. Bookkeeper
  - c. Chief Financial Officer
  - d. Chief Operating Officer
  - e. Medical Records
  - f. Quality Assurance
  - g. Systems Administrator

#### C. Staff Training

1. Contractor's staff shall possess appropriate licenses and certificates and be qualified in accordance with applicable statutes and regulations. The Contractor shall obtain, maintain, and comply with all necessary government authorizations, permits and licenses required to conduct its operations. In addition, the Contractor shall comply with all applicable Federal, State, and local laws, rules, regulations, and orders in its operations including compliance with all applicable safety and health requirements as to contractor's employees. Clinical staff shall obtain, maintain and comply with all regulations as set forth by the Board of Behavioral Sciences (BBS).
2. The Fresno County Mental Health Plan (MHP) requires its licensed providers to comply with and maintain professional competencies in their fields of expertise. To ensure competency, the credentialing process is required for all new and current licensed providers. Credentialing Committee approval of Contractor licensed staff is necessary before TBS delivery. The Contractor will be required to submit related documents to the County's Plan Administration Division for review by the Department of Behavioral Health's Credentialing Committee.
3. All costs for training associated with specific EBP's will be the responsibility of the contracted provider.

4. Contractor agrees that its employees, volunteers, interns, and student trainees or subcontractors of contractor, in each case, are expected to perform professional services per an agreement with County. Contractor will comply with the training requirements and expectations referenced in Exhibit B, Attachment D, Department of Behavioral Health Training Requirements Reference Guide.
5. Trainings are to be completed by Contractor's staff after contract execution, in a timely manner. Completion deadlines for trainings are listed in Exhibit B within the descriptions. Additionally, the execution of a new contract does not restart the timeline for required trainings for staff. If staff have recently completed a training under another contract, it will be accepted.
6. Contractor will provide sufficient number of licensed staffing and Contractor will manage assignment of persons served within the program to ensure that all services for persons with dual coverage are claimable (e.g. Medicare/Medi-Cal dually enrolled persons).



# Fresno County Behavioral Health Requirements

## I. General Requirements

- a. **Guiding Principles.** Contractor shall align programs, services, and practices with the vision, mission, and guiding principles of the DBH, as further described in Exhibit B – Attachment A to this Agreement, titled “Fresno County Department of Behavioral Health Guiding Principles of Care Delivery”.
- b. **Rights of Persons Served.** Contractor shall post signs informing persons served of their right to file a complaint or grievance, appeals, and expedited appeals. In addition, Contractor shall inform every person served of their rights as set forth in Exhibit B – Attachment B to this agreement, titled “Rights of Persons Served”.
- c. **Records.** Contractor shall maintain records in accordance with Exhibit B – Attachment C to this Agreement, titled “Documentation Standards for Persons Served Records”. All records of the person served shall be maintained for a minimum of ten (10) years from the date of the end of this Agreement.
- d. **Licenses/Certificates.** Throughout the term of this Agreement, Contractor and Contractor’s staff shall maintain all necessary licenses, permits, approvals, certificates, waivers and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States of America, State of California, the County of Fresno, and any other applicable governmental agencies. Contractor shall notify County immediately in writing of its inability to obtain or maintain such licenses, permits, approvals, certificates, waivers and exemptions irrespective of the pendency of any appeal related thereto. Additionally, Contractor and Contractor’s staff shall comply with all applicable laws, rules or regulations, as may now exist or be hereafter changed.
- e. **Organizational Provider.** Contractor shall maintain requirements as a Behavioral Health Plan (BHP) organizational provider throughout the term of this Agreement. If for any reason, this status is not maintained, County may terminate this Agreement pursuant to Article 6 of this Agreement.
- f. **Staffing.** Contractor agrees that prior to providing services under the terms and conditions of this Agreement, Contractor shall have staff hired and in place for program services and operations or County may, in addition to other remedies it may have,

suspend referrals or terminate this Agreement, in accordance to Article 6 of this Agreement.

- g. **Training.** Contractor agrees that its employees, volunteers, interns, and student trainees or subcontractors of Contractor, in each case, are expected to perform professional services per an agreement with County. Contractor will comply with the training requirements and expectations referenced in Exhibit B – Attachment D to this Agreement, titled “Department of Behavioral Health Selected Bidder Training Requirements Reference Guide”.
- h. **Credentialing and Recredentialing.** Each individual Contractor staff shall not provide any specialty mental health services without an approved credentialing application from County. Contractor and their respective staff must follow the uniform process for credentialing and recredentialing of service providers established by County, including disciplinary actions such as reducing, suspending, or terminating provider’s privileges. Failure to comply with specified requirements can result in suspension or termination of an individual or provider.

Upon request, the Contractor must demonstrate to the County that each of its providers are qualified in accordance with current legal, professional, and technical standards, and that they are appropriately licensed, registered, waived, and/or certified.

Contractor must not employ or subcontract with providers debarred, suspended or otherwise excluded (individually, and collectively referred to as “Excluded”) from participation in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in 42 C.F.R. §438.610. See section IV below. Contractor is required to verify and document at a minimum every three years that each network provider that delivers covered services continues to possess valid credentials, including verification of each of the credentialing requirements as per the County’s uniform process for credentialing and recredentialing. If any of the requirements are not up-to-date, updated information should be obtained from network providers to complete the re-credentialing process.

- i. **Criminal Background Check.** Contractor shall ensure that all providers and/or subcontracted providers consent to a criminal background check, including fingerprinting to the extent required under state law and 42 C.F.R. § 455.434(a).

Contractor shall provide evidence of completed consents when requested by the County, DHCS or the US Department of Health & Human Services (US DHHS).

- j. **Clinical Leadership.** Contractor shall send to County upon execution of this Agreement, a detailed plan ensuring clinically appropriate leadership and supervision of their clinical program. Recruitment and retaining clinical leadership with the clinical competencies to oversee services based on the level of care and program design presented herein shall be included in this plan. A description and monitoring of this plan shall be provided.
- k. **Additional Responsibilities.** The parties acknowledge that, during the term of this Agreement, the Contractor will hire, train, and credential staff, and County will perform additional staff credentialing to ensure compliance with State and Federal regulations, if applicable.
- l. **Subcontracts.** Contractor shall obtain written approval from County's Department of Behavioral Health Director, or designee, before subcontracting any of the services delivered under this Agreement. County's Department of Behavioral Health Director, or designee, retains the right to approve or reject any request for subcontracting services. Any transferee, assignee, or subcontractor will be subject to all applicable provisions of this Agreement, and all applicable State and Federal regulations.

Contractor shall be held primarily responsible by County for the performance of any transferee, assignee, or subcontractor unless otherwise expressly agreed to in writing by County's Department of Behavioral Health Director, or designee. The use of subcontractors by Contractor shall not entitle Contractor to any additional compensation that is provided for under this Agreement.

- m. **Reports.** The Contractor shall submit the following reports and data:
  - i. **Outcome Data.** Contractor shall submit to County program performance outcome data, as requested. Outcome data and outcome requirements are listed in Exhibit B – Attachment E to this Agreement, titled "Program Outcomes and Performance Measurements". Outcome data and outcome requirements are subject to change at County's discretion.
  - ii. **Additional Reports.** Contractor shall also furnish to County such statements, records, reports, data, and other information as County may request pertaining to matters covered by this Agreement. In the event that Contractor fails to provide such reports or other information required hereunder, it shall be

deemed sufficient cause for County to withhold monthly payments until there is compliance. In addition, Contractor shall provide written notification and explanation to County within five (5) days of any funds received from another source to conduct the same services covered by this Agreement.

- n. **Timely Access.** It is the expectation of the County that Contractor provide timely access to services that meet the State of California standards for care. Contractor shall track timeliness of services to persons served and provide a monthly report showing the monitoring or tracking tool that captures this data. County and Contractor shall meet to go over this monitoring tool, as needed but at least on a monthly basis. County shall take corrective action if there is a failure to comply by Contractor with timely access standards.
- o. **Compliance with Behavioral Health Specific Laws.**
  - i. Contractor shall provide services in conformance with all applicable State and Federal statutes, regulations and sub regulatory guidance, as from time to time amended, including but not limited to:
    - 1. California Code of Regulations, Title 9;
    - 2. California Code of Regulations, Title 22;
    - 3. California Welfare and Institutions Code, Division 5;
    - 4. United States Code of Federal Regulations (CFR), Title 42, including but not limited to Parts 438 and 455;
    - 5. United States CFR, Title 45;
    - 6. United States Code, Title 42 (The Public Health and Welfare), as applicable;
    - 7. Balanced Budget Act of 1997;
    - 8. Health Insurance Portability and Accountability Act (HIPAA); and
    - 9. Applicable Medi-Cal laws and regulations, including applicable sub-regulatory guidance, such as Behavioral Health Information Notices (BHINs), Mental Health and Substance Use Disorder Services Information Notices (MHSUDS INs), and provisions of County's, state or federal contracts governing services for persons served.
  - ii. In the event any law, regulation, or guidance referred to in this section is amended during the term of this Agreement, the parties agree to comply with

the amended authority as of the effective date of such amendment without amending this Agreement.

- iii. Contractor recognizes that County operates its mental health programs under an agreement with DHCS, and that under said agreement the State imposes certain requirements on County and its subcontractors. Contractor shall adhere to all State requirements, including those identified in Exhibit B – Attachment F to this Agreement, titled “State Behavioral Health Requirements”.
- p. **Meetings.** Contractor shall participate in monthly, or as needed, workgroup meetings consisting of staff from County’s DBH to discuss service requirements, data reporting, training, policies and procedures, overall program operations and any problems or foreseeable problems that may arise. Contractor shall also participate in other County meetings, such as but not limited to quality improvement meetings, provider meetings, audit meetings, Behavioral Health Board meetings, bi-monthly contractor meetings, etc. Schedule for these meetings may change based on the needs of the County.
- q. **Monitoring.** Contractor agrees to extend to County’s staff, County’s DBH and the California Department of Health Care Services (DHCS), or their designees, the right to review and monitor records, programs, or procedures, at any time, in regard to persons served, as well as the overall operation of Contractor’s programs, in order to ensure compliance with the terms and conditions of this Agreement.
- r. **Electronic Health Record.** Contractor currently maintains and may continue to maintain its records in County’s EHR system in accordance with Exhibit B – Attachment G, “Electronic Health Record Requirements and Service Data”, free of charge, as licenses become available. The person served record shall begin with registration and intake, and include person served authorizations, assessments, plans of care, and progress notes, as well as other documents as approved by County. County shall be allowed to review records of all and any services provided. If Contractor determines to maintain its records in the County’s EHR, it shall provide County’s DBH Director, or designee, with a thirty (30) day notice. If at any time Contractor chooses not to maintain its records in the County’s EHR, it shall provide County’s DBH Director, or designee, with thirty (30) days advance written notice and Contractor will be responsible for obtaining its own system, at its own cost, for electronic health records management.

Disclaimer

County makes no warranty or representation that information entered into the County's DBH EHR system by Contractor will be accurate, adequate, or satisfactory for Contractor's own purposes or that any information in Contractor's possession or control, or transmitted or received by Contractor, is or will be secure from unauthorized access, viewing, use, disclosure, or breach. Contractor is solely responsible for person served information entered by Contractor into the County's DBH EHR system. Contractor agrees that all Private Health Information (PHI) maintained by Contractor in County's DBH EHR system will be maintained in conformance with all HIPAA laws, as stated in section IX, "Federal and State Laws."

s. **Generative Artificial Intelligence Technology Use & Reporting**

- i. During the term of the Agreement, Contractor must notify the County in writing if their services or any work under this Agreement includes, or makes available, any previously unreported Generative Artificial Intelligence (GenAI) technology, including GenAI from third parties or subcontractors. Contractor must provide information by submitting a "Generative Artificial Intelligence (GenAI) Reporting and Factsheet (STD 1000)." In addition, Contractor must notify the County of any new or previously unreported GenAI technology. At the direction of the County, Contractor shall discontinue the use of any new or previously undisclosed GenAI technology that materially impacts functionality, risk or contract performance, until use of such GenAI technology has been approved by the County.
- ii. Failure to disclose GenAI use to the County and failure to submit the GenAI Reporting and Factsheet (STD 1000) may be considered a breach of this Agreement and are grounds for immediate termination in accordance with Article 6 of this Agreement.

t. **Confidentiality.**

- i. The County and the Contractor may have access to information that the other considers to be a trade secret as defined in California Government Code section 7924.510(f).
- ii. Each party shall use the other's Information only to perform its obligations under, and for the purposes of, the Agreement. Neither party shall use the

Information of the other Party for the benefit of a third party. Each Party shall maintain the confidentiality of all Information in the same manner in which it protects its own information of like kind, but in no event shall either Party take less than reasonable precautions to prevent the unauthorized disclosure or use of the Information.

- iii. The Contractor shall not disclose the County's data except to any third parties as necessary to operate the Contractor Products and Services (provided that the Contractor hereby grants to the County, at no additional cost, a non-perpetual, noncancelable, worldwide, nonexclusive license to utilize any data, on an anonymous or aggregate basis only, that arises from the use of the Contractor Products and Services by the Contractor, whether disclosed on, subsequent to, or prior to the Effective Date, to improve the functionality of the Contractor Products and Services and any other legitimate business purpose, subject to all legal restrictions regarding the use and disclosure of such information).
- iv. Upon termination of the Agreement, or upon a Party's request, each Party shall return to the other all Information of the other in its possession. All provisions of the Agreement relating to confidentiality, ownership, and limitations of liability shall survive the termination of the Agreement.
- v. All services performed by the Contractor shall be in strict conformance with all applicable Federal, State of California, and/or local laws and regulations relating to confidentiality, including but not limited to, California Civil Code, California Welfare and Institutions Code, California Health and Safety Code, California Code of Regulations, and the Code of Federal Regulations.
- u. **Physical Accessibility.** Physical Accessibility. In accordance with the accessibility requirements of section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973, Contractor must provide physical access, reasonable accommodations, and accessible equipment for Medi-Cal beneficiaries with physical or mental disabilities.
- v. **Publicity Prohibition.**
  - i. **Self-Promotion.** None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for Contractor's advertising, fundraising, or publicity (i.e., purchasing of tickets/tables, silent auction donations, etc.) for the purpose of self-promotion.

- ii. **Public Awareness.** Notwithstanding the above, publicity of the services described in Exhibit A of this Agreement shall be allowed as necessary to raise public awareness about the availability of such specific services when approved in advance by County's DBH Director or designee. Communication products must follow DBH branding standards, including typefaces and colors, to communicate our authority and project a unified brand. This includes all media types, platforms, and all materials on and offline that are created as part of DBH's efforts to provide information to the public.

w. **Child Abuse Reporting Act.**

- i. Contractor shall establish a procedure acceptable to the County's DBH Director, or designee, to ensure that all of the Contractor's employees, consultants, subcontractors or agents described in the Child Abuse Reporting Act, section 1116 et seq. of the Penal Code, and performing services under this Agreement shall report all known or suspected child abuse or neglect to a child protective agency as defined in Penal Code section 11165.9. This procedure shall include:
  - 1. A requirement that all Contractor's employees, consultants, subcontractors or agents performing services shall sign a statement that they know of and will comply with the reporting requirements as defined in Penal Code section 11166(a).
  - 2. Establishing procedures to ensure reporting even when employees, consultants, subcontractors, or agents who are not required to report child abuse under Penal Code section 11166(a), gain knowledge of or reasonably suspect that a child has been a victim of abuse or neglect.

## II. **Informing Materials for Persons Served**

- a. **Basic Information Requirements.** Contractor shall provide information in a manner and format that is easily understood and readily accessible to the persons served (42 C.F.R. § 438.10(c)(1)). Contractor shall provide all written materials for persons served in easily understood language, format, and alternative formats that take into consideration the special needs of individuals in compliance with 42 C.F.R. § 438.10(d)(6). Contractor shall inform the persons served that information is available in alternate formats and how to access those formats in compliance with 42 C.F.R. § 438.10.

Contractor shall provide the required information in this section to each



individual receiving Specialty Mental Health Services (SMHS) under this Agreement and upon request (1915(b) Medi-Cal Specialty Mental Health Services Waiver, § (2), subd. (d), at p. 26., attachments 3, 4; Cal. Code Regs., tit. 9, §1810.360(e)).

Contractor shall utilize the County's website that provides the content required in this section and 42 C.F.R. § 438.10 and complies with all requirements regarding the same set forth in 42 C.F.R. § 438.10.

Contractor shall use the DHCS/County-developed beneficiary handbook and persons served notices (42 C.F.R. §§ 438.10(c)(4)(ii), 438.62(b)(3)).

b. **Electronic Submission.** Persons served information required in this section may only be provided electronically by the Contractor if all the following conditions are met:

- i. The format is readily accessible;
- ii. The information is placed in a location on the Contractor's website that is prominent and readily accessible;
- iii. The information is provided in an electronic form which can be electronically retained and printed;
- iv. The information is consistent with the content and language requirements of this Agreement;
- v. The individual is informed that the information is available in paper form without charge upon request and the Contractor shall provide it upon request within five (5) business days (42 C.F.R. § 438.10(c)(6)).

c. **Language and Format.** Contractor shall provide all written materials, including taglines, for persons served or potential persons served in a font size no smaller than twelve (12) point (42 C.F.R. 438.10(d)(6)(ii)). Contractor shall ensure its written materials that are critical to obtaining services are available in alternative formats, upon request of the person served or potential person served at no cost.

Contractor shall make its written materials that are critical to obtaining services, including, at a minimum, provider directories, beneficiary handbook, appeal and grievance notices, denial and termination notices, and the Contractor's mental health education materials, available in the prevalent non-English languages in the County (42 C.F.R. § 438.10(d)(3)).

Contractor notify persons served, prospective persons served, and members of the public that written translation is available in prevalent languages free of cost and

how to access those materials (42 C.F.R. § 438.10(d)(5)(i), (iii); Welfare & Inst. Code § 14727(a)(1); Cal. Code Regs. tit. 9 § 1810.410, subd. (e), para. (4)). Contractor shall make auxiliary aids and services available upon request and free of charge to each person served (42 C.F.R. § 438.10(d)(3)-(4)).

Contractor shall make oral interpretation and auxiliary aids, such as Teletypewriter Telephone/Text Telephone (TTY/TDY) and American Sign Language (ASL), available and free of charge for any language in compliance with 42 C.F.R. § 438.10(d)(2), (4)-(5).

- d. **Beneficiary Informing Materials.** Each person served must receive and have access to the beneficiary informing materials upon request by the individual and when first receiving SMHS from Contractor. Beneficiary informing materials include but are not limited to:

- i. Consumer Handbook
- ii. Provider Directory
- iii. Grievance form
- iv. Appeal/Expedited Appeal form
- v. Advance Directives brochure
- vi. Change of Provider form
- vii. Suggestions brochure
- viii. Notice of Privacy Practices
- ix. Notice of Adverse Benefit Determination (NOABDs – Including Denial and Termination notices)
- x. Early & Periodic Screening, Diagnostic and Treatment (EPSDT) poster (if serving individuals under the age of 21)
- xi. Contractor shall ensure beneficiary informing materials are displayed in the threshold languages of Fresno County at all service sites, including but not limited to the following:

1. Consumer Handbook
2. Provider Directory
3. Grievance form
4. Appeal/Expedited Appeal form
5. Advance Directives brochure

6. Change of Provider form

7. Suggestions brochure

All beneficiary informing written materials will use easily understood language and format (i.e. material written and formatted at a 6th grade reading level), and will use a font size no smaller than twelve (12) point. All beneficiary informing written materials shall inform beneficiaries of the availability of information in alternative formats and how to make a request for an alternative format. Inventory and maintenance of all beneficiary informing materials will be maintained by the County's DBH Plan Administration Division. Contractor will ensure that its written materials include taglines or that an additional taglines document is available.

- e. **Beneficiary Handbook.** Contractor shall provide each person served with a beneficiary handbook at the time the individual first accesses services and thereafter upon request. The beneficiary handbook shall be provided to beneficiaries within fourteen (14) business days after receiving notice of enrollment. Contractor shall give each individual notice of any significant change to the information contained in the beneficiary handbook at least thirty (30) days before the intended effective date of change as per BHIN 22-060.
- f. **Accessibility.** Required informing materials must be electronically available on Contractor's website and must be physically available at the Contractor's facility lobby for individuals' access.

Informing materials must be made available upon request, at no cost, in alternate formats (i.e., Braille or audio) and auxiliary aids (i.e., California Relay Service (CRS) 711 and American Sign Language) and must be provided to persons served within five (5) business days. Large print materials shall be in a minimum of eighteen (18) point font size.

Informing materials will be considered provided to the individual if Contractor does one or more of the following:

- i. Mails a printed copy of the information to the persons served's mailing address before the individual receives their first specialty mental health service;
- ii. Mails a printed copy of the information upon the individual's request to their mailing address;

- iii. Provides the information by email after obtaining the agreement of the person served to receive the information by email;
  - iv. Posts the information on the Contractor's website and advises the person served in paper or electronic form that the information is available on the internet and includes applicable internet addresses, provided that individuals with disabilities who cannot access this information online are provided auxiliary aids and services upon request and at no cost; or,
  - v. Provides the information by any other method that can reasonably be expected to result in the person served receiving that information. If Contractor provides informing materials in person, when the individual first receives specialty mental health services, the date and method of delivery shall be documented in the file of the person served.
- g. **Provider Directory.** Contractor must follow the County's provider directory policy, in compliance with MHSUDS IN 18-020.

Contractor must make available to persons served, in paper form upon request and electronic form, specified information about the County provider network as per 42 C.F.R. §438.10(h). The most current provider directory is electronically available on the County website and is updated by the County no later than thirty (30) calendar days after information is received to update provider information. A paper provider directory must be updated at least monthly as set forth in 42 C.F.R. § 438.10(h)(3)(i).

