



November 15, 2016

The Honorable Board of Supervisors
Administration Building
1221 Oak Street
Oakland, CA 94612

SUBJECT: APPROVE REVISED CONTRACT TEMPLATE FOR BEHAVIORAL HEALTH CARE SERVICES' MENTAL HEALTH PLAN PROVIDER NETWORK EFFECTIVE FISCAL YEAR 2016-17

Dear Board Members:

RECOMMENDATIONS:

Approve a revised contract template for Specialty Mental Health Service providers participating in Alameda County's Mental Health Plan Provider Network under Master Contract No. C1999-535 effective July 1, 2016.

SUMMARY/DISCUSSION:

The Mental Health Plan (MHP) Provider Network is a pool of mental health providers/practitioners such as Licensed Clinical Social Workers, Licensed Marriage and Family Therapists, Licensed Professional Clinical Counselors, Licensed Clinical Psychologists; and Physicians who contract with Behavioral Health Care Services (BHCS) to provide outpatient mental health services to Medi-Cal beneficiaries and other safety net population in Alameda County. These providers, who are either part of an organization, group or solo practitioners, deliver the behavioral component of the insurance plan and have been working under the same contract since 1999.

Under the Affordable Care Act (ACA), beneficiaries who demonstrate functional impairments in the moderate-to-severe range due to their mental health condition are eligible for Specialty Mental Health Services (SMHS) as described in the California Code of Regulations, Title 9, Division 1 – Department of Mental Health; Chapter 11 Medi-Cal Specialty Mental Health Services, Sections 1810.100 through 1850.535, referred to as the Managed Care Medi-Cal regulations. ACA also left the MHP at a competitive disadvantage in recruiting and retaining qualified mental health professionals at a time when other managed care plans are also recruiting for the same providers to treat beneficiaries with mild to moderate mental illness.

BHCS convened a workgroup to plan for, make recommendations, and implement the changes effective July 1, 2016. The revised contract template includes requirement that improve timeliness of connection to services, minimum caseload expectations for Medi-Cal beneficiaries, additional

brokerage/linkage billable service for assisting clients in connecting with community resources such as primary care physician, housing resources and social services, and competitive rates for SMHS. The redesigned package of services considerably aligns the Alameda County MHP Provider Network with best practices around brief therapy modalities associated with a managed care environment, enhanced Quality Assurance oversight, and increased Medi-Cal regulation compliance while ensuring a wider breadth of services that meet our clients' need. In addition to revising the contract template for providers, BHCS also increased the rates paid to providers to reflect market rates for this service.

Behavioral Health Care Services (BHCS) is requesting approval of the revised contract template to reflect the current requirements under ACA for continued delivery of SMHS.

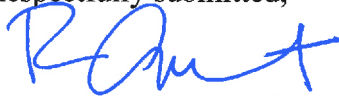
SELECTION CRITERIA AND PROCESS:

Your Board approved BHCS' MHP Provider Network Master Contract in 1999 – the original Board date could not be located. BHCS' MHP Provider Network is a required component of the County's Mental Health Plan with the State of California's Department of Health Care Services for the delivery of SMHS and are subject to initial credentialing; ongoing monitoring for debarments, exclusions and suspensions; and re-credentialing every three years.

FINANCING:

Funding for the MHP contracts is already included in the BHCS budget. There is no increase in net County cost as a result of your approval.

Respectfully submitted,



Rebecca Gebhart, Interim Director
Alameda County Health Care Services Agency

SPECIALTY MENTAL HEALTH SERVICES AGREEMENT

THIS CONTRACT, made and entered into on this 1st day of July 2016 by and between the **COUNTY OF ALAMEDA**, a body corporate and politic of the State of California, hereinafter referred to as "**County**," and **«first name» «mid init». «last name», «Degree 1»**, hereinafter referred to as "**Contractor**."

