

CONTRACT

The COUNTY OF SAN BENITO ("COUNTY") and SUMO MEDICAL STAFFING ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

1. Duration of Contract.

This contract shall commence on July 1, 2016, and end on June 30, 2017 unless sooner terminated as specified herein.

2. Scope of Services.

CONTRACTOR, for COUNTY's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

3. Compensation for Services.

In consideration for CONTRACTOR's performance, COUNTY shall pay fees to CONTRACTOR for services performed by physicians furnished by CONTRACTOR according to the terms specified in Attachment B. Attachment B is made a part of this contract.

4. General Terms and Conditions.

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

5. Insurance Limits.

CONTRACTOR shall maintain the insurance policies of coverage consistent with the requirements specified in Attachment C.

6. Termination.

The number of days of advance written notice required for termination of this contract is thirty (30) days.

7. Specific Terms and Conditions (check one)

☐ There are no additional provisions to this contract.

☒ The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.

☒ The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment E. Attachment E is made a part of this contract.

8. **Information about Parties' Representatives.**

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for COUNTY:

Name: Alan Yamamoto

Title: Director

Address: 1131 San Felipe Rd.

Hollister, California 95023

Telephone No.: 831-636-4020

Fax No.: 831-636-4025

Representative for CONTRACTOR:

Name: Boyd Waters

Title: Director of Operations

Address: Sumo Medical Staffing

71 East Wadsworth Park

Draper, UT 84020

Telephone No.: 877-706-4949

Fax No.: 801-285-7221

SIGNATURES

APPROVED BY COUNTY:

Name: _____

Chair, San Benito County Board of Supervisors

Date: _____

APPROVED BY CONTRACTOR:



Name: Boyd Waters

Title: COO

Date: 6/28/16

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By:  _____

Date: 7-7-16

ATTACHMENT A

Scope of Services

Staff Psychiatrist:

1. Introduction. CONTRACTOR agrees to use its best efforts to furnish locum tenens physicians whose specialty is psychiatry and currently licensed by the State of California, and board certified in Psychiatry by the Council of Medical Education of the American Medical Association. Such license shall be unrestricted by the California Medical Board at all times. After arrangements have been made for a physician to furnish services in response to a requested assignment, and upon COUNTY'S written acceptance of said physician, the requested assignment shall be binding upon COUNTY. The written acceptance shall be accomplished via an acknowledgment sent to COUNTY ("Confirmation"), which is then signed and returned to CONTRACTOR. Each Confirmation shall include the name and specialty of physician furnishing services hereunder, the dates and location of the assignment, the fees for the assignment, the applicable Contract Buyout Fee (as defined below in paragraph C-3) and deviations to this contract for that assignment, if any. All Assignments are binding and subject to the cancellation provisions set forth in this contract once COUNTY has provided written acceptance of a physician. In the event that any changes or additional arrangements are made to/for an assignment after a Confirmation has been issued, a subsequent Confirmation shall be issued which reflects the changes or additional arrangements. Confirmations last in time shall be binding.

2. Hours. CONTRACTOR shall furnish locum tenens physicians to cover an average of 40 hours per week of clinical services in consultation with the COUNTY's Mental Health Director regarding COUNTY needs.

3. Description of Services. CONTRACTOR agrees to furnish physicians to provide psychiatric services as needed to supplement COUNTY's clinical staff in providing these services to clients of COUNTY behavioral health units in accordance with community standards of care, clinical practices and reimbursement regulatory requirements. These services shall include:

A. Interviewing and examining clients and families to diagnose psychiatric problems and determine the type of psychiatric medical treatment needed and referring clients to appropriate sources of treatment and participating in individual and group therapy sessions, treatment planning, and case conferences.

B. Prescribing and dispensing medication to clients for psychiatric treatment and working in close collaboration with nursing staff serving agency clients.

C. Monitoring and documenting progress in treatment, or other activities determined by the needs of the clients and the programs to which they are assigned according to the community standard of care and applicable federal, state and COUNTY laws, regulations, licensures/certifications, policies and procedures.

D. Preparing a variety of comprehensive records and reports and complete required paperwork such as physician's portion of disability evaluations, psychiatric evaluations, service plans, annual re-assessments, billings, and consent forms.

E. Providing psychiatric services for dually diagnosed clients and participating in treatment reviews and service authorizations for the behavioral health department's mental health and drug and alcohol programs.