Any changes to information published in the provider directory must be reported to the County within two (2) weeks of the change.

Contractor will only need to report changes/updates to the provider directory for licensed, waived, or registered mental health providers.

### III. **Assurances**

Certification of Non-exclusion or Suspension from Participation in a Federal Health Care Program.

- a. In entering into this Agreement, Contractor certifies that it is not excluded from participation in Federal Health Care Programs under either Section 1128 or 1128A of the Social Security Act. Failure to so certify will render all provisions of this Agreement null and void and may result in the immediate termination of this Agreement.

- b. In entering into this Agreement, Contractor certifies, that the Contractor does not employ or subcontract with providers or have other relationships with providers excluded from participation in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in 42 C.F.R. §438.610. Contractor shall conduct initial and monthly exclusion and suspension searches of the following databases and provide evidence of these completed searches when requested by County, DHCS or the US Department of Health and Human Services (DHHS):
- i. [www.oig.hhs.gov/exclusions](http://www.oig.hhs.gov/exclusions) - Office of Inspector General's List of Excluded Individuals/Entities (LEIE) Federal Exclusions
  - ii. [www.sam.gov/content/exclusions](http://www.sam.gov/content/exclusions) - General Service Administration (GSA) Exclusions Extract
  - iii. [www.Medi-Cal.ca.gov](http://www.Medi-Cal.ca.gov) - Suspended & Ineligible Provider List
  - iv. <https://nppes.cms.hhs.gov/#/> - National Plan and Provider Enumeration System (NPPES)
  - v. Any other database required by DHCS or US DHHS.
- c. In entering into this Agreement, Contractor certifies, that Contractor does not employ staff or individual contractors/vendors that are on the Social Security Administration's Death Master File. Contractor shall check the database prior to employing staff or individual contractors/vendors and provide evidence of these completed searches when requested by the County, DHCS or the US DHHS.
- d. Contractor is required to notify County immediately if Contractor becomes aware of any information that may indicate their (including employees/staff and individual contractors/vendors) potential placement on an exclusions list.
- e. Contractor shall screen and periodically revalidate all network providers in accordance with the requirements of 42 C.F.R., Part 455, Subparts B and E.
- f. Contractor must confirm the identity and determine the exclusion status of all its providers, as well as any person with an ownership or control interest, or who is an agent or managing employee of the contracted agency through routine checks of federal and state databases. This includes the Social Security Administration's Death Master File, NPPES, the Office of Inspector General's LEIE, the Medi-Cal Suspended and Ineligible Provider List (S&I List) as consistent with the requirements of 42 C.F.R. § 455.436.

- g. If Contractor finds a provider that is excluded, it must promptly notify the County as per 42 C.F.R. § 438.608(a)(2), (4). The Contractor shall not certify or pay any excluded provider with Medi-Cal funds, must treat any payments made to an excluded provider as an overpayment, and any such inappropriate payments may be subject to recovery.

#### IV. **Inspection and Audit Requirements**

- a. **Internal Auditing.** Contractor shall institute and conduct a Quality Assurance Process for all services provided hereunder.

Contractor shall provide County with notification and a summary of any internal audit exceptions and the specific corrective actions taken to sufficiently reduce the errors that are discovered through Contractor's internal audit process. Contractor shall provide this notification and summary to County as requested by the County.

- b. **Access to Records.** Contractor shall provide County with access to all documentation of services provided under this Agreement for County's use in administering this Agreement. Contractor shall allow County, the Centers for Medicare and Medicaid Services (CMS), the Office of the Inspector General, the Controller General of the United States, and any other authorized Federal and State agencies to evaluate performance under this Agreement, and to inspect, evaluate, and audit any and all records, documents, and the premises, equipment and facilities maintained by the Contractor pertaining to such services at any time and as otherwise required under this Agreement.

#### V. **Right to Monitor**

- a. **Right to Monitor.** County or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, financial records, staff information, records of persons served, other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Agreement. Full cooperation shall be given by the Contractor in any auditing or monitoring conducted, according to this agreement.
- b. **Accessibility.** Contractor shall make all of its premises, physical facilities, equipment, books, records, documents, agreements, computers, or other electronic systems pertaining to Medi-Cal enrollees, Medi-Cal-related activities, services, and activities

furnished under the terms of this Agreement, or determinations of amounts payable available at any time for inspection, examination, or copying by County, the State of California or any subdivision or appointee thereof, CMS, U.S. Department of Health and Human Services (HHS) Office of Inspector General, the United States Controller General or their designees, and other authorized federal and state agencies. This audit right will exist for at least ten (10) years from the final date of the Agreement period or in the event the Contractor has been notified that an audit or investigation of this Agreement has commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later (42 CFR §438.230(c)(3)(I)-(ii)).

The County, DHCS, CMS, or the HHS Office of Inspector General may inspect, evaluate, and audit the Contractor at any time if there is a reasonable possibility of fraud or similar risk. The Department's inspection shall occur at the Contractor's place of business, premises, or physical facilities (42 CFR §438.230(c)(3)(iv))

- c. **Cooperation.** Contractor shall cooperate with County in the implementation, monitoring and evaluation of this Agreement and comply with any and all reporting requirements established by County. Should County identify an issue or receive notification of a complaint or potential/actual/suspected violation of requirements, County may audit, monitor, and/or request information from Contractor to ensure compliance with laws, regulations, and requirements, as applicable.
- d. **Probationary Status.** County reserves the right to place Contractor on probationary status, as referenced in the Probationary Status Article, should Contractor fail to meet performance requirements; including, but not limited to violations such as failure to report incidents and changes as contractually required, failure to correct issues, inappropriate invoicing, untimely and inaccurate data entry, not meeting performance outcomes expectations, and violations issued directly from the State. Additionally, Contractor may be subject to Probationary Status or termination if agreement monitoring and auditing corrective actions are not resolved within specified timeframes.
- e. **Record Retention.** Contractor shall retain all records and documents originated or prepared pursuant to Contractor's performance under this Agreement, including grievance and appeal records, and the data, information and documentation specified in 42 CFR parts 438.604, 438.606, 438.608, and 438.610 for a period of no less than ten

(10) years from the term end date of this Agreement or until such time as the matter under audit or investigation has been resolved. Records and documents include but are not limited to all physical and electronic records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this Agreement including working papers, reports, financial records and documents of account, records of persons served, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for persons served.

- f. **Facilities and Assistance.** Contractor shall provide all reasonable facilities and assistance for the safety and convenience of the County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner that will not unduly delay the work of Contractor.
- g. **County Discretion to Revoke.** County has the discretion to revoke full or partial provisions of the Agreement, delegated activities or obligations, or application of other remedies permitted by state or federal law when the County or DHCS determines Contractor has not performed satisfactorily.
- h. **Site Inspection.** Without limiting any other provision related to inspections or audits otherwise set forth in this Agreement, Contractor shall permit authorized County, state, and/or federal agency(ies), through any authorized representative, the right to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract support activities and the premises which it is being performed. Contractor shall provide all reasonable assistance for the safety and convenience of the authorized representative in the performance of their duties. All inspections and evaluations shall be made in a manner that will not unduly delay the work of the Contractor.

## VI. **Complaint Logs and Grievances**

- a. **Documentation.** Contractor shall log complaints and the disposition of all complaints from a person served or their family. Contractor shall provide a copy of the detailed complaint log entries concerning County-sponsored persons served to County at monthly intervals by the tenth (10th) day of the following month, in a format that is mutually agreed upon. Contractor shall allow persons served or their representative to file a grievance either orally, or in writing at any time with the Behavioral Health Plan. In the event Contractor is notified by a person served or their representative of a discrimination grievance, Contractor shall report discrimination grievances to the County



within 24 hours. The Contractor shall not require a person served or their representative to file a Discrimination Grievance with the County before filing the complaint directly with the DHCS Office of Civil Rights and the U.S. Health and Human Services Office for Civil Rights.

- b. **Rights of Persons Served.** Contractor shall comply with applicable laws and regulations relating to patients' rights, including but not limited to Wel. & Inst. Code 5325, Cal. Code Regs., tit. 9, sections 862 through 868, and 42 CFR § 438.100. The Contractor shall ensure that its subcontractors comply with all applicable patients' rights laws and regulations.
- c. **Incident Reporting.** Contractor shall file an incident report for all incidents involving persons served, following County DBH's Incident Reporting protocol.

## **VII. Compliance Requirements**

- a. **Internal Monitoring and Auditing**
  - i. Contractor shall be responsible for conducting internal monitoring and auditing of its agency. Internal monitoring and auditing include, but are not limited to billing practices, licensure/certification verification and adherence to County, State and Federal regulations.
    - 1. Contractor shall not submit false, fraudulent, inaccurate or fictitious claims for payment or reimbursement of any kind.
    - 2. Contractor shall bill only for those eligible services actually rendered which are also fully documented.
    - 3. Contractor shall ensure all employees/service providers maintain current licensure/certification/registration/waiver status as required by the respective licensing/certification Board, applicable governing State agency(ies) and Title 9 of the California Code of Regulations.
  - ii. Should Contractor identify improper procedures, actions or circumstances, including fraud/waste/abuse and/or systemic issue(s), Contractor shall take prompt steps to correct said problem(s). Contractor shall report to DBH any overpayments discovered as a result of such problems no later than five (5) business days from the date of discovery, with the appropriate documentation, and a thorough explanation of the reason for the overpayment. Prompt mitigation, corrective action and reporting shall be in accordance with the DBH

Overpayment Policy and PPG Prevention, Detection, Correction of Fraud, Waste and Abuse which will be provided to Contractor at its request.

**b. Compliance Program**

- i. The County DBH has established a Compliance Office for purposes of ensuring adherence to all standards, rules and regulations related to the provision of services and expenditure of funds in Federal and State health care programs. Contractor shall either adopt DBH's Compliance Plan/Program or establish its own Compliance Plan/Program and provide documentation to County DBH to evaluate whether the Program is consistent with the elements of a Compliance Program as recommended by the United States Department of Health and Human Services, Office of Inspector General.
- ii. Contractor's Compliance Program must include the following elements:
  1. Designation of a compliance officer who reports directly to the Chief Executive Officer and the Contractor's Board of Directors and compliance committee comprised of senior management who are charged with overseeing the Contractor's compliance program and compliance with the requirements of this account. The committee shall be accountable to the Contractor's Board of Directors.
- iii. Policies and Procedures
  1. Contractor shall have written policies and procedures that articulate the Contractor's commitment to comply with all applicable Federal and State standards. Contractor shall adhere to applicable County DBH Policies and Procedures relating to the Compliance Program or develop its own compliance-related policies and procedures.
- iv. Contractor shall establish and implement procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they arise, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under this Agreement.

- v. Contractor shall implement and maintain written policies for all County DBH-funded employees, and of any contractor or agent, that provide detailed information about the False Claims Act and other Federal and State laws, including information about rights of employees to be protected as whistleblowers.
- vi. Contractor shall maintain documentation, verification or acknowledgement that the Contractor's employees, subcontractors, interns, volunteers, and members of Board of Directors are aware of these Policies and Procedures and the Contractor's Compliance Program.
- vii. Contractor shall have a Compliance Plan demonstrating the seven (7) elements of a Compliance Plan. Contractor has the option to develop its own or adopt County DBH's Compliance Plan. Should Contractor develop its own Plan, Contractor shall submit the Plan prior to implementation for review and approval to:

Fresno County DBH Compliance Office

1925 E. Dakota Ave. Ste A

Fresno, California 93726

Or send via email to: [DBHCompliance@fresnocountyca.gov](mailto:DBHCompliance@fresnocountyca.gov)

**c. Program Integrity Requirements**

- i. As a condition for receiving payment under a Medi-Cal managed care program, Contractor shall comply with the provisions of Title 42 CFR Sections 438.604, 438.606, 438.608 and 438.610. Contractor must have administrative and management processes or procedures, including a mandatory compliance plan, that are designed to detect and prevent fraud, waste or abuse.
- ii. If Contractor identifies an issue or receives notification of a complaint concerning an incident of possible fraud, waste, or abuse, Contractor shall immediately notify County DBH; conduct an internal investigation to determine the validity of the issue/complaint; and develop and implement corrective action if needed.
- iii. If Contractor's internal investigation concludes that fraud or abuse has occurred or is suspected, the issue if egregious, or beyond the scope of the Contractor's

ability to pursue, the Contractor shall immediately report to the County DBH Compliance Office for investigation, review and/or disposition.

- iv. Contractor shall immediately report to DBH any overpayments identified or recovered, specifying the overpayments due to potential fraud.
- v. Contractor shall immediately report any information about changes in the circumstances of the person served that may affect the person's eligibility, including changes in the residence of the person served or the death of the individual.
- vi. Contractor shall immediately report any information about a change in Contractor's or Contractor's staff circumstances that may affect eligibility to participate in the behavioral health program.
- vii. Contractor understands DBH, CMS, or the HHS Inspector General may inspect, evaluate, and audit the Contractor at any time if there is a reasonable possibility of fraud or similar risk.

**d. Code of Conduct**

- i. Contractor shall take precautions to ensure that claims are prepared and submitted accurately, timely and are consistent with all applicable laws, regulations, rules or guidelines.
- ii. Contractor shall ensure that no false, fraudulent, inaccurate or fictitious claims for payment or reimbursement of any kind are submitted.
- iii. Contractor shall bill only for eligible services actually rendered and fully documented.
- iv. Contractor shall act promptly to investigate and correct problems if errors in claims or billing are discovered.
- v. Contractor shall comply with County's Code of Conduct and Ethics and the County's Compliance Program in accordance with Exhibit B – Attachment H to this Agreement, titled "Fresno County Mental Health Compliance Program".

- e. **Network Adequacy.** Contractor shall ensure that all services covered under this Agreement are available and accessible to persons served in a timely manner and in accordance with the network adequacy standards required by regulation. (42 C.F.R. §438.206(a), (c)).

Contractor shall submit, when requested by County and in a manner and format

determined by the County, network adequacy certification information to the County, utilizing a provided template or other designated format.

Contractor shall submit updated network adequacy information to the County any time there has been a significant change that would affect the adequacy and capacity of services.

To the extent possible and appropriately consistent with CCR, Title 9, §1830.225 and 42 C.F.R. §438.3 (l), the Contractor shall provide a person served the ability to choose the person providing services to them.

## **VIII. Federal and State Laws.**

- a. **Health Insurance Portability and Accountability Act.** County and Contractor each consider and represent themselves as covered entities as defined by the U.S. Health Insurance Portability and Accountability Act of 1996, Public Law 104-191(HIPAA) and agree to use and disclose Protected Health Information (PHI) as required by law.

County and Contractor acknowledge that the exchange of PHI between them is only for treatment, payment, and health care operations.

County and Contractor intend to protect the privacy and provide for the security of PHI pursuant to this Agreement in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (HITECH), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (HIPAA Regulations) and other applicable laws.

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule require Contractor to enter into an agreement containing specific requirements prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations.

- b. Contractor and County mutually agree to maintain the confidentiality of records and information of persons served in compliance with all applicable State and Federal statutes and regulations, including, but not limited to, HIPAA, California Confidentiality of Medical Information Act (CMIA), and California Welfare and Institutions Code section 5328. The Parties shall inform all of their employees and agents who perform services under this Agreement of the confidentiality provisions of all applicable statutes.
- c. The County is a "Covered Entity," and the Contractor is a "Business Associate," as these terms are defined by 45 CFR 160.103. As a Business Associate, Contractor agrees to comply

with the terms of Exhibit B – Attachment I to this Agreement, titled “Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement”.

- d. **Physical Accessibility.** In accordance with the accessibility requirements of section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973, Contractor must provide physical access, reasonable accommodations, and accessible equipment for Medical beneficiaries with physical or mental disabilities.

## **IX. Quality Management Requirements.**

- a. **Reporting.**

- i. Outcomes Reports. Contractor shall complete Outcomes Reports in the format set by County. Outcomes reports shall be submitted to County’s DBH for review within thirty (30) days of the end of each quarter.

- b. **Quality Improvement Activities and Participation.** Contractor shall comply with the County’s ongoing comprehensive Quality Assessment and Performance Improvement (QAPI) Program (42 CFR. § 438.330(a)) and work with the County to improve established outcomes by following structural and operational processes and activities that are consistent with current practice standards.

Contractor shall participate in quality improvement (QI) activities, including clinical and non-clinical performance improvement projects (PIPs), as requested by the County in relation to State and Federal requirements and responsibilities, to improve health outcomes and individuals’ satisfaction with services over time. Other QI activities include quality assurance, collection and submission of performance measures specified by the County, mechanisms to detect both underutilization and overutilization of services, individual and system outcomes, utilization management, utilization review, provider appeals, provider credentialing and recredentialing, and person served grievances. Contractor shall measure, monitor, and annually report to the County on its performance.

## **X. Cultural and Linguistic Competency**

- a. **General.** All services, policies and procedures **shall** be culturally and linguistically appropriate. Contractor shall participate in the implementation of the most recent Cultural Competency Plan for the County and shall adhere to all Culturally and Linguistically Appropriate Service (CLAS) standards and requirements as set forth in

Exhibit B – Attachment J to this Agreement, titled “National Standards on Culturally and Linguistically Appropriate Services”. Contractor shall participate in the County's efforts to promote the delivery of services in a culturally responsive and equitable manner to all individuals, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation, or gender identity including active participation in the County’s Diversity, Equity and Inclusion Committee.

- b. **Policies and Procedures.** Contractor shall comply with requirements of policies and procedures for ensuring access and appropriate use of trained interpreters and material translation services for all limited and/or no English proficient persons served, including, but not limited to, assessing the cultural and linguistic needs of the person served, training of staff on the policies and procedures, and monitoring its language assistance program. Contractor’s policies and procedures shall ensure compliance of any subcontracted providers with these requirements.
- c. **Interpreter Services.** Contractor shall notify its persons served that oral interpretation is available for any language and written translation is available in prevalent languages and that auxiliary aids and services are available upon request, at no cost and in a timely manner for limited and/or no English proficient persons served and/or persons served with disabilities. Contractor shall avoid relying on an adult or minor child accompanying the person served to interpret or facilitate communication; however, if the person refuses language assistance services, the Contractor must document the offer, refusal, and justification in the file of the person served.
- d. **Interpreter Qualifications.** Contractor shall ensure that employees, agents, subcontractors, and/or partners who interpret or translate for a person served or who directly communicate with a person in a language other than English (1) have completed annual training provided by County at no cost to Contractor; (2) have demonstrated proficiency in the language of the person served; (3) can effectively communicate any specialized terms and concepts specific to Contractor’s services; and (4) adheres to generally accepted interpreter ethic principles. As requested by County, Contractor shall identify all who interpret for or provide direct communication to any program person served in a language other than English and identify when the Contractor last monitored the interpreter for language competence.

- e. **CLAS Standards.** Contractor shall submit to County for approval, within ninety (90) days from date of contract execution, Contractor's plan to address all fifteen (15) National Standards for Culturally and Linguistically Appropriate Service (CLAS), as published by the Office of Minority Health and as set forth in Exhibit B – Attachment J, "National Standards on Culturally and Linguistically Appropriate Services". As the CLAS standards are updated, Contractor's plan must be updated accordingly. As requested by County, Contractor shall be responsible for conducting an annual CLAS self-assessment and providing the results of the self-assessment to the County. The annual CLAS self-assessment instruments shall be reviewed by the County and revised as necessary to meet the approval of the County.
- f. **Training Requirements.** Cultural responsiveness training for Contractor staff should be substantively integrated into health professions education and training at all levels, both academically and functionally, including core curriculum, professional licensure, and continuing professional development programs. As requested by County, Contractor shall report on the completion of cultural responsiveness trainings to ensure direct service providers are completing annual cultural responsiveness training.
- g. **Continuing Cultural Responsiveness.** Contractor shall create and sustain a forum that includes staff at all agency levels to discuss cultural responsiveness. Contractor shall designate a representative from Contractor's team to attend County's Diversity, Equity and Inclusion Committee.



# **Fresno County Department of Behavioral Health**

## **Guiding Principles of Care Delivery**

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### **DBH VISION:**

Health and well-being for our community.

### **DBH MISSION:**

DBH, in partnership with our diverse community, is dedicated to providing quality, culturally responsive, behavioral health services to promote wellness, recovery, and resiliency for individuals and families in our community.

### **DBH GOALS:**

Quadruple Aim

- Deliver quality care
- Maximize resources while focusing on efficiency
- Provide an excellent care experience
- Promote workforce well-being

### **GUIDING PRINCIPLES OF CARE DELIVERY:**

The DBH 11 principles of care delivery define and guide a system that strives for excellence in the provision of behavioral health services where the values of wellness, resiliency, and recovery are central to the development of programs, services, and workforce. The principles provide the clinical framework that influences decision-making on all aspects of care delivery including program design and implementation, service delivery, training of the workforce, allocation of resources, and measurement of outcomes.

#### **1. Principle One - Timely Access & Integrated Services**

- Individuals and families are connected with services in a manner that is streamlined, effective, and seamless
- Collaborative care coordination occurs across agencies, plans for care are integrated, and whole person care considers all life domains such as health, education, employment, housing, and spirituality
- Barriers to access and treatment are identified and addressed
- Excellent customer service ensures individuals and families are transitioned from one point of care to another without disruption of care

## **Fresno County Department of Behavioral Health**

### **Guiding Principles of Care Delivery**

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#### 2. Principle Two - Strengths-based

- Positive change occurs within the context of genuine trusting relationships
- Individuals, families, and communities are resourceful and resilient in the way they solve problems
- Hope and optimism is created through identification of, and focus on, the unique abilities of individuals and families

#### 3. Principle Three - Person-driven and Family-driven

- Self-determination and self-direction are the foundations for recovery
- Individuals and families optimize their autonomy and independence by leading the process, including the identification of strengths, needs, and preferences
- Providers contribute clinical expertise, provide options, and support individuals and families in informed decision making, developing goals and objectives, and identifying pathways to recovery
- Individuals and families partner with their provider in determining the services and supports that would be most effective and helpful and they exercise choice in the services and supports they receive

#### 4. Principle Four - Inclusive of Natural Supports

- The person served identifies and defines family and other natural supports to be included in care
- Individuals and families speak for themselves
- Natural support systems are vital to successful recovery and the maintaining of ongoing wellness; these supports include personal associations and relationships typically developed in the community that enhance a person's quality of life
- Providers assist individuals and families in developing and utilizing natural supports.