WITNESSETH:

WHEREAS, County is desirous of contracting with Contractor for the provision of certain services, a description of which is presented in Exhibit A(s), attached hereto; and

WHEREAS, Contractor agrees to provide specialty mental health services to Medi-Cal beneficiaries and/or other members of the Mental Health Plan as defined by the Behavioral Health Care Services Department; and

WHEREAS, Contractor is willing to provide proof of insurance as specified in Exhibit C, attached hereto; and

WHEREAS, Contractor is a Business Associate as defined in the Health Insurance Portability and Accountability Act and its implementing federal regulations, Exhibit E (HIPAA), attached hereto; and

WHEREAS, Contractor is willing and able to perform duties and render services which are determined by the Board of Supervisors to be necessary or appropriate for the welfare of residents of County; and

WHEREAS, County desires that such duties and services be provided by Contractor, and Contractor agrees to perform such duties and render such services, as more particularly set forth below:

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

1. **Definitions.** Words and terms used in this contract are intended to have their usual meanings unless a particular or more limited meaning is associated with their usages in Section 14000 *et. seq.* of the Welfare and Institutions Code or Title 9 of the California Code of Regulations, Title 9, Division 1 pertaining to the rendition of specialty mental health services or unless specifically defined in this Section or otherwise in this Contract.

Contractor shall mean any independent health provider credentialed or organization certified to provide services to Medi-Cal beneficiaries and/or to contract with the Mental Health Plan.

Independent Health Provider shall mean an individual or group of individual providers licensed to practice psychotherapy independently and credentialed by the Mental Health Plan.

Organizational Provider shall mean an organization or clinic which meets the Mental Health Plan provider certification standards and has been certified by the Mental Health Plan.

Beneficiary shall mean any person who meets medical necessity criteria with moderate to severe impairment and is certified as eligible for services under the Medi-Cal program and/or other eligible programs as defined by the Behavioral Health Care Services Department in accordance with Code of California Regulations.

Mental Health Plan shall mean the entity responsible for managing specialty mental health services.

Mental Health Plan Provider Network Handbook shall mean the Mental Health Plan's manual developed by Behavioral Health Care Services containing the policies and procedures of the Mental Health Plan.

Retrospective Review shall mean the process by which the Mental Health Plan reserves the right to review services provided to beneficiaries and/or members in order to determine the medical necessity thereof.

2. **Term of Agreement.** The Term of this Agreement shall be from the 1st day of July 2016 and shall continue year to year until terminated in accordance with this Agreement. The automatic continuation of this Agreement is subject to Contractor's written acceptance of reimbursement rates promulgated by the Mental Health Plan. Termination of this Agreement shall be subject to the provision set forth in Paragraph III of Exhibit B of this Agreement.

Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Agreement will be purchased by County from Contractor under a new Agreement following expiration or termination of this Agreement. Contractor understands and agrees that there is no representation, implication or understanding that the services provided by Contractor under this Agreement will be purchased by County from Contractor without receipt of Contractor's written acceptance of the reimbursement rates established and promulgated by the Mental Health Plan. Contractor waives all rights or claims to notice or hearing respecting any failure by County to continue to purchase all or any such service from Contractor following the expiration or termination of this Agreement or arising from non-receipt of Contractor's acceptance of the updated reimbursement rates.

3. **Program Description and Performance Requirements – Exhibit A(s).** This Agreement shall be accompanied by Exhibit A(s), and by this reference made a part hereof, providing a description of the duties and services to be performed for County by Contractor, and Contractor agrees to comply with all provisions, to perform all work, and to provide all such duties and services set forth in Exhibit A(s) in a professional and diligent manner.
4. **Terms and Conditions of Payment – Exhibit B(s).** In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit A and the Alameda County Behavioral Health Care Services Mental Health Plan Provider Network Handbook, payment shall be made pursuant to the terms and conditions set forth in Exhibit B(s), attached hereto and by this reference made a part hereof. Unless an amendment to this Agreement otherwise provides, that amount shall in no event be exceeded by Contractor, and County shall under no circumstances be required to pay in excess of that amount.

Unless it is otherwise provided in Exhibit B(s) to this Agreement, Contractor shall submit all claims for reimbursement under the Agreement within sixty (60) days after the ending date of the Agreement. Any claims submitted after sixty (60) days after the ending date of the Agreement will not be subject to reimbursement by the County. Any "obligations incurred" included in claims for reimbursements and paid by the County which remain unpaid by the Contractor after sixty (60) days following the ending date of the agreement will be disallowed under audit by the County.