F. Participating in documentation changes including training related to electronic records and billing procedures.

G. Providing testimony for court proceedings related to COUNTY psychiatric clients.

4. COUNTY Billing for Psychiatric Services. CONTRACTOR and the physicians it furnishes to provide services to COUNTY are precluded from billing for services performed under this contract to any private or governmental third-party payers. The COUNTY is the only party that may bill and seek reimbursement from private or governmental third-party payers for the services performed by physicians furnished by CONTRACTOR on behalf of COUNTY.

5. Licensure. Physicians must have all current, required and valid licensure, and any other credential(s) required by the State of California. CONTRACTOR shall direct physicians to provide COUNTY with copies of physician's current California licensure as a physician, certification from the Drug Enforcement Administration, and with such other credentialing information as COUNTY may from time to time reasonably request. If any physician fails to comply with requests for credentialing information, COUNTY may terminate an assignment or this contract immediately upon written notice to CONTRACTOR.

END OF ATTACHMENT A

ATTACHMENT B
Payment Schedule

8-1. BILLING

Fees for services rendered by physicians furnished by CONTRACTOR pursuant to the terms and conditions of this contract shall be invoiced by CONTRACTOR to COUNTY on a bi-weekly basis.

8-2. PAYMENT

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

8-3. COMPENSATION

COUNTY shall pay to CONTRACTOR fees for services rendered by physicians furnished by CONTRACTOR for each assignment as specified in the Confirmation for that assignment pursuant to the terms and conditions of this contract and pursuant to the special compensation terms specified in paragraph 8-4.

8-4. SPECIAL COMPENSATION TERMS:

- () There are no additional terms of compensation.
- (X) The following specific terms of compensation shall apply: (Specify)

The amount COUNTY shall pay to CONTRACTOR shall be based on an hourly range of **\$199.00 - \$229.00** per hour all inclusive rate. The maximum total sum for the term of this contract shall not exceed three hundred seventy four thousand four hundred dollars (**\$374,400**).

Any and all audit exceptions subjected to State Department of Mental Health fiscal recoupment identified by the COUNTY or any state or federal agency resulting from an audit of CONTRACTOR's performance of this contract, or actions by CONTRACTOR, its officers, agents and employees shall be the sole responsibility of the CONTRACTOR. If the results of any audit show that the funds paid to CONTRACTOR under this contract exceeded the amount due, then the CONTRACTOR shall refund the excess amount to COUNTY not later than sixty (60) days after the final audit settlement, or at COUNTY's election, COUNTY may recover the excess or any portion of it by offsets made by COUNTY against any payment owed to CONTRACTOR for services performed by physicians to COUNTY under this contract.

Payments made for services performed by the physician(s) pursuant to the fees above, along with any applicable Contract Buyout Fees (as defined in paragraph C-30) and costs related to travel and housing, if any, shall be accepted by the CONTRACTOR as payment in full, subject to third party liability and beneficiary share of cost, for specialty mental health services provided to any beneficiary.

END OF ATTACHMENT B

ATTACHMENTC

GeneralTerms and Conditions

C-1. INDEMNIFICATION.

CONTRACTOR agrees to indemnify COUNTY from and against liabilities, claims, suits, actions, causes of action and damages incurred by COUNTY as a result of any act or omission directly arising out of the staffing services furnished hereunder by CONTRACTOR, and its employees, inclusive of costs and fees and in the aggregate for all parties. CONTRACTOR shall not have any liability to COUNTY for payment of amounts for professional liability outside of or in excess of its limits of professional liability insurance. If CONTRACTOR fails to satisfy the deductible or self-insured retention necessary to trigger insurance coverage, the County has the right, but not the obligation, to do so.

COUNTY agrees to indemnify CONTRACTOR from and against any and all liabilities, claims and damages incurred directly as a result of any act or omission of medical malpractice to the extent arising out of medical services provided by and under the direction and control of COUNTY, its agents and employees, up to \$1 million per incident, inclusive of costs and fees. COUNTY shall not have any liability for payment of amounts to CONTRACTOR for professional liability in excess of the amount stated in this provision

C-2. GENERAL INSURANCE REQUIREMENTS.