#### 5. Principle Five - Clinical Significance and Evidence Based Practices (EBP)

- Services are effective, resulting in a noticeable change in daily life that is measurable.
- Clinical practice is informed by best available research evidence, best clinical expertise, and values and preferences of those we serve

## **Fresno County Department of Behavioral Health**

### **Guiding Principles of Care Delivery**

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- Other clinically significant interventions such as innovative, promising, and emerging practices are embraced

#### **6. Principle Six - Culturally Responsive**

- Values, traditions, and beliefs specific to an individual's or family's culture(s) are valued and referenced in the path of wellness, resilience, and recovery
- Services are culturally grounded, congruent, and personalized to reflect the unique cultural experience of each individual and family
- Providers exhibit the highest level of cultural humility and sensitivity to the self-identified culture(s) of the person or family served in striving to achieve the greatest competency in care delivery

#### **7. Principle Seven - Trauma-informed and Trauma-responsive**

- The widespread impacts of all types of trauma are recognized and the various potential paths for recovery from trauma are understood
- Signs and symptoms of trauma in individuals, families, staff, and others are recognized and persons receive trauma-informed responses
- Physical, psychological and emotional safety for individuals, families, and providers is emphasized

#### **8. Principle Eight - Co-occurring Capable**

- Services are reflective of whole-person care; providers understand the influence of bio-psycho-social factors and the interactions between physical health, mental health, and substance use disorders
- Treatment of substance use disorders and mental health disorders are integrated; a provider or team may deliver treatment for mental health and substance use disorders at the same time

#### **9. Principle Nine - Stages of Change, Motivation, and Harm Reduction**

- Interventions are motivation-based and adapted to the person's stage of change
- Progression through stages of change are supported through positive working relationships and alliances that are motivating

## **Fresno County Department of Behavioral Health**

### **Guiding Principles of Care Delivery**

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- Providers support individuals and families to develop strategies aimed at reducing negative outcomes of substance misuse through a harm reduction approach
- Each individual defines their own recovery and recovers at their own pace when provided with sufficient time and support

#### **10. Principle Ten - Continuous Quality Improvement and Outcomes-Driven**

- Individual and program outcomes are collected and evaluated for quality and efficacy
- Strategies are implemented to achieve a system of continuous quality improvement and improved performance outcomes
- Providers participate in ongoing professional development activities needed for proficiency in practice and implementation of treatment models

#### **11. Principle Eleven - Health and Wellness Promotion, Illness and Harm Prevention, and Stigma Reduction**

- The rights of all people are respected
- Behavioral health is recognized as integral to individual and community well-being
- Promotion of health and wellness is interwoven throughout all aspects of DBH services
- Specific strategies to prevent illness and harm are implemented at the individual, family, program, and community levels
- Stigma is actively reduced by promoting awareness, accountability, and positive change in attitudes, beliefs, practices, and policies within all systems
- The vision of health and well-being for our community is continually addressed through collaborations between providers, individuals, families, and community members

## **FRESNO COUNTY BEHAVIORAL HEALTH PLAN RIGHTS OF PERSON SERVED**

### **Grievances**

Fresno County Behavioral Health Plan (BHP) provides beneficiaries with a grievance and appeal process and an expedited appeal process to resolve grievances and disputes at the earliest and the lowest possible level.

Title 9 of the California Code of Regulations requires that the BHP and its fee-for-service providers give verbal and written information to Medi-Cal beneficiaries regarding the following:

- How to access specialty mental health services
- How to file a grievance about services
- How to file for a State Fair Hearing

The BHP has developed a Consumer Guide, a beneficiary rights poster, a grievance form, an appeal form, and Request for Change of Provider Form. All of these beneficiary materials must be posted in prominent locations where Medi-Cal beneficiaries receive outpatient specialty mental health services, including the waiting rooms of providers' offices of service.

Please note that all fee-for-service providers and contract agencies are required to give the individuals served copies of all current beneficiary information annually at the time their treatment plans are updated and at intake.

Beneficiaries have the right to use the grievance and/or appeal process without any penalty, change in mental health services, or any form of retaliation. All Medi-Cal beneficiaries can file an appeal or state hearing.

Grievances and appeals forms and self-addressed envelopes must be available for beneficiaries to pick up at all provider sites without having to make a verbal or written request. Forms can be sent to the following address:

Fresno County Behavioral Health Plan  
P.O. Box 45003  
Fresno, CA 93718-9886  
(800) 654-3937 (for more information)  
(559) 488-3055 (TTY)

### **Provider Problem Resolution and Appeals Process**

The BHP uses a simple, informal procedure in identifying and resolving provider concerns and problems regarding payment authorization issues, other complaints and concerns.

Informal provider problem resolution process – the provider may first speak to a Fresno County Department of Behavioral Health (DBH) team member regarding his or her complaint or concern.

The DBH Team Member will attempt to settle the complaint or concern with the provider. If the attempt is unsuccessful and the provider chooses to forego the informal grievance process, the provider will be advised to file a written complaint to the BHP address (listed above).

Formal provider appeal process – the provider has the right to access the provider appeal process at any time before, during, or after the provider problem resolution process has begun, when the complaint concerns a denied or modified request for BHP payment authorization, or the process or payment of a provider's claim to the BHP.

Payment authorization issues – the provider may appeal a denied or modified request for payment authorization or a dispute with the BHP regarding the processing or payment of a provider's claim to the BHP. The written appeal must be submitted to the BHP within 90 calendar days of the date of the receipt of the non-approval of payment.

The BHP shall have 60 calendar days from its receipt of the appeal to inform the provider in writing of the decision, including a statement of the reasons for the decision that addresses each issue raised by the provider, and any action required by the provider to implement the decision.

If the appeal concerns a denial or modification of payment authorization request, the BHP utilizes a DBH Team Member who was not involved in the initial denial or modification decision to determine the appeal decision.

If the DBH Team Member reverses the appealed decision, the provider will be asked to submit a revised request for payment within 30 calendar days of receipt of the decision.

Other complaints – if there are other issues or complaints, which are not related to payment authorization issues, providers are encouraged to send a letter of complaint to the BHP. The provider will receive a written response from the BHP within 60 calendar days of receipt of the complaint. The decision rendered by the BHP is final.

## **DOCUMENTATION STANDARDS FOR PERSON SERVED RECORDS**

The documentation standards are described below under key topics related to care for persons served. All standards must be addressed in the record of each person served; however, there is no requirement that the record have a specific document or section addressing these topics. All medical records shall be maintained for a minimum of 10 years from the date of the end of the Agreement.

### **A. Assessments**

1. The following areas will be included as a part of a comprehensive record for each person served:

- Presenting problems, including impairments in function, and current mental status exam.
- Traumatic incidents which include trauma exposures, trauma reactions, trauma screenings, and systems involvement if relevant
- Behavioral health history including mental health history, substance use/abuse, and previous services
- Medical history including physical health conditions, medications, and developmental history
- Psychosocial factors including family, social and life circumstances, cultural considerations
- Strengths, risks, and protective factors, including safety planning
- Clinical summary, treatment recommendations, and level of care determination including diagnostic and clinical impression with a diagnosis
- The assessment shall include a typed or legibly printed name, signature of the service provider and date of signature.

2. Timeliness/Frequency Standard for Assessment

- The time period to complete an initial assessment and subsequent assessments for SMHS is up to clinical discretion.
- Assessments shall be completed within a reasonable time and in accordance with generally accepted standards of practice.

### **B. Problem list**

The use of a Problem List has largely replaced the use of treatment plans and is therefore required to be part of the record for each person served. The problem list shall be updated on an ongoing basis to reflect the current presentation of the person in care.

The problem list shall include, but is not limited to, the following:

- Diagnoses identified by a provider acting within their scope of practice
- Problems identified by a provider acting within their scope of practice
- Problems or illnesses identified by the person in care and/or significant support person if any

- The name and title of the provider that identified, added, or removed the problem, and the date the problem was identified, added, or removed

## C. Treatment and Care Plan Requirements

### 1. Targeted Case Management

- Specifies the goals, treatment, service activities, and assistance to address the negotiated objectives of the plan and the medical, social, educational, and other services needed by the person in care
- Identifies a course of action to respond to the assessed needs of the person in care
- Includes development of a transition plan when the person in care has achieved the goals of the care plan
- Peer support services must be based on an approved care plan
- Must be provided in a narrative format in the person's progress notes
- Updated at least annually

### 2. Services requiring Treatments Plans

- Therapeutic Behavioral Services (TBS)
- Must have specific observable and/or specific quantifiable goals
- Must identify the proposed type(s) of intervention
- Must be signed (or electronic equivalent) by:
  - the person providing the service(s), or
  - a person representing a team or program providing services, or
  - a person representing the MHP providing services when the plan for a person served is used to establish that the services are provided under the direction of an approved category of staff, and if the below staff are not the approved category,
    - a physician
    - a licensed/ "waivered" psychologist
    - a licensed/ "associate" social worker
    - a licensed/ registered/marriage and family therapist or
    - a registered nurse
- In addition,
  - Plans for each person served will be consistent with the diagnosis, and the focus of intervention will be consistent with the plan goals for the person served, and there will be documentation that the person served participated in and agreed with the plan. Examples of the documentation include, but are not limited to, reference to the participation by the person served and agreement by the person served in the body of the plan, the signature of the person served on the plan, or a description of the participation by the person served and agreement by the person served in progress notes.
  - The signature on the plan by the person served will be used as the means by which the Contractor documents the participation of the person served. When



the signature of the person served is required on the plan for the person served and the person served refuses or is unavailable for signature, the plan for the person served plan will include a written explanation of the refusal or unavailability.

- The Contractor will give a copy of the plan for the person served to the person served on request.

#### D. Progress Notes

1. Providers shall create progress notes for the provision of all SMHS. Each progress note shall provide sufficient detail to support the service code selected for the service type as indicated by the service code description. Progress notes shall include:

- The type of service rendered.
- A narrative describing the service, including how the service addressed the beneficiary's behavioral health need (e.g., symptom, condition, diagnosis, and/or risk factors).
- The date that the service was provided to the beneficiary.
- Duration of the service, including travel and documentation time.
- Location of the beneficiary at the time of receiving the service.
- A typed or legibly printed name, signature of the service provider and date of signature.
- ICD 10 code
- Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) code.
- Next steps including, but not limited to, planned action steps by the provider or by the beneficiary, collaboration with the beneficiary, collaboration with other provider(s) and any update to the problem list as appropriate.

#### 2. Timeliness/Frequency of Progress Notes

- Progress notes shall be completed within 3 business days of providing a service, except for notes for crisis services, which shall be completed within 24 hours.
- A note must be completed for every service contact



## **Fresno County Department of Behavioral Health Contractor Training Requirements Reference Guide**

Contractor must consider and include sufficient time and funds for required trainings.

This Training Requirements Reference Guide identifies the required trainings that Contractor is responsible for offering to all employees, volunteers, interns, and student trainees of Contractor or its subcontractors who, in each case, are expected to perform professional services while contracted by County. There are some trainings offered by the County at no cost to Contractor, and those are identified within this document. The remaining trainings are the responsibility of Contractor to provide and cover associated costs. The expectations for Contractor staff attending County-offered trainings are included within this guide.

### **I. Trainings Provided by County DBH**

#### **DBH Annual General Compliance Refresher Training**

Duration: 60 Minutes

General Compliance Refresher Training is an annual requirement for all employees, contractors, volunteers, interns, and student trainees working in behavioral health programs who are in their second or more years of service. This training is a modified version of the self-paced General Compliance Training and Contractor shall be assigned this training in Quarter 4 of each calendar year.

An announcement from the DBH Compliance Program, DBH Staff Development, or your Contract Analyst regarding this training will be made prior to the assignment of this training. Contractor will have the option to complete the training either through the Relias Learning Management System (LMS) or through Department of Behavioral Health's website. Contractors are given approximately a 60-day window to complete this training from the training announcement date.

#### **Mental Health Documentation & Billing Training**

Duration: 1 Hour 30 Minutes

All contracted provider organization employees, subcontractors, volunteers, interns, and students providing services are to complete Documentation & Billing Training within 30 business days of hire or contract effective date. If contract effective date is a renewal, existing staff will not need to retake the training if they have already completed it with their agency. Contractor shall be required to complete this training as a prerequisite for providing direct services, processing billing, conducting quality assurance services, clinical supervision, or other similar services under this agreement. Contractor is expected to contact their assigned contract analysts if they are unsure about training requirements for any specific classifications.

Documentation & Billing is a training provided at least one time per month. Registration is completed via Eventbrite for each session; links to register can be found on the webpage below:

<https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/Contract-Provider-Resources/New-Hire-ComplianceDoc-Billing-Training>

The expectation is that Contractor will register their County-funded employees at least one week in advance of the training date. For any registration issues or other questions about the training, they can contact [DBHStaffDevelopment@fresnocountyca.gov](mailto:DBHStaffDevelopment@fresnocountyca.gov).

### **DBH New Hire General Compliance Training**

Duration: 40 Minutes

Contractor shall have their employees, subcontractors, volunteers, interns, and student trainees who, in each case, are expected to provide services under this Agreement with County, complete the New Hire Compliance Training within 30 business days of hire or effective date of this Agreement, per Compliance Exhibit B, Attachment I. If contract effective date is for a renewed agreement, existing staff will not need to retake the training if the staff member has already completed the training within the same calendar year as the effective date of the renewed agreement.

New Hire General Compliance is self-paced and can be completed either through Relias Learning Management System (LMS) or on the Department of Behavioral Health's website. Additional information on how to complete the training can be found on the following webpage:

<https://www.fresnocountyca.gov/Departments/Behavioral-Health/Care-Services/Behavioral-Health-Compliance/New-Hire-General-Compliance-Training>

Contractor shall require its County-funded employees and subcontractors to complete this compliance training. After completion of this training, participants must sign the Contractor Acknowledgment and Agreement form and return this form to the DBH Compliance officer or designee. For additional questions about the training, please contact your Contract Analyst or the DBH Compliance team at: [DBHCompliance@fresnocountyca.gov](mailto:DBHCompliance@fresnocountyca.gov).

### **Invoicing Training**

Duration: To be Confirmed

Contractor shall be responsible for collection and managing data in a manner to be determined by the California Department of Health Care Services (DHCS) and Mental Health Plan in accordance with applicable rules and regulations. DBH's Electronic Health Record (EHR) is a critical source of information for purposes of

monitoring service volume and obtaining reimbursement. Contractor's staff responsible for checking Medi-Cal eligibility shall attend DBH's Finance Division training on equipment reporting for assets, intangible and sensitive minor assets, DBH's EHR system and related cost reporting.

### **Notice of Adverse Benefit Determination (NOABD) Training**

Duration: 8 Minutes

A Notice of Adverse Benefit Determination (NOABD) is a formal mechanism for notifying a person served of an adverse benefit determination in writing (e.g., denial or limited authorization of a requested service, denial of payment for a service, or failure to provide services in a timely manner).

This training outlines usage practices, timelines, and examples for each type of NOABD. Contractor can find the training in the Announcements section on the following webpage: <https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/Contract-Provider-Resources/Notifications-Associated-Documents>. Contractor shall be responsible for completing this training within 60 days of hire or contract effective date.

### **SmartCare Full Electronic Health Record New User Mental Health Training\***

Duration: 4 Hours

This is a basic training for new users who are direct clinical service providers employed by Contractors that will be using SmartCare as their full EHR. Participants will have the opportunity to apply CalMHSA's SmartCare training materials and review relevant SmartCare workflows, clinical documents, and forms.

Training dates and reference material can be found on the following link:

<https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/SmartCare>

\*This training is available to Contractor at no cost and highly recommended. Although this training is not required, selected Contractor is responsible for understanding and utilizing SmartCare as indicated once contracted with County DBH.

### **SmartCare Electronic Health Record New User Front Desk Training\***

Duration: 4 Hours

This is a basic training for new users who are employed by Contractors that will be using SmartCare as their full EHR. Participants will have the opportunity to review how to navigate SmartCare, perform coverage information set up, error corrections, set up Appointments, and basic troubleshooting of common issues.

Training dates and reference material can be found on the following link:

<https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/SmartCare>

\*This training is available to Contractor at no cost and highly recommended. Although this training is not required, selected Contractor is responsible for understanding and utilizing SmartCare as indicated once contracted with County DBH.

### **SmartCare Lite Electronic Health Record Mental Health Training\* (Provider Entry Only Training)**

Duration: Time may vary

This training is for select Contractors that do not intend to fully use County DBH's SmartCare EHR system but rather only some functions, otherwise referred to as a "SmartCare Lite User". This training is intended to supplement and reinforce the CalMHSA SmartCare trainings, user guide, and workflow information SmartCare Lite Users. This supplemental training/technical support is offered by the DBH Planning and Quality Management Division's Quality Improvement Team upon request.

Required prerequisite material can be found on the following link:

<https://www.fresnocountyca.gov/Departments/Behavioral-Health/Providers/SmartCare>

\*This training is available to Contractor at no cost and highly recommended. Although this training is not required, selected Contractor is responsible for understanding and utilizing SmartCare as indicated once contracted with County DBH.

## **II. Trainings for Specialty MH Providers by Specialization**

### **Mobile Crisis Services Trainings**

Duration: 21 Hours

Any contracted provider providing mobile crisis services shall complete the state-required training series. For example, the current training series is provided by the Medi-Cal Mobile Crisis Training and Technical Assistance Center (M-TAC). This ten-part training series is available on the DBH Relias learning management system. For assistance with assigning the trainings, please contact

[DBHRelias@Fresnocountyca.gov](mailto:DBHRelias@Fresnocountyca.gov).

### **California Integrated Practice Child & Adolescent Needs & Strengths (CA IP CANS)**

Duration: 6 Hours 30 Minutes

The CA IP CANS is a structured assessment for identifying youth and family actionable needs and useful strengths. It provides a framework for developing and communicating about a shared vision and uses youth, ages 6 and youth up to age

20, and family information to inform planning, support decisions, and monitor outcomes.

DBH provides this training to prepare attendees for certification testing and use of the tool. For any questions about the training or assistance with registration, please contact [DBHStaffDevelopment@fresnocountyca.gov](mailto:DBHStaffDevelopment@fresnocountyca.gov).

### **III. Contractor is Responsible for Ensuring and/or Providing These Trainings are Offered and Completed**

#### **CalAIM Behavioral Health Quality Improvement Program (BHQIP) Training**

Any contracted clinical provider is required to complete the CalAIM BHQIP Modules in CalMHSA's web-based training system, Moodle. Providers are expected to complete training within 60 days of beginning employment.

CalMHSA's web-based training system, <https://moodle.calmhsalearns.org>.

#### **Cultural Responsiveness Trainings**

Duration: May vary based on Contractor's training preference

Contracted Provider Organization shall have DBH-funded providers complete annual trainings on cultural competency, awareness, and diversity as identified by Contractor(s), and/or via the County's eLearning system. Contractor's DBH-funded providers shall be appropriately trained in providing services in a culturally sensitive manner and shall attend civil rights training as identified by Contractor(s), or online via the County's eLearning system.

Information on annual cultural responsiveness training requirements will be provided by the DBH Division Manager serving as Ethnic Services Manager and Diversity Services Coordinator. Both parties are working locally and at the state level to address the need for thorough training to improve culturally responsive care and to meet the National Culturally and Linguistically Appropriate Services standards, while also understanding the impact that the training hours can have on productivity in fee-for-service programs.

For additional information, they are to contact their assigned contract analyst.

DBH is available to assist Contractor's efforts toward cultural and linguistic responsiveness by providing the following:

- Technical assistance regarding culturally responsive training requirements.
- Mandatory cultural responsiveness training for Contractor's DBH-funded staff if training capacity allows.
- Technical assistance for translating information into County's threshold languages (currently Spanish and Hmong and subject to change). Selected Contractors are responsible for securing translation services and all

associated costs.

### **Health Insurance Portability and Accountability Act (HIPAA) Training**

Duration: May vary based on selected training

As a covered entity, or business associate of a covered entity, providers shall meet the training requirements described in the HIPAA Privacy Rule 45 CFR § 164.530(b)(1) and the HIPAA Security Rule 45 CFR § 164.308(a)(5). Providers may use their discretion to select an appropriate HIPAA training. Training shall be completed by all DBH-funded staff within 30 days of contract execution or hire and annually thereafter.

### **Language Assistance Program Training**

Contractor shall be responsible for implementing policies and procedures and training staff to ensure access and appropriate use of trained interpreters and material translation services for all Limited English Proficient (LEP) persons served. This includes, but is not limited to, assessing the cultural and linguistic needs of its persons served. The vendor(s) procedures shall include ensuring compliance of any sub-contracted providers with these requirements.

## **IV. Training Expectations for Contractor Employees when Attending County-provided Training**

### **Expectations for Attendees:**

- 1) Attendees are to adhere to wearing business casual attire, broadly defined as a code of dress that blends traditional business wear with a more relaxed style that is still professional and appropriate for an office environment, unless specifically directed otherwise or instructed by Trainers. Attendees are expected to dress in respectful, culturally inclusive attire.
- 2) Interested attendees shall register at least one week in advance of the training date.
- 3) Attendees shall be expected to be ready and prepared to be engaged by the training start time. Attendees are also expected to arrive back on time from breaks, including lunch, and attend the training through completion.
- 4) Attendees who arrive 15 minutes late, or more, shall be requested to return to their work site and their organization will be notified. Similarly, attendees may not leave a training prior to the scheduled end time. Those who miss 15 minutes or more of training in total throughout the day may be asked to re-enroll for a later training date if one is available.