Contractor agrees to comply with all requirements which are now, or may hereafter be, imposed by the funding government with respect to the receipt and disbursement of the funds referred to in Exhibit B(s), as well as such requirements as may be imposed by County. Without limiting the generality of the foregoing, Contractor agrees that it will not use funds received pursuant to this Agreement, either directly or indirectly, as a contribution in order to obtain any Federal funds under any Federal programs without prior written approval of County.

5. **Insurance – Exhibit C.** Contractor shall maintain in full force and effect, at all times during the term of this Agreement, those insurance and bonding documentation described in Exhibit C, attached hereto and made a part of this Agreement, and shall comply with all other requirements set forth in that Exhibit. Contractor shall provide Worker's Compensation insurance at Contractor's own cost and expense, and neither Contractor nor its carrier shall be entitled to recover from the County any costs, settlements, or expenses of Worker's Compensation claims arising out of this Agreement.
6. **Additional Fiscal Provisions.** Contractor shall not claim reimbursement from County for (or apply sums received from County with respect to) that portion of its obligations which has been paid by another source of revenue. Sums received as a result of applications for funds from public or private organizations shall be considered such revenue insofar as such sums are or can be applied to the work to be performed by Contractor pursuant to this Agreement.

Unrestricted or undesignated private charitable donations and contributions shall not be considered revenue applicable to this Agreement; Contractor has total freedom in planning for the usage of such resources in expanding and enriching programs, or in providing for such other operating contingencies as it may desire. Nothing herein shall be deemed to prohibit Contractor from contracting with more than one entity to perform additional work similar to or the same as that herein contracted for.

7. **Business Associate.** Contractor will be performing or assisting County in the performance of certain health care administrative duties that involve the use and/or disclosure of Protected Health Information as defined at 45 CFR, Part 164. As result, Contractor is a Business Associate of County and shall comply with the provisions set forth in Exhibit E to this agreement.
8. **Records.** Contractor shall maintain on a current basis complete financial records including, but not necessarily limited to, books of original entry, source documents in support of accounting transactions, a general ledger, personnel and payroll records, canceled checks, and related documents in accordance with generally accepted accounting principles and any specific requirements of the applicable funding source.

Contractor shall maintain on a current basis complete records pertaining to the provision of services and eligibility, including, but not limited to, medical records, client files, participant records, patient logs or other service related documentation in accordance with standards established in the Mental Health Plan Provider Network Handbook.

Contractor will cooperate with County in the preparation of, and will furnish any and all information required for, reports to be prepared by County and/or Contractor as may be required by the rules, regulations, or requirements of County of any other governmental entity or applicable funding source. County shall specify in detail the cooperation required.

Financial records shall be retained by Contractor, and shall be made available for auditing and inspection, for no less than five (5) years following the provision of any services pursuant to this Agreement, or for a longer period as required by the applicable funding source. If Contractor enters into any County-approved agreement with any related organization to provide services such agreement shall contain a clause to the effect that the related records of that organization shall be retained, and shall be made available for auditing and inspection, for no less than five (5) years following its provision of services pursuant to the subcontract, or for a longer period as required by the applicable funding source.

Clinical records shall be retained by Contractor in accordance with standards established in the Mental Health Plan Provider Network Handbook. If Contractor enters into any County-approved agreement with any related organization to provide services such agreement shall contain a clause to this effect.

County reserves the right to issue further instructions regarding the extent of records required to be kept, the format to be used, and record retention and access requirements as is necessary to perform audits and to otherwise comply with requirements set forth by applicable funding sources.

9. **Audits.** Contractor's records, as defined in this Agreement, shall be accessible to County for audit and inspection to assure proper accounting of funds, and to certify the nature of, and evaluate Contractor's performance of its obligations as set forth in this Agreement. County shall be entitled to access onto Contractor's premises to observe operations, inspect records or otherwise evaluate performance at all reasonable times and without advance notice. County shall conduct inspections and manage information in a manner consistent with applicable laws relating to confidentiality of records and in a manner that will minimize disruption of Contractor's work.