Without limiting CONTRACTOR's duty to indemnify COUNTY, CONTRACTOR shall comply with the insurance coverage requirements set forth in this attachment. Those insurance policies as described below in Paragraph C-3 shall satisfy the following requirements:

- (a) Each policy shall be issued by a company authorized by law to transact business in the State of California.
- (b) CONTRACTOR shall provide COUNTY notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal of any insurance coverage.
- (c) The commercial general liability policy shall include an endorsement naming the COUNTY as an additional insured. Said endorsement shall be in the form of a blanket endorsement.
- (d) The required coverage shall be maintained in effect throughout the term of this contract.

C-3. INSURANCE COVERAGE REQUIREMENTS.

CONTRACTOR shall maintain the following insurance policies in full force and effect during the term of this contract:

- (a) Commercial general liability insurance. CONTRACTOR shall maintain commercial general liability insurance, covering all of CONTRACTOR's operations in limits of \$1,000,000 each occurrence.
- (b) Professional liability insurance. CONTRACTOR shall maintain professional liability insurance for each physician while on assignment with COUNTY to cover all incidents which may occur during an assignment, regardless of when a claim is made, in limits of \$1,000,000 per incident and \$3,000,000 in aggregate or such limits as may be required by law. Insurance coverage is subject to the terms of the policy and covers medical malpractice only.
- (c) Workers' compensation insurance. CONTRACTOR shall maintain a workers' compensation insurance covering its employees as required by California Labor Code Section 3700.

Notwithstanding anything contained in this paragraph to the contrary, it is understood and agreed that physicians are independent contractors of CONTRACTOR. As independent contractors, CONTRACTOR does not furnish worker's compensation for physicians.

- (d). Workers' Compensation Insurance - Physicians. Physicians must have workers' compensation coverage or be covered under a personal medical insurance policy while performing services under this contract. CONTRACTOR shall direct physicians to provide COUNTY with proof of coverage. If any physician fails to comply with requests for proof of workers' compensation insurance or medical insurance, COUNTY may terminate an assignment or this contract immediately upon written notice to CONTRACTOR.
- (e). Automobile Insurance. CONTRACTOR shall require any physician it furnishes to perform services to COUNTY to maintain the legally required automobile insurance for the State of California when using his/her own vehicle in the performance of services hereunder.

COUNTY agrees to cooperate with CONTRACTOR'S reasonable risk management and quality assurance activities. Should COUNTY become aware of an incident or claim which may give rise to a claim under CONTRACTOR'S professional liability policy of insurance, COUNTY agrees to promptly notify CONTRACTOR of the nature of the claim and report all necessary information related to the claim. COUNTY understands and agrees that failure to report an incident may result in loss of coverage. The obligations of this paragraph shall survive any termination of this contract.

C-4. CERTIFICATE OF INSURANCE.

Prior to the commencement of any assignment with COUNTY, CONTRACTOR shall provide a certificate of insurance to COUNTY, evidencing the insurance required by this contract.

C-5. RECORDS TO BE MAINTAINED.

CONTRACTOR shall keep and maintain accurate records of all costs incurred and all time expended for services performed by physicians to COUNTY pursuant to the terms of this contract. If applicable, CONTRACTOR shall contractually require that all of CONTRACTOR's subcontractors performing work under this contract also keep and maintain such records. All such records, kept by CONTRACTOR shall be made available to COUNTY or its authorized representative, or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by COUNTY, its authorized representative, or officials of the State of California. CONTRACTOR and COUNTY shall mutually agree in advance upon the scope, timing and location of such a review or audit. COUNTY agrees to protect the confidentiality of all confidential and proprietary information of CONTRACTOR to which COUNTY has access during the course of such review or audit. COUNTY shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties.

C-6. RETENTION OF RECORDS.

CONTRACTOR shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. If applicable, CONTRACTOR shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three year period shall arise only if the COUNTY notifies CONTRACTOR of the commencement of an audit prior to the expiration of the three year period.

C-7. TITLE TO DOCUMENTS; COPYRIGHT.

All reports and other materials collected or produced by the CONTRACTOR as it relates to the services performed for COUNTY under this contract shall, after completion and acceptance of the contract, become the property of COUNTY, and shall not be subject to any copyright claimed by the CONTRACTOR or its employees. CONTRACTOR may retain copies of all such materials exclusively for administrative purposes. Any use of completed or uncompleted documents for other projects by CONTRACTOR or its employees, without the prior written consent of COUNTY is prohibited.

C-8. INDEPENDENT CONTRACTOR.