- 5) Personal use of cell phones, laptops and tablets, except for in cases of emergency, should not be used during training and should be set to silent. Any calls shall be taken outside of the training space. Attendees shall inform trainers and/or Staff Development if they are expecting to be contacted for any reason; this shall be done before the training begins, if possible. Other cell phone use, such as texting, playing games or browsing the internet shall not be permitted while training is in session. If conduct is deemed disruptive to colleagues and/or the trainer, attendees shall be asked to leave the training and return to their work site. Organization will be notified.
- 6) At times, attendees shall be required to complete pre- and post-training class assignments, as part of the learning objectives. Attendees shall be required to complete assigned activities to receive Continuing Education Credits, and certification, and training credit, if applicable.
- 7) Attendees shall be expected to complete pre- and/or post-training evaluations, when available.
- 8) Attendees shall notify Staff Development with their supervisor copied at (559) 600-9680 or [DBHStaffDevelopment@fresnocountyca.gov](mailto:DBHStaffDevelopment@fresnocountyca.gov) at the earliest possible date if they can no longer attend a training for which they have registered.

## **Use of DBH Training Facilities**

### **Parking**

Attendees shall park in undesignated stalls at DBH training sites. Any parking restrictions shall be communicated prior to the training date or prior to the training start time.

### **Use of Facilities**

Attendees shall be respectful while occupying the training space, keeping it and the surrounding area neat and clean. Attendees are encouraged to bring a reusable water bottle but shall be cognizant of and clean any spills. If the training allows for food, attendees shall ensure that their area is clean and dispose of any waste prior to leaving the training space.



## Mental Health Program and Full-Service Partnership Outcomes

### **Data Gathering Methods**

Contractor shall adhere to the following outcome elements.

- \* Items indicated with a single asterisk will be collected via DBH's electronic health record (EHR) for all contracted providers.
- \*\* Items indicated with a double asterisk will be collected via DBH's EHR for full users only.
- \*\*\* Items below indicated with a triple asterisk are for internal quality improvement activities only; they are not intended for use in outcomes reporting.

*Contractors who opt to not fully utilize DBH's EHR will be responsible for collecting and reporting data points that are not collected by DBH's EHR. DBH will assist Contractor in reviewing the requirements below no more than once every quarter.*

### **Quality of Service**

1. Enrollment and Discharge
  - 1.1 The length of stay for individuals receiving services with the program\*
  - 1.2 The reason for discharge for individuals discharging from the program\*
2. No-Shows and Cancellations
  - 2.1 The count of services that resulted in a no-show (i.e., less than 24 hours' notice) by the person served\*\*
  - 2.2 The count of services that resulted in a cancellation (i.e., more than 24 hours' notice by the person served\*\*
  - 2.3 The count of services that resulted in a cancellation by the service provider\*\*

### **Quality of Clinical Care**

1. Service Delivery
  - 1.1 Average number of services provided to an individual by the program per week\*
  - 1.2 Average duration of services provided to an individual by the program\*
2. Care Coordination
  - 2.1 Referrals received by the Program from DBH and community partner agencies
    - 2.1.1 Agency sending referral
    - 2.1.2 Date of referral, date received, and date accepted/denied
    - 2.1.3 Disposition/outcomes of referral, including date of first offered service after receipt of referral from DBH

### **Safety of Clinical Care**

1. Grievances
  - 1.1 The count, category, and trends of grievances submitted by individuals regarding services at the Facility
2. Incident Reporting
  - 2.1 The count, category, and trends of incidents reported regarding individuals served by the Facility.

## Mental Health Program and Full-Service Partnership Outcomes

### **Member Experience**

1. Consumer Perception Survey/Treatment Perception Survey
  - 1.1 The program must comply with annual Consumer Perception Survey (MH) and/or Treatment Perception Survey (SUD) requirements
2. Feedback and Improvement Groups
  - 2.1 The program must, in coordination with the DBH Planning and Quality Management Division, offer persons served the opportunity to participate in member experience focus groups

### **Population Description**

1. Date of Birth/Age\*
2. Race/Ethnicity\*
3. Primary Language\*
4. Gender Identity\*
5. Sex-Assigned at Birth\*
6. Sexual Orientation\*
7. Diagnosis\*
8. Food Insecurity\*
9. Criminal Justice Involvement\*
10. Housing Status\*
11. Educational Attainment\*

### **Program-specific Goals/Outcomes:**

Contractor's performance shall be evaluated according to its scope of work goals and effectiveness indicators stated in Exhibit A. Other goals that Contractor shall be evaluated on by County DBH utilizing the following performance outcomes:

#### **Outcome Indicator #1**

Demonstrate a percentage decrease, or maintenance of lowest previously reported average number of psychiatric hospital admissions for persons served from the previous fiscal years.

#### **Outcome Indicator #2**

Demonstrate a percentage increase, or maintenance of the highest previously reported average number of step downs from STRTP placements to a lower level of care.

#### **Outcome Indicator #3**

Demonstrate a percentage decrease, or maintenance of the lowest previously reported average number of transitions to a higher level of care for persons served in outpatient treatment programs.

Notwithstanding changes and timelines implemented by legislation or Behavioral Health Information Notices, the Plan may also add additional required data elements with 30 days' notice to facilities.

## **STATE BEHAVIORAL HEALTH REQUIREMENTS**

### **1. CONTROL REQUIREMENTS**

The County and its subcontractors shall provide services in accordance with all applicable Federal and State statutes and regulations.

### **2. PROFESSIONAL LICENSURE**

All (professional level) persons employed by the County Mental Health Plan (directly or through contract) providing Short-Doyle/Medi-Cal services have met applicable professional licensure requirements pursuant to Business and Professions and Welfare and Institutions Codes.

### **3. CONFIDENTIALITY**

Contractor shall conform to and County shall monitor compliance with all State of California and Federal statutes and regulations regarding confidentiality, including but not limited to confidentiality of information requirements at 42, Code of Federal Regulations sections 2.1 *et seq*; California Welfare and Institutions Code, sections 14100.2, 11977, 11812, 5328; Division 10.5 and 10.6 of the California Health and Safety Code; Title 22, California Code of Regulations, section 51009; and Division 1, Part 2.6, Chapters 1-7 of the California Civil Code.

### **4. NON-DISCRIMINATION**

#### **A. Eligibility for Services**

Contractor shall prepare and make available to County and to the public all eligibility requirements to participate in the program plan set forth in the Agreement. No person shall, because of ethnic group identification, age, gender, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, political belief or sexual preference be excluded from participation, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal or State of California assistance.

#### **B. Employment Opportunity**

Contractor shall comply with County policy, and the Equal Employment Opportunity Commission guidelines, which forbids discrimination against any person on the grounds of race, color, national origin, sex, religion, age, disability status, or sexual preference in employment practices. Such practices include retirement, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer, rates of pay or other forms of compensation, use of facilities, and other terms and conditions of employment.

C. Suspension of Compensation

If an allegation of discrimination occurs, County may withhold all further funds, until Contractor can show clear and convincing evidence to the satisfaction of County that funds provided under this Agreement were not used in connection with the alleged discrimination.

D. Nepotism

Except by consent of County's Department of Behavioral Health Director, or designee, no person shall be employed by Contractor who is related by blood or marriage to, or who is a member of the Board of Directors or an officer of Contractor.

5. **PATIENTS' RIGHTS**

Contractor shall comply with applicable laws and regulations, including but not limited to, laws, regulations, and State policies relating to patients' rights.

**STATE CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the non-discrimination program requirements. (Gov. Code§ 12990 (a-f) and CCR, Title 2, Section 111 02) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
- 1) the dangers of drug abuse in the workplace;
  - 2) the person's or organization's policy of maintaining a drug-free workplace;
  - 3) any available counseling, rehabilitation and employee assistance programs; and,
  - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on this Agreement will:
- 1) receive a copy of the company's drug-free workplace policy statement; and,
  - 2) agree to abide by the terms of the company's statement as a condition of employment on this Agreement.

Failure to comply with these requirements may result in suspension of payments under this Agreement or termination of this Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two (2) year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. **CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:** Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. **SWEATFREE CODE OF CONDUCT:**

- a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on

the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

- b. Contractor agrees to cooperate fully in providing reasonable access to the Contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the Contractor's compliance with the requirements under paragraph (a).
7. **DOMESTIC PARTNERS:** For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code Section 10295.3.
8. **GENDER IDENTITY:** For contracts of \$100,000 or more, Contractor certifies that CONTRACTOR is in compliance with Public Contract Code Section 10295.35.

## **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST:** Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with this Agreement, the awarding agency shall be contacted immediately for clarification.

### **Current State Employees (Pub. Contract Code §10410):**

- a). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- b). No officer or employee shall contract on their own behalf as an independent Contractor with any state agency to provide goods or services.

### **Former State Employees (Pub. Contract Code §10411):**

- a). For the two (2) year period from the date they left state employment, no former state officer or employee may enter into a contract in which they engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

- b). For the twelve (12) month period from the date they left state employment, no former state officer or employee may enter into a contract with any state agency if they were employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve (12) month period prior to them leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

- 2. **LABOR CODE/WORKERS' COMPENSATION:** Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
- 3. **AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
- 4. **CONTRACTOR NAME CHANGE:** An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
- 5. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**
  - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the Contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
  - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate Contractor performing within the state not be subject to the franchise tax.
  - c. Both domestic and foreign corporations (those incorporated outside of California) shall be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. **RESOLUTION:** A County, city, district, or other local public body shall provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body, which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. **AIR OR WATER POLLUTION VIOLATION:** Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
8. **PAYEE DATA RECORD FORM STD. 204:** This form shall be completed by all Contractors that are not another state agency or other governmental entity.
9. **INSPECTION AND AUDIT OF RECORDS AND ACCESS TO FACILITIES:**

The State, CMS, the Office of the Inspector General, the Comptroller General, and their designees may, at any time, inspect and audit any records or documents of Contractor or its subcontractors, and may, at any time, inspect the premises, physical facilities, and equipment where Medicaid-related activities or work is conducted. The right to audit under this section exists for ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later.

**Federal database checks.**

Consistent with the requirements at § 455.436 of this chapter, the State shall confirm the identity and determine the exclusion status of Contractor, any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of Contractor through routine checks of Federal databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), and any other databases as the State or Secretary may prescribe. These databases shall be consulted upon contracting and no less frequently than monthly thereafter. If the State finds a party that is excluded, it shall promptly notify the Contractor and take action consistent with § 438.610(c).

The State shall ensure that Contractor with which the State contracts under this part is not located outside of the United States and that no claims paid by a Contractor to a network provider, out-of-network provider, subcontractor or financial institution located outside of the U.S. are considered in the development of actuarially sound capitation rates.



**CALIFORNIA ADVANCING AND INNOVATING MEDI-CAL (CAL-AIM)  
REQUIREMENTS**

**1. SERVICES AND ACCESS PROVISIONS**

**a. CERTIFICATION OF ELIGIBILITY**

- i. Contractor will, in cooperation with County, comply with Section 14705.5 of California Welfare and Institutions Code to obtain a certification of an individual's eligibility for Specialty Mental Health Services (SMHS) under Medi-Cal.

**b. ACCESS TO SPECIALTY MENTAL HEALTH SERVICES**

- i. In collaboration with the County, Contractor will work to ensure that individuals to whom the Contractor provides SMHS meet access criteria, as per Department of Health Care Services (DHCS) guidance specified in Behavioral Health Information Notice (BHIN) 21-073. Specifically, the Contractor will ensure that the clinical record for each individual includes information as a whole indicating that individual's presentation and needs are aligned with the criteria applicable to their age at the time of service provision as specified below.
- ii. For enrolled individuals under 21 years of age, Contractor shall provide all medically necessary SMHS required pursuant to Section 1396d(r) of Title 42 of the United States Code. Covered SMHS shall be provided to enrolled individuals who meet either of the following criteria, (I) or (II) below. If an individual under age 21 meets the criteria as described in (I) below, the beneficiary meets criteria to access SMHS; it is not necessary to establish that the beneficiary also meets the criteria in (b) below.
  1. The individual has a condition placing them at high risk for a mental health disorder due to experience of trauma evidenced by any of the following: scoring in the high-risk range under a trauma screening tool approved by DHCS, involvement in the child welfare system, juvenile justice involvement, or experiencing homelessness.

OR

  2. The individual has at least one of the following:
    - a. A significant impairment
    - b. A reasonable probability of significant deterioration in an important area of life functioning
    - c. A reasonable probability of not progressing developmentally as appropriate.
    - d. A need for SMHS, regardless of presence of impairment, that are not included within the mental health benefits that a Medi-Cal Managed Care Plan (MCP) is required to provide.

**AND** the individual's condition as described in subparagraph (II a-d) above is due to one of the following:

- a. A diagnosed mental health disorder, according to the criteria in the current editions of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases and Related Health Problems (ICD).
    - b. A suspected mental health disorder that has not yet been diagnosed.
    - c. Significant trauma placing the individual at risk of a future mental health condition, based on the assessment of a licensed mental health professional.
  - iii. For individuals 21 years of age or older, Contractor shall provide covered SMHS for persons served who meet both of the following criteria, (a) and (b) below:
    - 1. The individual has one or both of the following:
      - a. Significant impairment, where impairment is defined as distress, disability, or dysfunction in social, occupational, or other important activities.
      - b. A reasonable probability of significant deterioration in an important area of life functioning.
    - 2. The individual's condition as described in paragraph (a) is due to either of the following:
      - a. A diagnosed mental health disorder, according to the criteria in the current editions of the DSM and ICD.
      - b. A suspected mental disorder that has not yet been diagnosed.
- c. ADDITIONAL CLARIFICATIONS
  - i. Criteria
    - 1. A clinically appropriate and covered mental health prevention, screening, assessment, treatment, or recovery service listed within Exhibit A of this Agreement can be provided and submitted to the County for reimbursement under any of the following circumstances:
      - a. The services were provided prior to determining a diagnosis, including clinically appropriate and covered services provided during the assessment process;
      - b. The service was not included in an individual treatment plan; or
      - c. The individual had a co-occurring substance use disorder.
  - ii. Diagnosis Not a Prerequisite
    - 1. Per BHIN 21-073, a mental health diagnosis is not a prerequisite for access to covered SMHS. This does not eliminate the requirement that all Medi-Cal claims, including SMHS claims, include a current Centers for

Medicare & Medicaid Services (CMS) approved ICD  
diagnosis code

d. MEDICAL NECESSITY

- i. Contractor will ensure that services provided are medically necessary in compliance with BHIN 21-073 and pursuant to Welfare and Institutions Code section 14184.402(a). Services provided to a person served shall be medically necessary and clinically appropriate to address the individual's presenting condition. Documentation in each individual's chart as a whole will demonstrate medical necessity as defined below, based on the age of the individual at the time of service provision.
- ii. For individuals 21 years of age or older, a service is "medically necessary" or a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain as set forth in Welfare and Institutions Code section 14059.5.
- iii. For individuals under 21 years of age, a service is "medically necessary" or a "medical necessity" if the service meets the standards set forth in Section 1396d(r)(5) of Title 42 of the United States Code.

e. COORDINATION OF CARE

- i. Contractor shall ensure that all care, treatment and services provided pursuant to this Agreement are coordinated among all providers who are serving the individual, including all other SMHS providers, as well as providers of Non-Specialty Mental Health Services (NSMHS), substance use disorder treatment services, physical health services, dental services, regional center services and all other services as applicable to ensure a person served-centered and whole-person approach to services.
- ii. Contractor shall ensure that care coordination activities support the monitoring and treatment of comorbid substance use disorder and/or health conditions.
- iii. Contractor shall include in care coordination activities efforts to connect, refer and link individual s to community-based services and supports, including but not limited to educational, social, prevocational, vocational, housing, nutritional, criminal justice, transportation, childcare, child development, family/marriage education, cultural sources, and mutual aid support groups.
- iv. Contractor shall engage in care coordination activities beginning at intake and throughout the treatment and discharge planning processes.
- v. To facilitate care coordination, Contractor will request a HIPAA and California law compliant person served authorization to share the individual's information with and among all other providers involved in the individual's care, in satisfaction of state and federal privacy laws and regulations.

f. CO-OCCURRING TREATMENT AND NO WRONG DOOR

- i. Per BHIN 22-011, Specialty and Non-Specialty Mental Health Services can be provided concurrently, if those services are clinically appropriate, coordinated, and not duplicative. When a person served meets criteria for both NSMHS and SMHS, the individual should receive services based on individual clinical need and established therapeutic relationships. Clinically appropriate and covered SMHS can also be provided when the individual has a co-occurring mental health condition and substance use disorder.
- ii. Under this Agreement, Contractor will ensure that individual s receive timely mental health services without delay. Services are reimbursable to Contractor by County even when:
  - 1. Services are provided prior to determination of a diagnosis, during the assessment or prior to determination of whether SMHS access criteria are met, even if the assessment ultimately indicates the individual does not meet criteria for SMHS.
  - 2. If Contractor is serving a individual receiving both SMHS and NSMHS, Contractor holds responsibility for documenting coordination of care and ensuring that services are non-duplicative.

## **2. AUTHORIZATION AND DOCUMENTATION PROVISIONS**

### **a. SERVICE AUTHORIZATION**

- i. Contractor will collaborate with County to complete authorization requests in line with County and DHCS policy.
- ii. Contractor shall have in place, and follow, written policies and procedures for completing requests for initial and continuing authorizations of services, as required by County guidance.
- iii. Contractor shall respond to County in a timely manner when consultation is necessary for County to make appropriate authorization determinations.
- iv. County shall provide Contractor with written notice of authorization determinations within the timeframes set forth in BHINs 22-016 and 22-017, or any subsequent DHCS notices.
- v. Contractor shall alert County when an expedited authorization decision (no later than 72 hours) is necessary due to an individual's specific needs and circumstances that could seriously jeopardize the individual s life or health, or ability to attain, maintain, or regain maximum function.

### **b. DOCUMENTATION REQUIREMENTS**

- i. Contractor will follow all documentation requirements as specified in Article 4.2-4.8 inclusive in compliance with federal, state and County requirements.
- ii. All Contractor documentation shall be accurate, complete, and legible, shall list each date of service, and include the face-to-face time for each service. Contractor shall document travel and documentation time for each service separately from face-to-face

time and provide this information to County upon request. Services shall be identified as provided in-person, by telephone, or by telehealth.

- iii. All services shall be documented utilizing County-approved templates and contain all required elements. Contractor agrees to satisfy the chart documentation requirements set forth in BHIN 22-019 and the contract between County and DHCS. Failure to comply with documentation standards specified in this Article require corrective action plans.

c. ASSESSMENT

- i. Contractor shall ensure that all individuals' medical records include an assessment of each individual's need for mental health services.
- ii. Contractor will utilize the seven uniform assessment domains and include other required elements as identified in BHIN 22-019 and document the assessment in the individual's medical record.
- iii. For individual s aged 6 through 20, the Child and Adolescent Needs and Strengths (CANS), and for individual s aged 3 through 18, the Pediatric Symptom Checklist-35 (PSC-35) tools are required at intake, every six months during treatment, and at discharge, as specified in DHCS MHSUDS INs 17-052 and 18-048.
- iv. The time period for providers to complete an initial assessment and subsequent assessments for SMHS are up to clinical discretion of County; however, Contractor's providers shall complete assessments within a reasonable time and in accordance with generally accepted standards of practice.

d. ICD-10

- i. Contractor shall use the criteria set forth in the current edition of the DSM as the clinical tool to make diagnostic determinations.
- ii. Once a DSM diagnosis is determined, the Contractor shall determine the corresponding mental health diagnosis in the current edition of ICD. Contractor shall use the ICD diagnosis code(s) to submit a claim for SMHS to receive reimbursement from County.
- iii. The ICD Tabular List of Diseases and Injuries is maintained by CMS and may be updated during the term of this Agreement. Changes to the lists of ICD diagnoses do not require an amendment to this Agreement, and County may implement these changes as provided by CMS

e. PROBLEM LIST

- i. Contractor will create and maintain a Problem List for each individual served under this Agreement. The problem list is a list of symptoms, conditions, diagnoses, and/or risk factors identified through assessment, psychiatric diagnostic evaluation, crisis encounters, or other types of service encounters.

- ii. Contractor shall document a problem list that adheres to industry standards utilizing at minimum current SNOMED International, Systematized Nomenclature of Medicine Clinical Terms (SNOMED CT®) U.S. Edition, September 2022 Release, and ICD-10-CM 2023.
- iii. A problem identified during a service encounter may be addressed by the service provider during that service encounter and subsequently added to the problem list.
- iv. The problem list shall include, but is not limited to, all elements specified in BHIN 22-019.
- v. County does not require the problem list to be updated within a specific timeframe or have a requirement about how frequently the problem list should be updated after a problem has initially been added. However, Contractor shall update the problem list within a reasonable time such that the problem list reflects the current issues facing the person served, in accordance with generally accepted standards of practice and in specific circumstances specified in BHIN 22-019.

f. TREATMENT AND CARE PLANS

- i. Contractor is not required to complete treatment or care plans for persons served under this Agreement, except in the circumstances specified in BHIN 22-019 and additional guidance from DHCS that may follow after execution of this Agreement.

g. PROGRESS NOTES

- i. Contractor shall create progress notes for the provision of all SMHS services provided under this Agreement.
- ii. Each progress note shall provide sufficient detail to support the service code selected for the service type as indicated by the service code description.
- iii. Progress notes shall include all elements specified in BHIN 22-019, whether the note be for an individual or a group service.
- iv. Contractor shall complete progress notes within three business days of providing a service, with the exception of notes for crisis services, which shall be completed within 24 hours.
- v. Providers shall complete a daily progress note for services that are billed on a daily basis, such as residential and day treatment services, if applicable.

h. TRANSITION OF CARE TOOL

- i. Contractor shall use a Transition of Care Tool for any individual whose existing services will be transferred from Contractor to an Medi-Cal Managed Care Plan (MCP) provider or when NSMHS will be added to the existing mental health treatment provided by Contractor, as specified in BHIN 22-065, in order to ensure continuity of care.
- ii. Determinations to transition care or add services from an MCP shall be made in alignment with County policies and via a person-centered, shared decision-making process.

- iii. Contractor may directly use the DHCS-provided Transition of Care Tool, found at <https://www.dhcs.ca.gov/Pages/Screening-and-Transition-of-Care-Tools-for-Medi-Cal-Mental-Health-Services.aspx>, or obtain a copy of that tool provided by the County. Contractor may create the Transition of Care Tool in its Electronic Health Record (EHR). However, the contents of the Transition of Care Tool, including the specific wording and order of fields, shall remain identical to the DHCS provided form. The only exception to this requirement is when the tool is translated into languages other than English.

- i. **TELEHEALTH**

- i. Contractor may use telehealth, when it deems clinically appropriate, as a mode of delivering behavioral health services in accordance with all applicable County, state, and federal requirements, including those related to privacy/security, efficiency, and standards of care. Such services will conform to the definitions and meet the requirements included in the Medi-Cal Provider Manual: Telehealth, available in the DHCS Telehealth Resources page at: <https://www.dhcs.ca.gov/provgovpart/Pages/TelehealthResources.aspx>.
- ii. All telehealth equipment and service locations shall ensure that person served confidentiality is maintained.
- iii. Licensed providers and staff may provide services via telephone and telehealth as long as the service is within their scope of practice.
- iv. Medical records for individuals served by Contractor under this Agreement shall include documentation of written or verbal consent for telehealth or telephone services if such services are provided by Contractor. Such consent shall be obtained at least once prior to initiating applicable health care services and consent shall include all elements as specified in BHIN 22-019.
- v. County may at any time audit Contractor's telehealth practices, and Contractor shall allow access to all materials needed to adequately monitor Contractor's adherence to telehealth standards and requirements.

### **3. PROTECTIONS FOR PERSONS SERVED**

- a. **GRIEVANCES, APPEALS AND NOTICES OF ADVERSE BENEFIT DETERMINATION**

- i. All grievances (as defined by 42 C.F.R. § 438.400) and complaints received by Contractor shall be immediately forwarded to the County's DBH Plan Administration Division or other designated persons via a secure method (e.g., encrypted email or by fax) to allow ample time for the DBH Plan Administration staff to acknowledge receipt of the grievance and complaints and issue appropriate responses.

- ii. Contractor shall not discourage the filing of grievances and individuals do not need to use the term “grievance” for a complaint to be captured as an expression of dissatisfaction and, therefore, a grievance.
  - iii. Aligned with MHSUDS IN 18-010E and 42 C.F.R. §438.404, the appropriate and delegated Notice of Adverse Benefit Determination (NOABD) shall be issued by Contractor within the specified timeframes using the template provided by the County.
  - iv. NOABDs shall be issued to individuals anytime the Contractor has made or intends to make an adverse benefit determination that includes the reduction, suspension, or termination of a previously authorized service and/or the failure to provide services in a timely manner. The notice shall have a clear and concise explanation of the reason(s) for the decision as established by DHCS and the County. The Contractor shall inform the County immediately after issuing a NOABD.
  - v. Procedures and timeframes for responding to grievances, issuing and responding to adverse benefit determinations, appeals, and state hearings shall be followed as per 42 C.F.R., Part 438, Subpart F (42 C.F.R. §§ 438.400 – 438.424).
  - vi. Contractor shall provide individuals any reasonable assistance in completing forms and taking other procedural steps related to a grievance or appeal such as auxiliary aids and interpreter services.
  - vii. Contractor shall maintain records of grievances and appeals and shall review the information as part of its ongoing monitoring procedures. The record shall be accurately maintained in a manner accessible to the County and available upon request to DHCS.
- b. Advanced Directives
- i. Contractor shall comply with all County policies and procedures regarding Advanced Directives in compliance with the requirements of 42 C.F.R. §§ 422.128 and 438.6(i) (I), (3) and (4).
- c. Continuity of Care
- i. Contractor shall follow the County’s continuity of care policy that is in accordance with applicable state and federal regulations, MHSUDS IN 18-059 and any BHINs issued by DHCS for parity in mental health and substance use disorder benefits subsequent to the effective date of this Agreement (42 C.F.R. § 438.62(b)(1)-(2).)

#### **4. QUALITY IMPROVEMENT PROGRAM**

- a. QUALITY IMPROVEMENT ACTIVITIES AND PARTICIPATION
  - i. Contractor shall implement mechanisms to assess person served/family satisfaction based on County’s guidance. The Contractor shall assess individual/family satisfaction by:
    - 1. Surveying person served/family satisfaction with the Contractor’s services at least annually.



2. Evaluating person served's grievances, appeals and State Hearings at least annually.
  3. Evaluating requests to change persons providing services at least annually.
  4. Informing the County and individuals of the results of persons served/family satisfaction activities.
- ii. Contractor, if applicable, shall implement mechanisms to monitor the safety and effectiveness of medication practices. This mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs, at least annually and as required by DBH.
  - iii. Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually and shared with the County.
  - iv. Contractor shall assist County, as needed, with the development and implementation of Corrective Action Plans.
  - v. Contractor shall collaborate with County to create a QI Work Plan with documented annual evaluations and documented revisions as needed. The QI Work Plan shall evaluate the impact and effectiveness of its quality assessment and performance improvement program.
  - vi. Contractor shall attend and participate in the County's Quality Improvement Committee (QIC) to recommend policy decisions, review and evaluate results of QI activities, including PIPs, institute needed QI actions, and ensure follow-up of QI processes. Contractor shall ensure that there is active participation by the Contractor's practitioners and providers in the QIC.
  - vii. Contractor shall participate, as required, in annual, independent external quality reviews (EQR) of the quality, timeliness, and access to the services covered under this Contract, which are conducted pursuant to Subpart E of Part 438 of the Code of Federal Regulations. (42 C.F.R. §§ 438.350(a) and 438.320)

b. TIMELY ACCESS

- i. Timely access standards include:
  1. Contractor shall have hours of operation during which services are provided to Medi-Cal individuals that are no less than the hours of operation during which the provider offers services to non-Medi-Cal individuals. If the Contractor's provider only serves Medi-Cal beneficiaries, the provider shall provide hours of operation comparable to the hours the provider makes available for Medi-Cal services that are not covered by the Agreement or another County.
  2. Appointments data, including wait times for requested services, shall be recorded and tracked by Contractor, and submitted to the County on a monthly basis in a format

specified by the County. Appointments' data should be submitted to the County's Planning and Quality Management Division or other designated persons.

3. Urgent care appointments for services that do not require prior authorization shall be provided to individuals within 48 hours of a request. Urgent appointments for services that do require prior authorization shall be provided to persons served within 96 hours of request.
4. Non-urgent non-psychiatry mental health services, including, but not limited to Assessment, Targeted Case Management, and Individual and Group Therapy appointments (for both adult and children/youth) shall be made available to Medi-Cal individuals within 10 business days from the date the individual or a provider acting on behalf of the individual, requests an appointment for a medically necessary service. Non-urgent psychiatry appointments (for both adult and children/youth) shall be made available to Medi-Cal individuals within 15 business days from the date the person served or a provider acting on behalf of the individual, requests an appointment for a medically necessary service.
5. Applicable appointment time standards may be extended if the referring or treating provider has determined and noted in the individual's record that a longer waiting period will not have a detrimental impact on the health of the individual.
6. Periodic office visits to monitor and treat mental health conditions may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed mental health provider acting within the scope of their practice.

c. PROVIDER APPLICATION AND VALIDATION FOR ENROLLMENT (PAVE)

- i. Contractor shall ensure that all of its required clinical staff, who are rendering SMHS to Medi-Cal individuals on behalf of Contractor, are registered through DHCS' Provider Application and Validation for Enrollment (PAVE) portal, pursuant to BHIN 20-071 requirements, the 21st Century Cures Act and the CMS Medicaid and Children's Health Insurance Program (CHIP) Managed Care Final Rule.
- ii. SMHS licensed individuals required to enroll via the "Ordering, Referring and Prescribing" (ORP) PAVE enrollment pathway (i.e. PAVE application package) available through the DHCS PED Pave Portal, include: Licensed Clinical Social Worker (LCSW), Licensed Marriage and Family Therapist (LMFT), Licensed Professional Clinical Counselor (LPCC), Psychologist, Licensed Educational Psychologist, Physician (MD and DO), Physician Assistant, Registered Pharmacist/Pharmacist, Certified Pediatric/Family Nurse Practitioner, Nurse Practitioner,

Occupational Therapist, and Speech-Language Pathologist.  
Interns, trainees, and associates are not eligible for enrollment.

d. PHYSICIAN INCENTIVE PLAN

- i. If Contractor wants to institute a Physician Incentive Plan, Contractor shall submit the proposed plan to the County which will in turn submit the Plan to the State for approval, in accordance with the provisions of 42 C.F.R. § 438.6(c).

**5. DATA, PRIVACY AND SECURITY REQUIREMENTS**

a. ELECTRONIC PRIVACY AND SECURITY

- i. Contractor shall have a secure email system and send any email containing PII or PHI in a secure and encrypted manner. Contractor's email transmissions shall display a warning banner stating that data is confidential, systems activities are monitored and logged for administrative and security purposes, systems use is for authorized users only, and that users are directed to log off the system if they do not agree with these requirements.
- ii. Contractor shall institute compliant password management policies and procedures, which shall include but not be limited to procedures for creating, changing, and safeguarding passwords. Contractor shall establish guidelines for creating passwords and ensuring that passwords expire and are changed at least once every 90 days.
- iii. Any Electronic Health Records (EHRs) maintained by Contractor that contain PHI or PII for individuals served through this Agreement shall contain a warning banner regarding the PHI or PII contained within the EHR. Contractors that utilize an EHR shall maintain all parts of the clinical record that are not stored in the EHR, including but not limited to the following examples of person served signed documents: discharge plans, informing materials, and health questionnaire.
- iv. Contractor entering data into any County electronic systems shall ensure that staff are trained to enter and maintain data within this system.

**6. PROGRAM INTEGRITY**

a. Credentialing and Re-credentialing of Providers

- i. Contractor shall ensure that all of their network providers delivering covered services, sign and date an attestation statement on a form provided by County, in which each provider attests to the following:
  1. Any limitations or inabilities that affect the provider's ability to perform any of the position's essential functions, with or without accommodation;
  2. A history of loss of license or felony convictions;
  3. A history of loss or limitation of privileges or disciplinary activity;

4. A lack of present illegal drug use; and
  5. The application's accuracy and completeness
- ii. Contractor shall file and keep track of attestation statements, credentialing applications and credentialing status for all of their providers and shall make those available to the County upon request at any time.
  - iii. Contractor is required to sign an annual attestation statement at the time of Agreement renewal in which they will attest that they will follow County's Credentialing Policy and MHSUDS IN 18-019 and ensure that all of their rendering providers are credentialed as per established guidelines.

## **Electronic Health Record Requirements and Service Data**

Contractor will provide accurate and timely input of services provided in the County's Electronic Health Record (EHR). The current EHR is a web-based application and requires a computer with a minimum of 16 GB RAM using either Edge or Chrome as the browser, and a stable high speed internet connection. Additional drivers may be needed to scan documents into the EHR. Contractor will be responsible for equipment to support the using of the EHR. Contractor may be required to utilize data entry forms, portals, or related systems for compliance with County data reporting requirements during the duration of this Agreement.

Data entry shall be the responsibility of the Contractor. The County shall monitor the number and amount of services entered into the EHR. Any and all audit exceptions resulting from the provision and billing of Medi-Cal services by the Contractor shall be the sole responsibility of the Contractor.

Contractor will utilize the County's EHR for all Behavioral Health Plan billing and reporting functions and may elect to utilize the County's EHR for all clinical documentation, at no additional cost to Contractor.

If Contractor elects to not use the County's EHR for all clinical documentation, the Contractor must ensure all necessary requirements involving electronic health information exchange between the Contractor and the County will be met.

## **Fresno County Mental Health Plan Compliance Program**

### **CODE OF CONDUCT:**

All Fresno County Behavioral/Mental Health Employees, Contractors (including Contractor's Employees/Subcontractors), Volunteers and Students will:

1. Read, acknowledge, and abide by this Code of Conduct.
2. Be responsible for reviewing and understanding Compliance Program policies and procedures including the possible consequences for failure to comply or failure to report such non-compliance.
3. NOT engage in any activity in violation of the County's Compliance Program, nor engage in any other conduct which violates any applicable law, regulation, rule, or guideline. Conduct yourself honestly, fairly, courteously, and with a high degree of integrity in your professional dealings related to their employment/contract with the County and avoid any conduct that could reasonably be expected to reflect adversely upon the integrity of the County and the services it provides.
4. Practice good faith in transactions occurring during the course of business and never use or exploit professional relationships or confidential information for personal purposes.
5. Promptly report any activity or suspected violation of the Code of Conduct, the policies and procedures of the County, the Compliance Program, or any other applicable law, regulation, rule or guideline. All reports may be made anonymously. Fresno County prohibits retaliation against any person making a report. Any person engaging in any form of retaliation will be subject to disciplinary or other appropriate action by the County.
6. Comply with not only the letter of Compliance Program and mental health policies and procedures, but also with the spirit of those policies and procedures as well as other rules or guidelines adopted by the County. Consult with your supervisor or the Compliance Office regarding any Compliance Program standard or other applicable law, regulation, rule or guideline.
7. Comply with all laws governing the confidentiality and privacy of information. Protect and retain records and documents as required by County contract/standards, professional standards, governmental regulations, or organizational policies.
8. Comply with all applicable laws, regulations, rules, guidelines, and County policies and procedures when providing and billing mental health services. Bill only for eligible services actually rendered and fully documented. Use billing codes that accurately describe the services provided. Ensure that no false, fraudulent, inaccurate, or fictitious claims for payment or reimbursement of any kind are prepared or submitted. Ensure that claims are prepared and submitted accurately and timely and are consistent with all applicable laws, regulations, rules and guidelines. Act promptly to investigate and correct problems if errors in claims or billings are discovered.
9. Immediately notify your supervisor, Department Head, Administrator, or the Compliance Office if you become or may become an Ineligible/Excluded Person and therefore excluded from participation in the Federal health care programs.

## **Health Insurance Portability and Accountability Act (HIPAA)**

### **Business Associate Agreement**

1. The County is a “Covered Entity,” and the Contractor is a “Business Associate,” as these terms are defined by 45 CFR 160.103. In connection with providing services under the Agreement, the parties anticipate that the Contractor will create and/or receive Protected Health Information (“PHI”) from or on behalf of the County. The parties enter into this Business Associate Agreement (BAA) to comply with the Business Associate requirements of HIPAA, to govern the use and disclosures of PHI under this Agreement. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.

2. The parties to this Agreement shall be in strict conformance with all applicable federal and State of California laws and regulations, including, but not limited to California Welfare and Institutions Code sections 5328, 10850, and 14100.2 *et seq.*; 42 CFR 2; 42 CFR 431; California Civil Code section 56 *et seq.*; the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), including, but not limited to, 45 CFR Parts 160, 45 CFR 162, and 45 CFR 164; the Health Information Technology for Economic and Clinical Health Act (“HITECH”) regarding the confidentiality and security of patient information, including, but not limited to 42 USC 17901 *et seq.*; and the Genetic Information Nondiscrimination Act (“GINA”) of 2008 regarding the confidentiality of genetic information.

3. Except as otherwise provided in this Agreement, the Contractor, as a business associate of the County, may use or disclose Protected Health Information (“PHI”) to perform functions, activities or services for or on behalf of the County, as specified in this Agreement, provided that such use or disclosure shall not violate HIPAA Rules. The uses and disclosures of PHI may not be more expansive than those applicable to the County, as the “Covered Entity” under the HIPAA Rules, except as authorized for management, administrative or legal responsibilities of the Contractor.

4. Contractor shall protect, from unauthorized access, use, or disclosure of names and other identifying information concerning persons receiving services pursuant to this Agreement, except where permitted in order to carry out data aggregation purposes for health

care operations. (45 CFR Sections 164.504 (e)(2)(i), 164.504 (3)(2)(ii)(A), and 164.504 (e)(4)(i).) This pertains to any and all persons receiving services pursuant to a County funded program. Contractor shall not use such identifying information for any purpose other than carrying out Contractor's obligations under this Agreement.

5. Contractor shall not disclose any such identifying information to any person or entity, except as otherwise specifically permitted by this Agreement, authorized by law, or authorized by the client/patient.

6. For purposes of the above sections, 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.

7. Contractor shall provide access, at the request of County, and in the time and manner designated by County, to PHI in a designated record set (as defined in 45 CFR Section 164.501), to an individual or to County in order to meet the requirements of 45 CFR Section 164.524 regarding access by individuals to their PHI.

Contractor shall make any amendment(s) to PHI in a designated record set at the request of County, and in the time and manner designated by County in accordance with 45 CFR Section 164.526.

Contractor shall provide to County or to an individual, in a time and manner designated by County, information collected in accordance with 45 CFR Section 164.528, to permit County to respond to a request by the individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

8. Contractor shall report to County, in writing, any knowledge or reasonable belief that there has been unauthorized access, viewing, use, disclosure, or breach of PHI not permitted by this Agreement, and any breach of unsecured PHI of which it becomes aware, immediately and without reasonable delay and in no case later than two (2) business days of discovery. Immediate notification shall be made to County's Information Security Officer and Privacy Officer and DBH's HIPAA Representative, within two (2) business days of discovery. The notification shall include, to the extent possible, the identification of each individual whose



unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, used, disclosed, or breached. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State Laws and regulations. Contractor shall investigate such breach and is responsible for all notifications required by law and regulation or deemed necessary by County and shall provide a written report of the investigation and reporting required to County's Information Security Officer and Privacy Officer and DBH's HIPAA Representative. This written investigation and description of any reporting necessary shall be postmarked within the thirty (30) working days of the discovery of the breach to the addresses below:

County of Fresno  
Department of Public Health  
HIPAA Representative  
(559) 600-6439  
P.O. Box 11867  
Fresno, California 93775

County of Fresno  
Department of Public Health  
Privacy Officer  
(559) 600-6405  
P.O. Box 11867  
Fresno, California 93775

County of Fresno  
Department of Internal  
Services  
Information Security Officer  
(559) 600-5800  
2048 North Fine Street  
Fresno, California 93727

9. Contractor shall make its internal practices, books, and records relating to the use and disclosure of PHI received from County, or created or received by the Contractor on behalf of County, available to the United States Department of Health and Human Services upon demand.

10. Safeguards

Contractor shall implement administrative, physical, and technical safeguards as required by 45 CFR 164.308, 164.310, and 164.312 that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI, including electronic PHI, that it creates, receives, maintains or transmits on behalf of County; and to prevent access, use or disclosure of PHI other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities. Upon County's request, Contractor shall provide County with information concerning such safeguards.

Contractor shall implement strong access controls and other security safeguards and precautions in order to restrict logical and physical access to confidential, personal (e.g., PHI) or sensitive data to authorized users only.

11. Mitigation of Harmful Effects

Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor of an unauthorized access, viewing, use, disclosure, or breach of PHI by Contractor or its subcontractors in violation of the requirements of these provisions.

12. Contractor's Subcontractors

Contractor shall ensure that any of its subcontractors, if applicable, to whom Contractor provides PHI received from or created or received by Contractor on behalf of County, agree to the same restrictions and conditions that apply to Contractor with respect to such PHI; and to incorporate, when applicable, the relevant provisions of these provisions into each subcontract or sub-award to such subcontractors.

13. Effect of Termination

Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all PHI received from County (or created or received by Contractor on behalf of County) that Contractor still maintains in any form, and shall retain no copies of such PHI. If return or destruction of PHI is not feasible, it shall continue to extend the protections of these provisions to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents, if applicable, of Contractor. If Contractor destroys the PHI data, a certification of date and time of destruction shall be provided to the County by Contractor.

14. Interpretation

The terms and conditions in these provisions shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of these provisions shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA

regulations.

15. Regulatory References

A reference in the terms and conditions of these provisions to a section in the HIPAA regulations means the section as in effect or as amended.

16. Survival

The respective rights and obligations of Contractor as stated in this Section shall survive the termination or expiration of this Agreement.

## **National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care**

*The National CLAS Standards are intended to advance health equity, improve quality, and help eliminate health care disparities by establishing a blueprint for health and health care organizations to:*

### **Principal Standard:**

1. Provide effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs.

### **Governance, Leadership, and Workforce:**

2. Advance and sustain organizational governance and leadership that promotes CLAS and health equity through policy, practices, and allocated resources.
3. Recruit, promote, and support a culturally and linguistically diverse governance, leadership, and workforce that are responsive to the population in the service area.
4. Educate and train governance, leadership, and workforce in culturally and linguistically appropriate policies and practices on an ongoing basis.

### **Communication and Language Assistance:**

5. Offer language assistance to individuals who have limited English proficiency and/or other communication needs, at no cost to them, to facilitate timely access to all health care and services.
6. Inform all individuals of the availability of language assistance services clearly and in their preferred language, verbally and in writing.
7. Ensure the competence of individuals providing language assistance, recognizing that the use of untrained individuals and/or minors as interpreters should be avoided.
8. Provide easy-to-understand print and multimedia materials and signage in the languages commonly used by the populations in the service area.