CONTRACTOR and its officers and employees, in the performance of this contract, are independent contractors in relation to COUNTY and not officers, agents or employees of COUNTY nor shall the independent contractors be under the direction or control of COUNTY. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any officer or employee of COUNTY. CONTRACTOR shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. CONTRACTOR further represents to COUNTY that CONTRACTOR has no expectation of receiving any benefits incidental to employment. Notwithstanding anything contained in the contract to the contrary, each physician furnished by CONTRACTOR is an independent contractor of CONTRACTOR. CONTRACTOR shall be responsible for compensating physicians directly. As independent contractors, CONTRACTOR does not pay employment taxes for physicians or furnish worker's compensation coverage for physicians. CONTRACTOR'S interest is in furnishing physician locum tenens staffing services. CONTRACTOR does not make clinical decisions for physicians and does not otherwise direct or control the clinical services furnished by the physicians. CONTRACTOR makes no guarantee regarding any physicians and specifically disclaims the same.

C-9. CONFLICT OF INTEREST.

CONTRACTOR represents that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CONTRACTOR further represents that, in the performance of this contract, no subcontractor or person having such an interest shall be used or employed.

C-10. COMPLIANCE WITH APPLICABLE LAWS.

CONTRACTOR shall, and shall direct the physicians it furnishes to perform clinical services to COUNTY, to comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the services under this contract.

C-11. NONDISCRIMINATION.

Neither party shall discriminate in the employment of persons necessary to perform the services under this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

C-12. BANKRUPTCY.

CONTRACTOR shall immediately notify COUNTY in the event that CONTRACTOR ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.

C-13. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by either party without the prior written consent of the other party, and any attempted assignment or delegation without such consent shall be void.

C-14. NEGOTIATED CONTRACT.

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

C-15. SEVERABILITY.

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

C-16. ENTIRE CONTRACT.

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

C-17. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this contract.

C-18. TERMINATION.

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-20, below. In the event of termination, COUNTY shall pay CONTRACTOR for all services performed by the physicians furnished by CONTRACTOR up to the effective date of the termination.

C-19. CANCELLATION OF ASSIGNMENT.

In the event that COUNTY provides less than thirty (30) days prior written notice of cancellation COUNTY shall be responsible as liquidated damages, but not as a penalty for payment of the total fee due for the period covered by the assignment up to a maximum of thirty (30) calendar days ("Damages"). COUNTY shall also be responsible for payment of other actual fees and charges that may result from cancellation of an assignment, including but not limited to, travel and housing costs ("Costs") in addition to any fees for physician coverage actually performed. In the event that an assignment is scheduled less than thirty (30) days in advance and COUNTY cancels, COUNTY shall be responsible for payment of the total fee due for the period covered by the assignment up to a maximum of thirty (30) calendar days (also "Damages") as well as Costs that may result from cancellation as described in this Paragraph C-19. Notwithstanding the foregoing, and provided that COUNTY communicated its minimum credentialing requirements, then COUNTY shall not be liable for Damages or Costs associated with cancellation. COUNTY may be requested to provide documentation evidencing that physician(s) does not meet COUNTY credentialing requirements or was not granted privileges.

C-20. NOTICES.

Notices to the parties in connection with the administration of this contract shall be given to the parties' designated representative, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the other party's designated representative; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's designated representative as indicated in this contract, with first-class postage fully prepaid; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 8 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's designated representative as indicated in this contract, on the same day as the facsimile transmission is made.

C-21. RESPONSIBILITY OF PARTIES' REPRESENTATIVES.

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the representatives specified, in writing. A party may, in its sole discretion, change its designation of its representative and shall promptly give written notice to the other party of any such change.

C-22. MATERIALITY.

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

C-23. WAIVER.

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COUNTY's receipt of consideration with knowledge of CONTRACTOR's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

C-24. AUTHORITY AND CAPACITY.

CONTRACTOR and CONTRACTOR's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

C-25. BINDING ON SUCCESSORS.

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CONTRACTOR. CONTRACTOR and all of CONTRACTOR's heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

C-26. CUMULATION OF REMEDIES.

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

C-27. INDEPENDENT ADVICE.

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

C-28. NO RELIANCE ON REPRESENTATIONS.

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

C-29. COUNTERPARTS.

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

C-30. CONTRACT BUYOUT FEE.

COUNTY agrees that should it offer Work (as defined below) to any physician if physician has furnished services for COUNTY and said offer is made during a period of two (2) years after the last day of physician's last assignment with COUNTY under this contract or the day that physician was presented to COUNTY by CONTRACTOR, whichever is later, and said offer is accepted, then COUNTY shall pay to CONTRACTOR as consideration for the introduction a contract buyout fee in the amount listed in the related Confirmation ("Contract Buyout Fee") per physician so hired or engaged. This paragraph shall survive termination of this contract. This paragraph shall not apply to any physician that has previously been a member of COUNTY medical staff or otherwise been engaged by COUNTY prior to this contract or unrelated to CONTRACTOR. COUNTY must inform CONTRACTOR in writing within five (5) business days if any physician presented by CONTRACTOR is already known to COUNTY through means other than CONTRACTOR. If COUNTY fails to so notify CONTRACTOR, CONTRACTOR shall be deemed to have made the introduction. If a physician accepts Work, the Contract Buyout Fee must be paid in full within five (5) business days after the first day the physician performs services in the new position. Fees shall be assessed for services performed up to the date the Contract Buyout Fee is paid. Once the Contract Buyout Fee is paid for any physician under this contract, CONTRACTOR shall not assess further fees for that physician and there shall be no further obligation as between CONTRACTOR and COUNTY with respect to that physician except for COUNTY'S obligation to reimburse CONTRACTOR for outstanding Travel and Housing costs, if any. For purposes of this contract, "Work" shall mean an offer to work, said offer being either verbal or written, on a part or full time basis, temporary or permanent, directly as an employee.

END OF ATTACHMENT C.

ATTACHMENT D

Status of Contractor

CONTRACTOR is: (check one)

- ☐ CONTRACTOR is an "Organizational Provider" as that term is defined in this paragraph. The term "Organizational Provider" means a provider of specialty mental health services, other than psychiatric inpatient hospital services or psychiatric nursing facility services. An organizational provider provides mental health services to beneficiaries through employees or by contracting with licensed or registered mental health professionals and other staff, unless such staff is legally entitled to a waiver. CONTRACTOR, an organizational provider, shall comply with all specific terms and conditions of D-1 through D-21, inclusive.
- ☐ CONTRACTOR is a "Group Provider" as that term is defined in this paragraph. The term "Group Provider" means an organization that provides specialty mental health services through two or more individual providers. Group providers include entities such as independent practice associations, hospital outpatient departments, health care service plans, and clinics. CONTRACTOR, a group provider, shall comply with all specific terms and conditions of D-1 through D-21, inclusive.
- ☒ Physicians performing clinical services to COUNTY are "Individual Providers" as that term is defined in this paragraph. The term "Individual Providers" means licensed mental health professionals whose scope of practice permits the practice of psychotherapy without supervision and who provides specialty mental health services directly to beneficiaries. Individual providers include licensed physicians, licensed psychologist, licensed clinical social workers, licensed marriage, family and child counselors. The term, individual provider does not include licensed mental health professionals when they are acting as employees of any organizational provider or independent contractors of organizational providers other than the CONTRACTOR. A physician furnished by CONTRACTOR, an individual provider, shall comply with all specific terms and conditions of D-1 through D-16, inclusive. Physician's qualifications are as follows: (check one)

☒ M.D.

☐ Ph.D.

☐ L.C.S.W.

☐ M.F.T.

☐ R.N. with M.S.

SPECIFIC TERMS AND CONDITIONS

The following paragraphs apply only as indicated above.

- D-1. Physician shall comply with Division 5 of the Welfare and Institutions Code, Titles 9 and 22 of the California Code of Regulations, and all statutes and regulations related thereto.
- D-2. Physician shall comply with all statutes and regulations governing the confidentiality of records.
- D-3. Physician shall maintain all governing records in compliance with all appropriate federal, state and local requirements.
- D-4. Physician shall comply with all Patients' Rights statutes and regulations.
- D-5. Physician shall insure that all pertinent admissions and length of stay requests comply with utilization review regulations.