### **Engagement, Continuous Improvement, and Accountability:**

9. Establish culturally and linguistically appropriate goals, policies, and management accountability, and infuse them throughout the organization's planning and operations.
10. Conduct ongoing assessments of the organization's CLAS-related activities and integrate CLAS-related measures into measurement and continuous quality improvement activities.
11. Collect and maintain accurate and reliable demographic data to monitor and evaluate the impact of CLAS on health equity and outcomes and to inform service delivery.
12. Conduct regular assessments of community health assets and needs and use the results to plan and implement services that respond to the cultural and linguistic diversity of populations in the service area.
13. Partner with the community to design, implement, and evaluate policies, practices, and services to ensure cultural and linguistic appropriateness.
14. Create conflict and grievance resolution processes that are culturally and linguistically appropriate to identify, prevent, and resolve conflicts or complaints.
15. Communicate the organization's progress in implementing and sustaining CLAS to all stakeholders, constituents, and the general public.

## The Case for the Enhanced National CLAS Standards

*Of all the forms of inequality, injustice in health care is the most shocking and inhumane.*

— Dr. Martin Luther King, Jr.

Health equity is the attainment of the highest level of health for all people (U.S. Department of Health and Human Services [HHS] Office of Minority Health, 2011). Currently, individuals across the United States from various cultural backgrounds are unable to attain their highest level of health for several reasons, including the social determinants of health, or those conditions in which individuals are born, grow, live, work, and age (World Health Organization, 2012), such as socioeconomic status, education level, and the availability of health services (HHS Office of Disease Prevention and Health Promotion, 2010). Though health inequities are directly related to the existence of historical and current discrimination and social injustice, one of the most modifiable factors is the lack of culturally and linguistically appropriate services, broadly defined as care and services that are respectful of and responsive to the cultural and linguistic needs of all individuals.

Health inequities result in disparities that directly affect the quality of life for all individuals. Health disparities adversely affect neighborhoods, communities, and the broader society, thus making the issue not only an individual concern but also a public health concern. In the United States, it has been estimated that the combined cost of health disparities and subsequent deaths due to inadequate and/or inequitable care is \$1.24 trillion (LaVeist, Gaskin, & Richard, 2009). Culturally and linguistically appropriate services are increasingly recognized as effective in improving the quality of care and services (Beach et al., 2004; Goode, Dunne, & Bronheim, 2006). By providing a structure to implement culturally and linguistically appropriate services, the enhanced National CLAS Standards will improve an organization's ability to address health care disparities.

The enhanced National CLAS Standards align with the HHS Action Plan to Reduce Racial and Ethnic Health Disparities (HHS, 2011) and the National Stakeholder Strategy for Achieving Health Equity (HHS National Partnership for Action to End Health Disparities, 2011), which aim to promote health equity through providing clear plans and strategies to guide collaborative efforts that address racial and ethnic health disparities across the country. Similar to these initiatives, the enhanced National CLAS Standards are intended to advance health equity, improve quality, and help eliminate health care disparities by providing a blueprint for individuals and health and health care organizations to implement culturally and linguistically appropriate services. Adoption of these Standards will help advance better health and health care in the United States.

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## **Fresno County Department of Behavioral Health Financial Terms and Conditions**

Fresno County Department of Behavioral Health is committed to ensuring timely and accurate compensation for the delivery of services in our communities and fulfilling all associated responsibilities of the funding sources related to this Agreement. This document provides guidance on this Agreement's financial terms and conditions, responsibilities of each party, which includes but not limited to, maximum compensation, compensation structure, invoicing, payments, billing, recoupments, audits, reviews, examinations, and other fiscal related requirements.

### **Compensation**

The County agrees to pay, and the Contractor agrees to receive, compensation for the performance of its services as described below.

#### **1. Specialty Mental Health Services (SMHS) Maximum Compensation.**

The maximum compensation payable to the Contractor under this Agreement for the period of August 5, 2025 through June 30, 2026 for SMHS is Four Million, Five Hundred Three Thousand, Nine Hundred Four and No/100 Dollars (\$4,503,904.00), which is not a guaranteed sum but shall be paid only for services rendered and received.

The maximum compensation payable to the Contractor under this Agreement for the period of July 1, 2026 through June 30, 2027 for SMHS is Four Million, Five Hundred Three Thousand Nine Hundred Four and No/100 Dollars (\$4,503,904.00), which is not a guaranteed sum but shall be paid only for services rendered and received.

The maximum compensation payable to the Contractor under this Agreement for the period of July 1, 2027 through June 30, 2028 for SMHS is Four Million, Five Hundred Three Thousand Nine Hundred Four and No/100 Dollars (\$4,503,904.00), which is not a guaranteed sum but shall be paid only for services rendered and received.

The maximum compensation payable to the Contractor under this Agreement for the period of July 1, 2028 through June 30, 2029 for SMHS is Four Million, Five Hundred Three Thousand Nine Hundred Four and No/100 Dollars (\$4,503,904.00), which is not a guaranteed sum but shall be paid only for services rendered and received.

The maximum compensation payable to the Contractor under this Agreement for the period of July 1, 2029 through June 30, 2030 for SMHS is Four Million, Seven Hundred Twenty-Nine Thousand One Hundred and No/100 Dollars (\$4,729,100.00), which is not a guaranteed sum but shall be paid only for services rendered and received.

#### **2. Total Maximum Compensation.**

In no event shall the maximum contract amount for all the services provided by the Contractor to County under the terms and conditions of this Agreement be in excess of Twenty Two Million, Seven Hundred Forty Four Thousand Seven Hundred Sixteen and No/100 Dollars (\$22,744,716) during the entire term of this Agreement.

The Contractor acknowledges that the County is a local government entity and does so with notice that the County's powers are limited by the California Constitution and by State law,

and with notice that the Contractor may receive compensation under this Agreement only for services performed according to the terms of this Agreement and while this Agreement is in effect, and subject to the maximum amount payable under this section.

The Contractor further acknowledges that County employees have no authority to pay the Contractor except as expressly provided in this Agreement.

See table below for compensation breakdown by Fiscal Year and Total Maximum Compensation for this Agreement.

<b>Fiscal Year (FY)</b>	<b>Total FY Maximum Compensation</b>
25-26	\$4,503,904
26-27	\$4,503,904
27-28	\$4,503,904
28-29	\$4,503,904
29-30	\$4,729,100
<b>5-Year Contract Max</b>	<b>\$ 22,744,716</b>

### **3. Fee-For-Service Reimbursement Rate Categories.**

The program service components for the Contractor shall be categorized as Therapeutic Behavioral Health Services and the Contractor shall be compensated according to the Therapeutic Behavioral Health Services rate schedule as indicated on Exhibit C – Attachment A, attached hereto and incorporated herein by reference and made part of this Agreement:

(A) Clinic-Site Based: Clinic-Site Based programs shall be defined as programs who provide less than fifty percent (50%) of services in the field. In the field services are those services that do not occur through telehealth and do not occur in designated sites in which the Contractor is afforded regular access. Designated sites shall be identified by the Contractor and approved by County's DBH Director or designee in writing. Only billable services will be considered for the purpose of this calculation.

(i) Clinic-Sites Based locations are defined as the following SmartCare (EHR) Locations (CMS Places of Service) for this Agreement and will be utilized to calculate the ratio of Clinic-Site Bases to Field Based services:

All other SmartCare (EHR) Locations (CMS Places of Service) will be considered as Field Based services under this Agreement.

(B) Field Based: Field based programs shall be defined as programs that provide more than fifty percent (50%) of services in the field.

(i) During the term of this Agreement, Contractor is eligible to submit a proposal for compensation at the Field Base reimbursement rate category ninety (90) days prior to each new fiscal year to County's DBH for consideration. County's DBH will provide a decision to Contractor prior to the start of the next fiscal year. If approved, County's DBH will issue a rate change notification according to the modification section below and

Contractor's performance will be monitored for the Field Based mode of service delivery requirements as outlined above.

- (ii) If Contractor is deemed eligible to receive compensation at the Field Based reimbursement rates in accordance with the above paragraph and Contractor is subsequently unable to meet the mode of service delivery requirements, as defined above, Contractor will be subjected to recoupment at County's discretion.
- (iii) County's DBH will complete Field Based mode of service delivery analysis and recoupment reconciliation for said Contractor within ninety (90) days following the end of the targeted quarter or within ninety (90) days after all billable services for the targeted quarter has been entered in the Electronic Health Record (EHR) by the Contractor, whichever is later. The recoupment amount will be the difference in value of any services paid to Contractor throughout the targeted quarter after being reconciled at the respective fiscal year's Clinic-Site Based rate schedule and after any claiming adjustments may have been applied, if any. County's DBH will inform the Contractor of the result and, if necessary, the recoupment shall be processed and applied based on terms, conditions, and limitations as set forth herein.
- (iv) If Contractor does not meet the Field Based mode of service delivery requirements after any targeted quarterly review, County's DBH shall recommend and reassign the Contractor to the Clinic-Site Based rate category. Contractor may appeal the rate category reassignment to County's DBH within thirty (30) days of receiving notice or the rate category change will stand with a written notification as set forth below.

County's DBH shall continuously monitor the Contractor and analyze data to review accuracy of rate categories assigned. County's DBH Director or designee shall have the authority to reassign rate categories, and the Contractor will be notified in writing of any such changes, as outlined in Article 5.

#### **4. Specialty Mental Health Services Fee-For-Service Performance Incentives.**

Contractor is eligible to receive performance-based incentives to promote growth, increase service delivery and overall wellness to our unserved and/or underserved communities. If the Contractor meets the performance metrics outlined by County's DBH below, Contractor is eligible to a portion of the Medi-Cal reimbursements received and recorded by County's DBH.

This opportunity, subject to County's discretion, is only available after the second fiscal year term of this Agreement for Contractor providing SMHS and reimbursed through the County's Fee-for-Service reimbursement structure. The initial performance actual claimed baseline will be set by the Contractor's performance in fiscal year one (1). County's DBH will use the Contractor's State-approved claimed dollar amount, as received and recorded by County's DBH, for services that were performed, claimed, and approved by the State in fiscal year one (1) and adjust it with any subsequent State rate changes, if any, to finalize a



performance baseline for fiscal year two (2). After completing the claiming of services and receipt of Medi-Cal reimbursements for fiscal year two (2), if the Contractor exceeds the established performance baseline, the Contractor is eligible to be compensated for eight percent (8%) of the Medi-Cal reimbursements that were generated above the established performance baseline amount of fiscal year two (2).

Each subsequent fiscal year's performance baselines will be adjusted annually to either the prior fiscal year's actual State-approved claimed amount plus adjusted for any subsequent State rate increases, or any of the previously established performance baseline amounts plus adjusted for any State rate increases for the upcoming fiscal year, whichever is higher. The new performance baseline shall always be calculated from the higher value between the State-approved claimed amount and the previous fiscal year's performance baseline amount regardless of projected performance in the upcoming fiscal year. The rate adjustment shall always be a positive amount and the performance base shall not decrease from one fiscal year to the next.

The table below illustrates the annual baseline adjustments. This table is an example only and is not binding. The actual details will be determined and finalized between both parties at the conclusion of year one (1).

Example:

Fiscal Year	Rate Increase	Baseline	State Approved Claim Amount	Amount Exceeding Baseline	Additional Amount Paid (8%)
1			\$1,100,000		
2	+3.0%	\$1,133,000	\$1,633,000	\$500,000	\$40,000
3	+1.0%	\$1,649,330	\$1,500,000	\$0	\$0
4	+2.0%	\$1,682,317	\$1,882,317	\$200,000	\$16,000
5	+3.5%	\$1,948,198	\$2,048,198	\$100,000	\$8,000

In addition to meeting the performance-based incentive metrics above, Contractor must be in satisfactory standing with the Agreement's performance outcomes and reporting requirements prior to being awarded the incentive payment. At the discretion of County's DBH Director or designee, if it is determined that the required outcomes are not met and/or reports are not submitted in full and on time, the Contractor shall be ineligible for performance incentives or withheld until such requirements are met and/or deemed to be satisfactory by County's DBH.

County's DBH will calculate and notify Contractor of the award amounts, if any, within ninety (90) days after all of Contractor's State-approved claimed services are received and recorded by County's DBH for the targeted fiscal year or within nine (9) months following the end of the targeted fiscal year, whichever is later. County's payments to Contractor for performance-based incentives, if any, shall be made within forty-five (45) days after approval by County.

**Invoices**

The Contractor shall submit monthly invoices, in arrears by the fifteenth (15<sup>th</sup>) day of each month, in the format directed by the County. The Contractor shall submit invoices electronically to:

- 1) dbhinvoicereview@fresnocountyca.gov;
- 2) dbh-invoices@fresnocountyca.gov; and
- 3) the assigned County's DBH Staff Analyst.

At the discretion of County's DBH Director or designee, if an invoice is incorrect or is otherwise not in proper form or substance, County's DBH Director, or designee, shall have the right to withhold payment as to only the portion of the invoice that is incorrect or improper after five (5) days prior notice to Contractor. Contractor agrees to continue to provide services for a period of ninety (90) days after notification of an incorrect or improper invoice. If after the ninety (90) day period, the invoice is still not corrected to County's satisfaction, County's DBH Director, or designee, may elect to terminate this Agreement, pursuant to the termination provisions stated in Article 6 of this Agreement. If County's DBH does not provide notice of incorrect or otherwise improper invoices and causes delay in the reimbursement process, Contractor will follow the escalation process through the County's DBH Finance Division's Invoice Review Team, up to the DBH Finance Division Manager, and including the County's DBH Director and/or designee for the timely reimbursement of payment to Contractor.

Withholdings to an invoice by County's DBH shall be addressed by the Contractor and/or Contractor shall communicate any delays in resolving the incorrect or improper form with County's DBH within ninety (90) days of receiving notice or the withholdings will stand in perpetuity, or subject to County's discretion.

All final invoices for any fiscal year shall be submitted by Contractor within one hundred and twenty (120) days following the final month for which payment is claimed in that fiscal year. No action may be taken by County on any invoices submitted after one hundred and twenty (120) days of the end of the fiscal year where services are performed.

#### **1. Specialty Mental Health Claimable Services Invoices.**

For specialty mental health services, invoices shall be based on claims entered into the County's electronic health record (EHR) for the prior month.

Monthly payments for claimable services shall only be based on the units of time assigned to each CPT or HCPCS code entered in the County's billing and transactional database multiplied by the practitioner service rates in Exhibit C – Attachment A.

Any claimable services pending determination from Medicare, OHC, and any other third-party source will not be reimbursed until Explanation of Benefits (EOB) are processed and the balance is transferred to the Medi-Cal coverage plan, and ready to claim to the Medi-Cal coverage plan, or the appropriate coverage plan(s), as deemed appropriate by the Agreement's funding resources or approval by County's DBH. Claimable services that are pending determinations must be addressed and invoiced to County's DBH within one hundred and twenty (120) days following the month of service. Any delays to invoicing must be communicated to and approved by County's DBH within one hundred and twenty (120) days following the month of service or the services may be ineligible for payment at County's discretion.

County's payments to Contractor for performance of claimed services are provisional and subject to adjustment until the completion of all settlement activities. County's adjustments to provisional payments for claimed services shall be based on the terms, conditions, and limitations of this Agreement or the reasons for recoupment set forth herein.

Any claimable services entered into the County's EHR beyond four (4) months from the month of service may be ineligible for payment, subject to the determination of the County.

## **2. Corrective Action Plans.**

Contractor shall enter services into the County's EHR/billing and transactional database and submit invoices in accordance with the specified deadlines, ensuring all information is accurate. Failure to meet the requirements set forth above will result in the implementation of a corrective action plan at the discretion of the County's DBH Director, or designee, and may result in financial penalties or termination of Agreement per Article 6 of this Agreement.

## **Payment**

Payments shall be made by County to Contractor in arrears, for services provided during the preceding month, within forty-five (45) days after the date of receipt, verification, and approval by County. All final invoices shall be submitted by Contractor within one hundred and twenty (120) days following the final month of service for which payment is claimed for each fiscal year. No action shall be taken by County on claims submitted beyond the one hundred and twenty (120) day closeout period of each fiscal year. Any compensation which is not expended by Contractor pursuant to the terms and conditions of this Agreement shall automatically revert to County.

Payments shall be made upon certification or other proof satisfactory to the County that services have been performed or actual expenditures incurred by the Contractor, as specified in this Agreement.

### **1. Incidental Expenses.**

The Contractor is solely responsible for all of its costs and expenses that are not specified as payable by the County under this Agreement. If Contractor fails to comply with any provision of this Agreement, County shall be relieved of its obligation for further compensation.

### **2. Applicable Fees.**

Contractor shall not charge any persons served or third-party payers any fee for service unless directed to do so by the County's DBH Director or designee at the time the individual is referred for services. When directed to charge for services, Contractor shall use the uniform billing and collection guidelines prescribed by DHCS.

Contractor will perform eligibility and financial determinations, in accordance with DHCS' Uniform Method of Determining Ability to Pay (UMDAP), see BHIN 98-13, available at [dhcs.ca.gov](http://dhcs.ca.gov), for all individuals unless directed otherwise by the County's DBH Director or designee.

Contractor shall not submit a claim to, or demand or otherwise collect reimbursement from, the person served or persons acting on behalf of the person served for any specialty

mental health or related administrative services provided under this Agreement, except to collect other health insurance coverage, share of cost, and co-payments (California Code of Regulations, Title 9, §1810.365(c)).

The Contractor must not bill persons served, for covered services, any amount greater than would be owed if the County provided the services directly and otherwise not bill persons served as set forth in 42 C.F.R. § 438.106.

### **Specialty Mental Health Services Claiming Responsibilities**

Contractor shall enter claims data into the County's EHR/billing and transactional database system using the California Mental Health Services Authority (CalMHSA) Smart Care Procedure Codes (available at <https://2023.calmhsa.org/procedure-code-definitions/>) by the fifteenth (15<sup>th</sup>) of every month for actual services rendered in the previous month. County's EHR/billing and transactional database system will convert the CalMHSA Procedure Codes to Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) codes, as provided in the DHCS Billing Manual available at <https://www.dhcs.ca.gov/services/MH/Pages/MedCCC-Library.aspx>, as from time to time amended.

Claims shall be complete and accurate and must include all required information regarding the claimed services. Claims data entry into the County's EHR system shall be the responsibility of Contractor. County shall monitor the volume of services, billing amounts and service types entered into County's EHR system. Any and all audit exceptions resulting from the provision and reporting of specialty mental health services by Contractor shall be the sole responsibility of Contractor. Contractor will comply with all applicable policies, procedures, directives, and guidelines regarding the use of County's EHR/information system.

Contractor must provide all necessary data to allow County to bill Medi-Cal for services and meet State and Federal reporting requirements. The necessary data can be provided by a variety of means, including but not limited to:

If a person served has dual coverage, such as other health coverage (OHC) or Federal Medicare, Contractor will be responsible for billing the carrier and obtaining a payment/denial or have validation of claiming with no response for ninety (90) days after the claim was mailed. Contractor must report all third-party collections for Medicare, third-party or client-pay or private-pay in each month. A copy of an explanation of benefits or CMS 1500 form (if no response is received from the carrier after 90 days from date of submission of the CMS 1500) is required as documentation. Contractor must comply with all laws and regulations governing the Federal Medicare program, including, but not limited to: 1) the requirement of the Medicare Act, 42 U.S.C. section 1395 et seq; and 2) the regulation and rules promulgated by the Federal Centers for Medicare and Medicaid Services as they relate to participation, coverage and claiming reimbursement. To the extent they are applicable, Contractor will be responsible for compliance as of the effective date of each Federal, State or local law or regulation specified.

### **Recoupments, Audits, Reviews, and Examinations**

County shall recapture from Contractor the value of any services or other expenditures determined to be ineligible based on the County or State monitoring results. The County reserves the right to enter into a repayment agreement with Contractor, with the term of the repayment agreement not to exceed twelve (12) months from the date of the repayment

agreement, to recover the amount of funds to be recouped. The County has the discretion to extend the term of repayment plan up to a total of twenty-four (24) months from the date of the repayment agreement. The repayment agreement may be made with the signed written approval of County's DBH Director, or designee, and respective Contractor through a repayment agreement. The monthly repayment amounts may be netted against the Contractor's monthly billing for services rendered during the month, or the County may, in its sole discretion, forego a repayment agreement and recoup all funds immediately. This remedy is not exclusive, and County may seek recoupment from any other means, including, but not limited to, a separate contract or agreement with Contractor.

Contractor shall be held financially liable for any and all future disallowances/audit exceptions due to Contractor's deficiency discovered through the State audit process and County utilization review for services provided during the course of this Agreement. At County's election, the disallowed amount will be remitted within forty-five (45) days to County upon notification or shall be withheld from subsequent payments to Contractor. Contractor shall not receive reimbursement for any units of services rendered that are disallowed or denied by the Fresno County MHP utilization review process or claims review process or through the State of California DHCS audit and review process, cost report audit settlement if applicable, for Medi-Cal eligible beneficiaries.

#### **1. Reasons for Recoupment.**

County will conduct periodic audits of Contractor files to ensure appropriate clinical documentation, that original third-party source documents support costs invoiced under hybrid or cost reimbursement agreements, high quality service provision and compliance with applicable federal, state and county or other funding source regulations.

Such audits may result in requirements for Contractor to reimburse County for services previously paid in the following circumstances:

- (A) Identification of Fraud, Waste or Abuse as defined in federal regulation
  - (1) Fraud and abuse are defined in C.F.R. Title 42, § 455.2 and W&I Code, section 14107.11, subdivision (d).
  - (2) Definitions for "fraud," "waste," and "abuse" can also be found in the Medicare Managed Care Manual available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals>
- (B) Overpayment of Contractor by County due to errors in claiming or documentation.
- (C) Other reasons specified in the SMHS Reasons for Recoupment document released annually by DHCS and posted on the DHCS BHIN website.