- D-6. Physician shall maintain all necessary licensing and certification to perform under the scope of practice of CONTRACTOR.
- D-7. Physician shall comply with all credentialing activities as may be required by the County.
- D-8. Physician shall submit to COUNTY in a timely manner all required reports.
- D-9. Notwithstanding anything in paragraph C-6, to the contrary, CONTRACTOR shall maintain records as specified in paragraph C-6 for a period of seven (7) years from the close of the COUNTY'S fiscal year in which this contract is in effect.
- D-10. Notwithstanding paragraphs C-5 and C-6, CONTRACTOR shall make all of its books and records, pertaining to the goods and services furnished under the terms of this contract, available for inspection, examination or copying, by the COUNTY, the State Department of Justice, HHS, and the State Department of Health Services, at all reasonable times at the CONTRACTOR'S place of business or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping.
- D-11. Physician must meet all Department of Mental Health and Mental Health Provider selection criteria.
- D-12. Physician shall ensure that beneficiaries will receive the same level of care as provided to all other patients served.
- D-13. Physician shall not discriminate in the provision of services to beneficiaries on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.
- D-14. Physician shall adhere to all procedures and regulations as described in the County's Provider Handbook, a copy of which shall be provided to physician by COUNTY during the credentialing process.
- D-15. Physician shall comply with all certification requirements to practice as an Organizational Provider of Specialty Mental Health Services and must meet all on-site certification criteria prior to certification and every 2 years thereafter, a copy of which shall be provided to physician by COUNTY during the credentialing process.
- D-16. Physician shall maintain all licenses and ensure they are proper and he/she possess valid credentials.
- D-17. CONTRACTOR agrees that all staff providing TBS are trained to deliver behavioral interventions.
- D-18. Physician agrees to complete and return to COUNTY the Provider Satisfaction Survey when such is provided by COUNTY.

END ATTACHMENT D

ATTACHMENT E

HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT

BUSINESS ASSOCIATE

- (a) Contractor shall comply with, and assist the County in complying with, the privacy requirements of the Health Insurance Portability and Accountability Act (including but not limited to 42 U.S.C. 1320d et seq.; "HIPAA") and its implementing regulations (including but not limited to 45 CFR Parts 142, 160, 162 and 164), hereinafter collectively referred to as the "Privacy Rule." Terms used but not otherwise defined in this Addendum shall have the same meaning as those terms are used in the Privacy Rule.
- (b) Except as otherwise limited in this Addendum, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for or on behalf of the County as specified in this Addendum, provided that such use or disclosure would not violate the Privacy Rule with which the County complies.
- (c) Contractor shall not use or further disclose Protected Health Information other than as permitted or required by this Addendum, or as required by law.
- (d) Contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Addendum.
- (e) Contractor shall report to the County any use or disclosure of the Protected Health Information not provided for by this Addendum.
- (f) Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor as a result of a use or disclosure of Protected Health Information by Contractor, which is in violation of the requirements of this contract.
- (g) Contractor shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, created, or received by Contractor on behalf of the County, agrees to the same restrictions and conditions that apply through this contract to Contractor with respect to such information.
- (h) Contractor shall provide access, at the request of the County, and in the time and manner designated by the County, to Protected Health Information in a Designated Record Set; this Protected Health Information will be released to the County or, as directed by the County, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.
- (i) Contractor shall make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs, pursuant to 45 CFR Section 164.526, at the request of the County or an Individual, and in the time and manner designated by the County.
- (j) Contractor shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the County, to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.
- (k) Contractor shall provide to the County or an Individual, in the time and manner designated by the County, information collected in accordance with subsection U), to permit the County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.
- (l) Contractor shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of the County, available to the County; or at the request of the County, to the Secretary of the United States Department of Health and Human Services ("Secretary"), in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining the County's compliance with the Privacy Rule.

- (m) A breach by Contractor of any provision of this Addendum, as determined by County, shall constitute a material breach of the contract and shall provide grounds for immediate termination of the Contract by the County.
- (1) Except as provided in subparagraph (2) of this section, upon termination of this Addendum for any reason, Contractor shall return or destroy all Protected Health Information received from the County, or created or received by Contractor on behalf of the County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Contractor. Contractor, its agents and subcontractors shall retain no copies of the Protected Health Information.
- (2) In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to the County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor, or any of its agents or subcontractors, maintains such Protected Health Information.
- (n) Contractor is responsible for providing the required notification only if a breach involved of "unsecured PHI". Unsecured PHI is PHI that has not been rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified in guidance by the Secretary of DHHS. The most current guidance can be found on the DHHS website (<http://www.hhs.gov>).
- (o) The Parties agree to take action to amend this contract in writing from time to time as is necessary for the County to comply with the requirements for the Privacy Rule or any other requirements of HIPAA and its implementing regulations.

END ATTACHMENT E