Contractor shall reimburse County for all overpayments identified by Contractor, County, and/or state or federal oversight agencies as an audit exception within the timeframes required by law or County or state or federal agency. Funds owed to County will be due within forty-five (45) days of notification by County, or County shall withhold future payments until all excess funds have been recouped by means of an offset against any payments then or thereafter owing to County under this or any other Agreement between the County and Contractor.

#### **2. Internal Audits/Reviews.**

Contractor is responsible for ensuring the accuracy of all claims submitted for reimbursement. This includes, but is not limited to, verifying that the services billed are properly documented, correctly coded, and align with applicable SMHS definitions and standards. Contractor must also ensure that all supporting documentation is accurate, complete, and reflects the services actually rendered.

In addition, Contractors with medication prescribing authority shall adhere to County's medication monitoring review practices. Contractor shall provide County with notification and a summary of any internal audit exceptions, and the specific corrective actions taken to sufficiently reduce the errors that are discovered through Contractor's internal audit process. Contractor shall provide this notification and summary to County as requested by the County.

### **3. Confidentiality in Audit/Review Process.**

Contractor and County mutually agree to maintain the confidentiality of Contractor's records and information of persons served, in compliance with all applicable State and Federal statutes and regulations, including but not limited to HIPAA and California Welfare and Institutions Code, Section 5328. Contractor shall inform all of its officers, employees, and agents of the confidentiality provisions of all applicable statutes.

Contractor's fiscal records shall contain sufficient data to enable auditors to perform a complete audit and shall be maintained in conformance with standard procedures and accounting principles.

Contractor's records shall be maintained as required by DBH and DHCS on forms furnished by DHCS or the County. All statistical data or information requested by the County's DBH Director or designee shall be provided by the Contractor in a complete and timely manner.

### **4. Cooperation with Audits/Reviews.**

Contractor shall cooperate with County in any review and/or audit initiated by County, DHCS, or any other applicable regulatory body. This cooperation may include such activities as onsite program, fiscal, or chart reviews and/or audits.

In addition, Contractor shall comply with all requests for any documentation or files including, but not limited to, files for persons served and personnel files.

Contractor shall notify the County of any scheduled or unscheduled external evaluation or site visits when it becomes aware of such visit. County shall reserve the right to attend any or all parts of external review processes.

Contractor shall allow inspection, evaluation and audit of its records, documents and facilities for ten (10) years from the term end date of this Agreement or in the event Contractor has been notified that an audit or investigation of this Agreement has been commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later pursuant to 42 C.F.R. §§ 438.3(h) and 438.2301(3)(i-iii).

### **5. Single Audit Clause.**

If Contractor expends One Million and No/100 Dollars (\$1,000,000.00) or more in Federal and Federal flow-through monies, Contractor agrees to conduct an annual audit in

accordance with the requirements of the Single Audit Standards as set forth in Office of Management and Budget (OMB) 2 CFR 200. Contractor shall submit said audit and management letter to County. The audit must include a statement of findings or a statement that there were no findings. If there were negative findings, Contractor must include a corrective action plan signed by an authorized individual. Contractor agrees to take action to correct any material non-compliance or weakness found as a result of such audit. Such audit shall be delivered to County's DBH Finance Division for review within nine (9) months of the end of any fiscal year in which funds were expended and/or received for the program. Failure to perform the requisite audit functions as required by this Agreement may result in County performing the necessary audit tasks, or at County's option, contracting with a public accountant to perform said audit, or may result in the inability of County to enter into future agreements with Contractor. All audit costs related to this Agreement are the sole responsibility of Contractor.

A single audit report is not applicable if Contractor's Federal contracts do not exceed the One Million and No/100 Dollars (\$1,000,000.00) requirement or Contractor's only funding is through Drug-related Medi-Cal. If a single audit is not applicable, a program audit must be performed and a program audit report with management letter shall be submitted by Contractor to County as a minimum requirement to attest to Contractor solvency. Said audit report shall be delivered to County's DBH Finance Division for review no later than nine (9) months after the close of the fiscal year in which the funds supplied through this Agreement are expended. Failure to comply with this Act may result in County performing the necessary audit tasks or contracting with a qualified accountant to perform said audit. All audit costs related to this Agreement are the sole responsibility of Contractor who agrees to take corrective action to eliminate any material noncompliance or weakness found as a result of such audit. Audit work performed by County under this paragraph shall be billed to Contractor at County cost, as determined by County's Auditor-Controller/Treasurer-Tax Collector.

Contractor shall make available all records and accounts for inspection by County, the State of California, if applicable, the Controller General of the United States, the Federal Grantor Agency, or any of their duly authorized representatives, at all reasonable times for a period of at least three (3) years following final payment under this Agreement or the closure of all other pending matters, whichever is later.

## **6. Financial Audit Report Requirements for Pass-Through Entities**

If County determines that Contractor is a "subrecipient" (also known as a "pass-through entity") as defined in 2 C.F.R. § 200 et seq., Contractor represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by County as set forth in 2 C.F.R. § 200 et seq., as may be amended from time to time. Contractor shall observe and comply with all applicable financial audit report requirements and standards.

Financial audit reports must contain a separate schedule that identifies all funds included in the audit that are received from or passed through the County. County programs must be identified by Agreement number, Agreement amount, Agreement period, and the amount expended during the fiscal year by funding source.

Contractor will provide a financial audit report including all attachments to the report and the management letter and corresponding response within six months of the end of the audit year to the County's DBH Director or designee. The County's Director or designee is responsible for providing the audit report to the County Auditor.

Contractor must submit any required corrective action plan to the County simultaneously with the audit report or as soon thereafter as it is available. The County shall monitor implementation of the corrective action plan as it pertains to services provided pursuant to this Agreement.

In the event this Agreement is terminated, Contractor shall be entitled to compensation for all Specialty Mental Health Services (SMHS) satisfactorily provided pursuant to the terms and conditions of this Agreement through and including the effective date of termination. This provision shall not limit or reduce any damages owed to the County due to a breach of this Agreement by Contractor.

### **Property of County**

This section shall only apply to the program components and services provided under Cost Reimbursement. County and Contractor recognize that fixed assets are tangible and intangible property obtained or controlled under County for use in operational capacity and will benefit County for a period more than one (1) year.

#### **1. Agreement Assets.**

Assets shall be tracked on an agreement-by-agreement basis. All assets shall fall into the "Equipment" category unless funding source allows for additional types of assets. Items of sensitive nature shall be purchased and allocated to a single agreement. All items containing Health Insurance Portability and Accountability Act (HIPAA)/Protected Health Information (PHI) data are considered sensitive. At a minimum, the following types of items are considered to be assets:

- (A) Computers (desktops and laptops);
- (B) Copiers, cell phones, tablets, and other devices with any HIPAA data
- (C) Modular furniture
- (D) Land
- (E) Any items over \$5,000
- (F) Items of \$500 or more with a lifespan of at least two (2) years:
  - a. Televisions
  - b. Washers/Dryers
  - c. Printers
  - d. Digital Cameras;
  - e. Other equipment/furniture
  - f. Items in total when purchased or used as a group fall into one or more of the above categories

Contractor shall ensure proper tracking for contact assets that include the following asset attributes at a minimum:

- (A) Description of the asset;
- (B) The unique identifier of the asset if applicable, i.e., serial number;
- (C) The acquisition date;
- (D) The quantity of the asset;
- (E) The location of the asset or to whom the asset is assigned;
- (F) The cost of the asset at the time of acquisition;



- (G) The source of grant funding if applicable;
- (H) The disposition date, and
- (I) The method of disposition (surplus, transferred, destroyed, lost).

## **2. Retention and Maintenance.**

Assets shall be retained by County, as County property, in the event this Agreement is terminated or upon expiration of this Agreement. Contractor agrees to participate in an annual inventory of all County fixed and inventoried assets. Upon termination or expiration of this Agreement, Contractor shall be physically present when fixed and inventoried assets are returned to County possession. Contractor is responsible for returning to County all County owned undepreciated fixed and inventoried assets, or the monetary value of said assets if unable to produce the assets at the expiration or termination of this Agreement. Contractor further agrees to the following:

- (A) Maintain all items of equipment in good working order and condition, normal wear and tear excepted;
- (B) Label all items of equipment with County assigned program number, to perform periodic inventories as required by County and to maintain an inventory list showing where and how the equipment is being used in accordance with procedures developed by County. All such lists shall be submitted to County within ten (10) days of any request therefore; and
- (C) Report in writing to County immediately after discovery, the loss or theft of any items of equipment. For stolen items, the local law enforcement agency must be contacted, and a copy of the police report submitted to County.

## **3. Equipment Purchase.**

The purchase of any equipment by Contractor with funds provided hereunder shall require the prior written approval of County's DBH Director or designee, shall fulfill the provisions of this Agreement as appropriate, and must be directly related to Contractor's services or activity under the terms of this Agreement. County may refuse reimbursement for any costs resulting from equipment purchased, which are incurred by Contractor, if prior written approval has not been obtained from County.

## **4. Modification of Assets.**

Contractor must obtain prior written approval from County's DBH whenever there is any modification or change in the use of any property acquired or improved, in whole or in part, using funds under this Agreement. If any real or personal property acquired or improved with said funds identified herein is sold and/or is utilized by Contractor for a use which does not qualify under this Agreement, Contractor shall reimburse County in an amount equal to the current fair market value of the property, less any portion thereof attributable to expenditures of funds not provided under this Agreement. These requirements shall continue in effect for the life of the property. In the event this Agreement expires, the requirements for this paragraph shall remain in effect for activities or property funded with said funds, unless action is taken by the State government to relieve County of these obligations.

## **Other Financial Requirements**

### **1. Notification of Changes.**

Contractor shall notify County in writing of any change in organizational name, Head of Service or principal business at least fifteen (15) business days in advance of the change. Contractor shall notify County of a change of service location at least six (6) months in advance to allow County sufficient time to comply with site certification requirements. Said notice shall become part of this Agreement upon acknowledgment in writing by the County, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

Contractor must immediately notify County of a change in ownership, organizational status, licensure, or ability of Contractor to provide the quantity or quality of the contracted services in no event more than 15 days of the change.

## **2. Record Maintenance.**

Contractor shall maintain all records and management books pertaining to service delivery and demonstrate accountability for agreement performance and maintain all fiscal, statistical, and management books and records pertaining to the program. Records should include, but not be limited to, monthly summary sheets, sign-in sheets, and other primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must also comply with the Code of Federal Regulations (CFR), Title II, Subtitle A, Chapter 11, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

All records shall be complete and current and comply with all requirements in this Agreement. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of this Agreement.

Contractor shall maintain records of persons served and community service in compliance with all regulations set forth by local, state, and federal requirements, laws, and regulations, and provide access to clinical records by County staff.

Contractor shall comply with all local, state, and federal laws and regulations regarding relinquishing or maintaining medical records.

Contractor shall agree to maintain and retain all appropriate service and financial records for a period of at least ten (10) years from the date of final payment, the final date of this Agreement, final settlement, or until audit findings are resolved, whichever is later.

## **3. Financial Reports.**

Contractor shall submit audited financial reports on an annual basis to the County. The audit shall be conducted in accordance with Generally Accepted Accounting Principles and generally accepted auditing standards.

## **4. Agreement Termination.**

In the event this Agreement is terminated, ends its designated term, or Contractor ceases operation of its business, Contractor shall deliver or make available to County all financial records that may have been accumulated by Contractor or subcontractor under this

Agreement, whether completed, partially completed or in progress within seven (7) calendar days of said termination/end date.

## **5. Restrictions and Limitations.**

This Agreement shall be subject to any restrictions, limitations, and/or conditions imposed by County or state or federal funding sources that may in any way affect the fiscal provisions of, or funding for this Agreement. This Agreement is also contingent upon sufficient funds being made available by County, state, or federal funding sources for the term of this Agreement. If the federal or state governments reduce financial participation in the Medi-Cal program, County agrees to meet with Contractor to discuss renegotiating the services required by this Agreement.

Funding is provided by fiscal year. Any unspent fiscal year appropriation does not roll over and is not available for services provided in subsequent years.

In the event that funding for these services is delayed by the State Controller, County may defer payments to Contractor. The amount of the deferred payment shall not exceed the amount of funding delayed by the State Controller to the County. The period of time of the deferral by County shall not exceed the period of time of the State Controller's delay of payment to County plus forty-five (45) days.

## **6. Additional Financial Requirements**

County has the right to monitor the performance of this Agreement to ensure the accuracy of claims for reimbursement and compliance with all applicable laws and regulations.

Contractor must comply with the False Claims Act employee training and policy requirements set forth in 42 U.S.C. 1396a(a)(68) and as the Secretary of the United States Department of Health and Human Services may specify.

Contractor agrees that no part of any federal funds provided under this Agreement shall be used to pay the salary of an individual per fiscal year at a rate in excess of Level 1 of the Executive Schedule at <https://www.opm.gov/> (U.S. Office of Personnel Management), as from time to time amended.

Federal Financial Participation is not available for any amount furnished to an Excluded individual or entity, or at the direction of a physician during the period of exclusion when the person providing the service knew or had reason to know of the exclusion, or to an individual or entity when the County failed to suspend payments during an investigation of a credible allegation of fraud [42 U.S.C. section 1396b(i)(2)].

Contractor must maintain financial records for a minimum period of ten (10) years or until any dispute, audit or inspection is resolved, whichever is later. Contractor will be responsible for any disallowances related to inadequate documentation.

## **7. Contractor Prohibited from Redirection of Contracted Funds**

Contractor may not redirect or transfer funds from one funded program to another funded program under which Contractor provides services pursuant to this Agreement except through a duly executed amendment to this Agreement.

Contractor may not charge services delivered to an eligible person served under one funded program to another funded program unless the person served is also eligible for services under the second funded program.

**FEE-FOR-SERVICE RATE(S)**

**\*\*Fee-for-Service rates are established by the Department of Health Care Services. Contractor acknowledges that the provider rates in the table below are all-inclusive rates which account for program operating expenses. This includes, but is not limited to, staff time spent on direct patient care, staff time not spent on direct patient care (e.g. time spent on documentation, travel, and paid time off), total staff compensation (e.g., salaries and wages, benefits, bonuses, and other incentives), vehicle expenses (e.g. gas, maintenance, insurance), training, assets/capital assets, utilities, and any direct and indirect overhead and operating costs. Indirect cost expenses shall be determined by the Contractor under the Fee-for-Service reimbursement structure.**

<b>TBS</b>	
<b>Provider Type</b>	<b>Provider Rate Per Hour</b>
Licensed Physician	\$1212.47
Physicians Assistant	\$543.78
Nurse Practitioner	\$602.93
Registered Nurse	\$492.49
Certified Nurse Specialist	\$602.93
Licensed Vocational Nurse	\$258.71
Registered Pharmacist	\$580.38
Licensed Psychiatric Technician	\$221.79
Psychologist (Licensed or Waivered)	\$487.61
LPHA (MFT LCSW LPCC)/ Intern or Waivered LPHA (MFT LCSW LPCC)	\$315.55
Occupational Therapist	\$420.05
Mental Health Rehab Specialist	\$237.41
Peer Support Specialist	\$249.28
Community Health Worker	\$243.34
Medical Assistant	\$177.85
Other Qualified Providers	\$237.41

Flat Rate Type	Unit	Maximum Units That Can Be Billed	Rate
Interactive Complexity	15 min per unit	1 per allowed procedure per provider per person served	\$18. 89
Sign Language/Oral Interpretive Services	15 min per unit	Variable	\$31.88

## Insurance Requirements

### 1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Professional Liability.** Professional liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Three Million Dollars (\$3,000,000). If this is a claims-made policy, then (1) the retroactive date must be prior to the date on which services began under this Agreement; (2) the Contractor shall maintain the policy and provide to the County annual evidence of insurance for not less than five years after completion of services under this Agreement; and (3) if the policy is canceled or not renewed, and not replaced with another claims-made policy with a retroactive date prior to the date on which services begin under this Agreement, then the Contractor shall purchase extended reporting coverage on its claims-made policy for a minimum of five years after completion of services under this Agreement.
- (F) **Molestation Liability.** Sexual abuse / molestation liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence, with an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis.
- (G) **Cyber Liability.** Cyber liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence. Coverage must include claims involving Cyber Risks. The cyber liability policy must be endorsed to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.

**Definition of Cyber Risks.** “Cyber Risks” include but are not limited to (i) Security Breach, which may include Disclosure of Personal Information to an Unauthorized Third Party; (ii) data breach; (iii) breach of any of the Contractor’s obligations under Article 11 of this Agreement; (iv) system failure; (v) data recovery; (vi) failure to timely disclose data breach or Security Breach; (vii) failure to comply with privacy policy; (viii) payment card liabilities and costs; (ix) infringement of intellectual property, including but not limited to infringement of copyright, trademark, and trade dress; (x) invasion of privacy, including release of private information; (xi) information theft; (xii) damage to or destruction or alteration of electronic information; (xiii) cyber extortion; (xiv) extortion related to the Contractor’s obligations under this Agreement regarding electronic information, including Personal Information; (xv) fraudulent instruction; (xvi) funds transfer fraud; (xvii) telephone fraud; (xviii) network security; (xix) data breach response costs, including Security Breach response costs; (xx) regulatory fines and penalties related to the Contractor’s obligations under this Agreement regarding electronic information, including Personal Information; and (xxi) credit monitoring expenses.

## 2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County, the Contractor shall deliver, or cause its broker or producer to deliver, to the County of Fresno, Department of Behavioral Health - Attention Plan Administration, 1925 E Dakota Ave, Fresno, CA 93726, or electronically to [DBHPlanAdmin@fresnocountyca.gov](mailto:DBHPlanAdmin@fresnocountyca.gov) with a copy to the assigned County’s DBH Staff Analyst, certificates of insurance and endorsements for all of the coverages required under this Agreement.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County’s Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County’s Risk Manager certificates of insurance and endorsements for



all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.

- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such charges against any amounts owed by the County to the Contractor under this Agreement.
- (G) **Subcontractors.** The Contractor shall require and verify that all subcontractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using subcontractors.

## Data Security

### 1. Definitions

Capitalized terms used in this Exhibit have the meanings set forth in this section 1.

- (A) **"Authorized Employees"** means the Contractor's employees who have access to Personal Information.
- (B) **"Authorized Persons"** means: (i) any and all Authorized Employees; and (ii) any and all of the Contractor's subcontractors, representatives, agents, outsourcers, and consultants, and providers of professional services to the Contractor, who have access to Personal Information and are bound by law or in writing by confidentiality obligations sufficient to protect Personal Information in accordance with the terms of this Exhibit.
- (C) **"Director"** means the County's Director of the Department of Behavioral Health or his or her designee.
- (D) **"Disclose"** or any derivative of that word means to disclose, release, transfer, disseminate, or otherwise provide access to or communicate all or any part of any Personal Information orally, in writing, or by electronic or any other means to any person.
- (E) **"Person"** means any natural person, corporation, partnership, limited liability company, firm, or association.
- (F) **"Personal Information"** means any and all information, including any data, provided, or to which access is provided, to the Contractor by or upon the authorization of the County, under this Agreement, including but not limited to vital records, that: (i) identifies, describes, or relates to, or is associated with, or is capable of being used to identify, describe, or relate to, or associate with, a person (including, without limitation, names, physical descriptions, signatures, addresses, telephone numbers, e-mail addresses, education, financial matters, employment history, and other unique identifiers, as well as statements made by or attributable to the person); (ii) is used or is capable of being used to authenticate a person (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or personal identification numbers (PINs), financial account numbers, credit report information, answers to security questions, and other personal identifiers); or (iii) is personal information within the meaning of California Civil Code section 1798.3, subdivision (a), or 1798.80, subdivision (e). Personal Information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.
- (G) **"Privacy Practices Complaint"** means a complaint received by the County relating to the Contractor's (or any Authorized Person's) privacy practices, or alleging a Security Breach. Such complaint shall have sufficient detail to enable the Contractor to promptly investigate and take remedial action under this Exhibit.
- (H) **"Security Safeguards"** means physical, technical, administrative or organizational security procedures and practices put in place by the Contractor (or any Authorized Persons) that relate to the protection of the security, confidentiality, value, or integrity of Personal Information. Security Safeguards shall satisfy the minimal requirements set forth in section 3(C) of this Exhibit.

- (I) **"Security Breach"** means (i) any act or omission that compromises either the security, confidentiality, value, or integrity of any Personal Information or the Security Safeguards, or (ii) any unauthorized Use, Disclosure, or modification of, or any loss or destruction of, or any corruption of or damage to, any Personal Information.
- (J) **"Use"** or any derivative of that word means to receive, acquire, collect, apply, manipulate, employ, process, transmit, disseminate, access, store, disclose, or dispose of Personal Information.

## 2. Standard of Care

- (A) The Contractor acknowledges that, in the course of its engagement by the County under this Agreement, the Contractor, or any Authorized Persons, may Use Personal Information only as permitted in this Agreement.
- (B) The Contractor acknowledges that Personal Information is deemed to be confidential information of, or owned by, the County (or persons from whom the County receives or has received Personal Information) and is not confidential information of, or owned or by, the Contractor, or any Authorized Persons. The Contractor further acknowledges that all right, title, and interest in or to the Personal Information remains in the County (or persons from whom the County receives or has received Personal Information) regardless of the Contractor's, or any Authorized Person's, Use of that Personal Information.
- (C) The Contractor agrees and covenants in favor of the Country that the Contractor shall:
  - (i) keep and maintain all Personal Information in strict confidence, using such degree of care under this section 2 as is reasonable and appropriate to avoid a Security Breach;
  - (ii) use Personal Information exclusively for the purposes for which the Personal Information is made accessible to the Contractor pursuant to the terms of this Exhibit;
  - (iii) not Use, Disclose, sell, rent, license, or otherwise make available Personal Information for the Contractor's own purposes or for the benefit of anyone other than the County, without the County's express prior written consent, which the County may give or withhold in its sole and absolute discretion; and
  - (iv) not, directly or indirectly, Disclose Personal Information to any person (an "Unauthorized Third Party") other than Authorized Persons pursuant to this Agreement, without the Director's express prior written consent.
- (D) Notwithstanding the foregoing paragraph, in any case in which the Contractor believes it, or any Authorized Person, is required to disclose Personal Information to government regulatory authorities, or pursuant to a legal proceeding, or otherwise as may be required by applicable law, Contractor shall (i) immediately notify the County of the specific demand for, and legal authority for the disclosure, including providing County with a copy of any notice, discovery demand, subpoena, or order, as applicable, received by the Contractor, or any Authorized Person, from any government regulatory authorities, or in relation to any legal proceeding, and (ii) promptly notify the County

before such Personal Information is offered by the Contractor for such disclosure so that the County may have sufficient time to obtain a court order or take any other action the County may deem necessary to protect the Personal Information from such disclosure, and the Contractor shall cooperate with the County to minimize the scope of such disclosure of such Personal Information.

- (E) The Contractor shall remain liable to the County for the actions and omissions of any Unauthorized Third Party concerning its Use of such Personal Information as if they were the Contractor's own actions and omissions.

### **3. Information Security**

- (A) The Contractor covenants, represents and warrants to the County that the Contractor's Use of Personal Information under this Agreement does and will at all times comply with all applicable federal, state, and local, privacy and data protection laws, as well as all other applicable regulations and directives, including but not limited to California Civil Code, Division 3, Part 4, Title 1.81 (beginning with section 1798.80), and the Song-Beverly Credit Card Act of 1971 (California Civil Code, Division 3, Part 4, Title 1.3, beginning with section 1747). If the Contractor Uses credit, debit or other payment cardholder information, the Contractor shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing and maintaining all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at the Contractor's sole cost and expense.
- (B) The Contractor covenants, represents and warrants to the County that, as of the effective date of this Agreement, the Contractor has not received notice of any violation of any privacy or data protection laws, as well as any other applicable regulations or directives, and is not the subject of any pending legal action or investigation by, any government regulatory authority regarding same.
- (C) Without limiting the Contractor's obligations under section 3(A) of this Exhibit, the Contractor's (or Authorized Person's) Security Safeguards shall be no less rigorous than accepted industry practices and, at a minimum, include the following:
- (i) limiting Use of Personal Information strictly to the Contractor's and Authorized Persons' technical and administrative personnel who are necessary for the Contractor's, or Authorized Persons', Use of the Personal Information pursuant to this Agreement;
  - (ii) ensuring that all of the Contractor's connectivity to County computing systems will only be through the County's security gateways and firewalls, and only through security procedures approved upon the express prior written consent of the Director;
  - (iii) to the extent that they contain or provide access to Personal Information, (a) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, operating systems, and software applications, including, but not limited to, all mobile devices and other equipment, operating systems, and software applications with information storage capability; (b)

employing adequate controls and data security measures, both internally and externally, to protect (1) the Personal Information from potential loss or misappropriation, or unauthorized Use, and (2) the County's operations from disruption and abuse; (c) having and maintaining network, device application, database and platform security; (d) maintaining authentication and access controls within media, computing equipment, operating systems, and software applications; and (e) installing and maintaining in all mobile, wireless, or handheld devices a secure internet connection, having continuously updated anti-virus software protection and a remote wipe feature always enabled, all of which is subject to express prior written consent of the Director;

- (iv) encrypting all Personal Information at advance encryption standards of Advanced Encryption Standards (AES) of 128 bit or higher (a) stored on any mobile devices, including but not limited to hard disks, portable storage devices, or remote installation, or (b) transmitted over public or wireless networks (the encrypted Personal Information must be subject to password or pass phrase, and be stored on a secure server and transferred by means of a Virtual Private Network (VPN) connection, or another type of secure connection, all of which is subject to express prior written consent of the Director);
  - (v) strictly segregating Personal Information from all other information of the Contractor, including any Authorized Person, or anyone with whom the Contractor or any Authorized Person deals so that Personal Information is not commingled with any other types of information;
  - (vi) having a patch management process including installation of all operating system and software vendor security patches;
  - (vii) maintaining appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks of Authorized Employees consistent with applicable law; and
  - (viii) providing appropriate privacy and information security training to Authorized Employees.
- (D) During the term of each Authorized Employee's employment by the Contractor, the Contractor shall cause such Authorized Employees to abide strictly by the Contractor's obligations under this Exhibit. The Contractor shall maintain a disciplinary process to address any unauthorized Use of Personal Information by any Authorized Employees.
- (E) The Contractor shall, in a secure manner, backup daily, or more frequently if it is the Contractor's practice to do so more frequently, Personal Information received from the County, and the County shall have immediate, real-time access, at all times, to such backups via a secure, remote access connection provided by the Contractor, through the Internet.
- (F) The Contractor shall provide the County with the name and contact information for each Authorized Employee (including such Authorized Employee's work shift, and at least one alternate Authorized Employee for each Authorized Employee during such work shift) who shall serve as the County's primary security contact with the Contractor and shall be

available to assist the County twenty-four (24) hours per day, seven (7) days per week as a contact in resolving the Contractor's and any Authorized Persons' obligations associated with a Security Breach or a Privacy Practices Complaint.

- (G) The Contractor shall not knowingly include or authorize any Trojan Horse, back door, time bomb, drop dead device, worm, virus, or other code of any kind that may disable, erase, display any unauthorized message within, or otherwise impair any County computing system, with or without the intent to cause harm.

#### **4. Security Breach Procedures**

- (A) Immediately upon the Contractor's awareness or reasonable belief of a Security Breach, the Contractor shall (i) notify the Director of the Security Breach, such notice to be given first by telephone at the following telephone number, followed promptly by email at the following email addresses: [incidents@fresnocountyca.gov](mailto:incidents@fresnocountyca.gov), 559-600-5900, (which telephone number and email address the County may update by providing notice to the Contractor), and (ii) preserve all relevant evidence (and cause any affected Authorized Person to preserve all relevant evidence) relating to the Security Breach. The notification shall include, to the extent reasonably possible, the identification of each type and the extent of Personal Information that has been, or is reasonably believed to have been, breached, including but not limited to, compromised, or subjected to unauthorized Use, Disclosure, or modification, or any loss or destruction, corruption, or damage.
- (B) Immediately following the Contractor's notification to the County of a Security Breach, as provided pursuant to section 4(A) of this Exhibit, the Parties shall coordinate with each other to investigate the Security Breach. The Contractor agrees to fully cooperate with the County, including, without limitation:
- (i) assisting the County in conducting any investigation;
  - (ii) providing the County with physical access to the facilities and operations affected;
  - (iii) facilitating interviews with Authorized Persons and any of the Contractor's other employees knowledgeable of the matter; and
  - (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards, or as otherwise reasonably required by the County.

To that end, the Contractor shall, with respect to a Security Breach, be solely responsible, at its cost, for all notifications required by law and regulation, or deemed reasonably necessary by the County, and the Contractor shall provide a written report of the investigation and reporting required to the Director within 30 days after the Contractor's discovery of the Security Breach.

- (C) County shall promptly notify the Contractor of the Director's knowledge, or reasonable belief, of any Privacy Practices Complaint, and upon the Contractor's receipt of that notification, the Contractor shall promptly address such Privacy Practices Complaint, including taking any corrective action under this Exhibit, all at the Contractor's sole expense, in accordance with applicable privacy rights, laws, regulations and standards.

In the event the Contractor discovers a Security Breach, the Contractor shall treat the Privacy Practices Complaint as a Security Breach. Within 24 hours of the Contractor's receipt of notification of such Privacy Practices Complaint, the Contractor shall notify the County whether the matter is a Security Breach, or otherwise has been corrected and the manner of correction, or determined not to require corrective action and the reason for that determination.

- (D) The Contractor shall take prompt corrective action to respond to and remedy any Security Breach and take mitigating actions, including but not limiting to, preventing any reoccurrence of the Security Breach and correcting any deficiency in Security Safeguards as a result of such incident, all at the Contractor's sole expense, in accordance with applicable privacy rights, laws, regulations and standards. The Contractor shall reimburse the County for all reasonable costs incurred by the County in responding to, and mitigating damages caused by, any Security Breach, including all costs of the County incurred relation to any litigation or other action described section 4(E) of this Exhibit.
- (E) The Contractor agrees to cooperate, at its sole expense, with the County in any litigation or other action to protect the County's rights relating to Personal Information, including the rights of persons from whom the County receives Personal Information.

## **5. Oversight of Security Compliance**

- (A) The Contractor shall have and maintain a written information security policy that specifies Security Safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities.
- (B) Upon the County's written request, to confirm the Contractor's compliance with this Exhibit, as well as any applicable laws, regulations and industry standards, the Contractor grants the County or, upon the County's election, a third party on the County's behalf, permission to perform an assessment, audit, examination or review of all controls in the Contractor's physical and technical environment in relation to all Personal Information that is Used by the Contractor pursuant to this Agreement. The Contractor shall fully cooperate with such assessment, audit or examination, as applicable, by providing the County or the third party on the County's behalf, access to all Authorized Employees and other knowledgeable personnel, physical premises, documentation, infrastructure and application software that is Used by the Contractor for Personal Information pursuant to this Agreement. In addition, the Contractor shall provide the County with the results of any audit by or on behalf of the Contractor that assesses the effectiveness of the Contractor's information security program as relevant to the security and confidentiality of Personal Information Used by the Contractor or Authorized Persons during the course of this Agreement under this Exhibit.
- (C) The Contractor shall ensure that all Authorized Persons who Use Personal Information agree to the same restrictions and conditions in this Exhibit. that apply to the Contractor with respect to such Personal Information by incorporating the relevant provisions of these provisions into a valid and binding written agreement between the Contractor and such Authorized Persons, or amending any written agreements to provide same.

**6. Return or Destruction of Personal Information.** Upon the termination of this Agreement, the Contractor shall, and shall instruct all Authorized Persons to, promptly return to the County all Personal Information, whether in written, electronic or other form or media, in its possession or the possession of such Authorized Persons, in a machine readable form used by the County at the time of such return, or upon the express prior written consent of the Director, securely destroy all such Personal Information, and certify in writing to the County that such Personal Information have been returned to the County or disposed of securely, as applicable. If the Contractor is authorized to dispose of any such Personal Information, as provided in this Exhibit, such certification shall state the date, time, and manner (including standard) of disposal and by whom, specifying the title of the individual. The Contractor shall comply with all reasonable directions provided by the Director with respect to the return or disposal of Personal Information and copies of Personal Information. If return or disposal of such Personal Information or copies of Personal Information is not feasible, the Contractor shall notify the County according, specifying the reason, and continue to extend the protections of this Exhibit to all such Personal Information and copies of Personal Information. The Contractor shall not retain any copy of any Personal Information after returning or disposing of Personal Information as required by this section 6. The Contractor's obligations under this section 6 survive the termination of this Agreement and apply to all Personal Information that the Contractor retains if return or disposal is not feasible and to all Personal Information that the Contractor may later discover.

**7. Equitable Relief.** The Contractor acknowledges that any breach of its covenants or obligations set forth in this Exhibit may cause the County irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the County is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the County may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available to the County at law or in equity or under this Agreement.

**8. Indemnity.** The Contractor shall defend, indemnify and hold harmless the County, its officers, employees, and agents, (each, a "**County Indemnitee**") from and against any and all infringement of intellectual property including, but not limited to infringement of copyright, trademark, and trade dress, invasion of privacy, information theft, and extortion, unauthorized Use, Disclosure, or modification of, or any loss or destruction of, or any corruption of or damage to, Personal Information, Security Breach response and remedy costs, credit monitoring expenses, forfeitures, losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, fines and penalties (including regulatory fines and penalties), costs or expenses of whatever kind, including attorneys' fees and costs, the cost of enforcing any right to indemnification or defense under this Exhibit and the cost of pursuing any insurance providers, arising out of or resulting from any third party claim or action against any County Indemnitee in relation to the Contractor's, its officers, employees, or agents, or any Authorized Employee's or Authorized Person's, performance or failure to perform under this Exhibit or arising out of or resulting from the Contractor's failure to comply with any of its obligations under this section 8. The provisions of this section 8 do not apply to the acts or omissions of the County. The provisions of this section 8 are cumulative to any other obligation of the Contractor to, defend, indemnify, or hold harmless any County Indemnitee under this Agreement. The provisions of this section 8 shall survive the termination of this Agreement.



**9. Survival.** The respective rights and obligations of the Contractor and the County as stated in this Exhibit shall survive the termination of this Agreement.

**10. No Third Party Beneficiary.** Nothing express or implied in the provisions of in this Exhibit is intended to confer, nor shall anything in this Exhibit confer, upon any person other than the County or the Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

**11. No County Warranty.** The County does not make any warranty or representation whether any Personal Information in the Contractor's (or any Authorized Person's) possession or control, or Use by the Contractor (or any Authorized Person), pursuant to the terms of this Agreement is or will be secure from unauthorized Use, or a Security Breach or Privacy Practices Complaint.

## SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

*"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"*

The definition above will be utilized for purposes of completing this disclosure form.

### INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
  - a. The name of the agency/company with which the corporation has the transaction; and
  - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

<b>(1) Company Board Member Information:</b>			
<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			
<b>(2) Company/Agency Name and Address:</b>			
<b>(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)</b>			
<b>(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a)</b>			
<b>(5) Authorized Signature</b>			
<b>Signature:</b>		<b>Date:</b>	

## DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT

### I. Identifying Information

Name of Entity		D/B/A		
Address (number, street)		City	State	ZIP Code
CLIA Number	Taxpayer ID Number (EIN) / Social Security Number		Telephone Number (       )	

II. Answer the following questions by checking "Yes" or "No." If any of the questions are answered "Yes," list all names and addresses (primary, every business location, and P.O. Box address) of individuals or corporations under "Remarks" on page 2. Identify each item number to be continued.

- |  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| <p>A. Are there any individuals or organizations having a direct or indirect ownership or control interest of five percent or more in the institution, organizations, or agency that have been convicted of a criminal offense related to the involvement of such persons or organizations in any of the programs established by Titles XVIII, XIX, or XX? .....</p> | <input type="checkbox"/> | <input type="checkbox"/> |
| <p>B. Are there any directors, officers, agents, or managing employees of the institution, agency, or organization who have ever been convicted of a criminal offense related to their involvement in such programs established by Titles XVIII, XIX, or XX? .....</p>   | <input type="checkbox"/> | <input type="checkbox"/> |
| <p>C. Are there any individuals currently employed by the institution, agency, or organization in a managerial, accounting, auditing, or similar capacity who were employed by the institution's, organization's, or agency's fiscal intermediary or carrier within the previous 12 months? (Title XVIII providers only) .....</p>                                   | <input type="checkbox"/> | <input type="checkbox"/> |

III. A. List names, addresses for individuals, or the EIN for organizations having direct or indirect ownership or a controlling interest in the entity. (See instructions for definition of ownership and controlling interest.) List any additional names and addresses (primary, every business location, and P.O. Box address) under "Remarks" on page 2. If more than one individual is reported and any of these persons are related to each other, this must be reported under "Remarks."

NAME	DOB	ADDRESS	EIN

B. Type of entity:    ☐ Sole proprietorship                      ☐ Partnership                      ☐ Corporation  
                              ☐ Unincorporated Associations                      ☐ Other (specify) \_\_\_\_\_

C. If the disclosing entity is a corporation, list names, addresses of the directors, and EINs for corporations under "Remarks."

D. Are any owners of the disclosing entity also owners of other Medicare/Medicaid facilities? (Example: sole proprietor, partnership, or members of Board of Directors) If yes, list names, addresses of individuals, and provider numbers. .... ☐ ☐

NAME	DOB	ADDRESS	PROVIDER

YES NO

- IV. A. Has there been a change in ownership or control within the last year? ..... ☐ ☐  
If yes, give date. \_\_\_\_\_
- B. Do you anticipate any change of ownership or control within the year?..... ☐ ☐  
If yes, when? \_\_\_\_\_
- C. Do you anticipate filing for bankruptcy within the year?..... ☐ ☐  
If yes, when? \_\_\_\_\_
- V. Is the facility operated by a management company or leased in whole or part by another organization?..... ☐ ☐  
If yes, give date of change in operations. \_\_\_\_\_
- VI. Has there been a change in Administrator, Director of Nursing, or Medical Director within the last year?..... ☐ ☐
- VII. A. Is this facility chain affiliated? ..... ☐ ☐  
(If yes, list name, address of corporation, and EIN.)

Name		EIN	
Address (number, name)	City	State	ZIP code

- B. If the answer to question VII.A. is NO, was the facility ever affiliated with a chain?  
(If yes, list name, address of corporation, and EIN.)

Name		EIN	
Address (number, name)	City	State	ZIP code

*Whoever knowingly and willfully makes or causes to be made a false statement or representation of this statement, may be prosecuted under applicable federal or state laws. In addition, knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to participate or where the entity already participates, a termination of its agreement or contract with the agency, as appropriate.*

Name of authorized representative (typed)	Title
Signature	Date

Remarks

## INSTRUCTIONS FOR COMPLETING DISCLOSURE OF CONTROL AND INTEREST STATEMENT

Please answer all questions as of the current date. If the yes block for any item is checked, list requested additional information under the Remarks Section on page 2, referencing the item number to be continued. If additional space is needed use an attached sheet.

### DETAILED INSTRUCTIONS

These instructions are designed to clarify certain questions on the form. Instructions are listed in question order for easy reference. No instructions have been given for questions considered self-explanatory.

IT IS ESSENTIAL THAT ALL APPLICABLE QUESTIONS BE ANSWERED ACCURATELY AND THAT ALL INFORMATION BE CURRENT.

**Item I** - Under "Identifying Information" specify in what capacity the entity is doing business as (DBA) (e.g. name of trade or corporation).

**Item II** - Self-explanatory

**Item III** - List the names of all individuals and organizations having direct or indirect ownership interests, or controlling interest separately or in combination amounting to an ownership interest of 5 percent or more in the disclosing entity.

Direct ownership interest - is defined as the possession of stock, equity in capital or any interest in the profits of the disclosing entity. A disclosing entity is defined as a Medicare provider or supplier, or other entity that furnishes services or arranges for furnishing services under Medicaid or the Maternal and Child Health program, or health related services under the social services program.

Indirect ownership interest - is defined as ownership interest in an entity that has direct or hospital-based home health agencies, are not indirect ownership interest in the disclosing entity. The amount of indirect ownership in the disclosing entity that is held by any other entity is determined by multiplying the percentage of ownership interest at each level. An indirect ownership interest must be reported if it equates to an ownership interest of 5 percent or more in the disclosing entity. Example: if A owns 10 percent of the stock in a corporation that owns 80 percent of the stock of the disclosing entity, A's interest equates to an 8 percent indirect ownership and must be reported.

Controlling interest - is defined as the operational direction or management of disclosing entity which may be maintained by any or all of the following devices: the ability or authority, expressed or reserved, to amend or change the corporate identity (i.e., joint venture agreement, unincorporated business status) of the disclosing entity; the ability or authority to nominate or name members of the Board of Directors or Trustees of the disclosing entity; the ability or authority, expressed or reserved, to amend or change the by-laws, constitution, or other operating or management direction of the disclosing entity; the right to control any or all of the assets or other property of the disclosing entity upon the sale or dissolution of that entity; the ability or authority, expressed or reserved, to control the sale of any or all of the assets, to encumber such assets by way of mortgage or other indebtedness, to dissolve the entity or to arrange for the sale or transfer of the disclosing entity to new ownership or control.

**Item IV-VII** - (Changes in Provider Status) For Items IV-VII, if the yes box is checked, list additional information requested under Remarks. Clearly identify which item is being continued.

Change in provider status - is defined as any change in management control. Examples of such changes would include; a change in Medical or Nursing Director, a new Administrator, contracting the operation of the facility to a management corporation, a change in the composition of the owning partnership which under applicable State law is not considered a change in ownership, or the hiring or dismissing of any employees with 5 percent or more financial interest in the facility or in an owning corporation, or any change of ownership.

**Item IV** - (A & B) If there has been a change in ownership within the last year or if you anticipate a change, indicate the date in the appropriate space.

**Item V** - If the answer is yes, list name of the management firm and employer identification number (EIN), or the name of the leasing organization. A management company is defined as any organization that operates and manages a business on behalf of the owner of that business, with the owner retaining ultimate legal responsibility for operation of the facility.

**Item VI** - If the answer is yes, identify which has changed (Administrator, Medical Director, or Director of Nursing) and the date the change was made. Be sure to include name of the new Administrator, Director of Nursing or Medical Director, as appropriate.

**Item VII** - A chain affiliate is any free-standing health care facility that is either owned, controlled, or operated under lease or contract by an organization consisting of two or more free-standing health care facilities organized within or across State lines which is under the ownership or through any other device, control and direction of a common party. Chain affiliates include such facilities whether public, private, charitable or proprietary. They also include subsidiary organizations and holding corporations. Provider-based facilities, such as hospital-based home health agencies, are not considered to be chain affiliates.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS--PRIMARY COVERED TRANSACTIONS**

**INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

**CERTIFICATION**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it, its owners, officers, corporate managers and partners:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature:

\_\_\_\_\_

\_\_\_\_\_  
(Printed Name & Title)

Date:

\_\_\_\_\_

\_\_\_\_\_  
(Name of Agency or  
Company)