Separate and apart from the audit and inspection provisions set forth immediately above, Contractor's records will be subject to audits as required by Federal and/or State agencies and/or other funding sources.

10. **Indemnification.** Contractor agrees to indemnify, to defend at its sole expense, to save and hold harmless County, its officers, agents, and employees from any and all liability in addition to any and all losses, claims, actions, lawsuits, damages, judgments of any kind whatsoever arising out of the negligent acts, omissions or intentional misconduct of Contractor or Contractor's employees, agents, subcontractors or volunteers in performance of services rendered pursuant to this Agreement.
11. **Subcontracting.** None of the work to be performed by Contractor shall be subcontracted without the prior written consent of County. Contractor shall be as fully responsible to County for the acts and omissions of any subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by Contractor. Contractor shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written approval of County. However, Contractor may assign its rights to receive compensation from the County for performance of the Agreement to financial institutions for the purpose of securing financial resources, provided that written consent from the Mental Health Plan shall have first been obtained. No party shall, on the basis of this Agreement, in any way contract on behalf of, or in the name of, the other party to the Agreement, and any attempted violation of the provisions of this sentence shall confer no

rights, and shall be void. Group and individual practitioners are prohibited from billing services provided by interns, trainees, practicum students or unlicensed staff.

12. **Independent Contractor Status.** Contractor shall not by virtue of this Agreement be an employee of County for any purpose whatsoever, nor shall Contractor or its employees, if any, be entitled to any of the rights, privileges, or benefits of County employees. Contractor shall be deemed at all times an independent contractor and shall be wholly responsible for the manner in which Contractor performs the services required by the terms of this Agreement. Contractor assumes exclusively the responsibility for any acts as they relate to the services to be provided during the course and scope of its employment.
13. **Confidentiality.** Contractor agrees to maintain the confidentiality of any information which may be obtained with this work. Contractor shall comply with whatever special requirements in this regard as are described or referred to in the Mental Health Plan Provider Network Handbook. Confidential information is defined as all information disclosed to Contractor which relates to County's past, present and future activities, as well as activities under this Agreement. Contractor will hold all such information in trust and confidence. Upon cancellation or expiration of this Agreement, Contractor will return to County all written or descriptive matter which contain any such confidential information.

Contractor shall comply with Welfare and Institutions Code requirements regarding confidentiality of patient information commencing with Section 5328 and with Code of Federal Regulations, Title 45, Section 205.5. Contractor shall inform its officers, employees and agents of the provisions for confidentiality of all information and records as set forth in those Statutes. Patients' rights shall comply with Welfare and Institutions Code, Division 5, Section 5325; and California Administrative Code, Title 9 Article 6. Patient records must comply with all appropriate State and Federal requirements (IN 83-17; Short-Doyle Patient/Client Clinical Case Record Content).

County shall respect the confidentiality of information furnished by Contractor to County as specified in the Mental Health Plan Provider Network Handbook or as otherwise provided by law.

14. **Termination Provisions.** Termination for Cause -- If County determines that Contractor has failed, or will fail, through any cause, to fulfill in a timely and proper manner its obligations under the Agreement, or if County determines that Contractor has violated or will violate any of the covenants, agreements, provisions, or stipulations of the Agreement or fails to meet credentialing or certification standards established by the Mental Health Plan, County shall thereupon have the right to terminate the Agreement by giving written notice to Contractor of such termination and specifying the effective date of such termination.

Without prejudice to the foregoing, Contractor agrees that if prior to or subsequent to the termination or expiration of the Agreement upon any final or interim audit by County, Contractor shall have failed in any way to comply with any requirements of this Agreement, then Contractor shall pay to County forthwith whatever sums are so disclosed to be due to County (or shall, at County's election, permit County to deduct such sums from whatever amounts remain undisbursed by County to Contractor pursuant to this Agreement or from whatever remains due Contractor by County from any other contract between Contractor and County).

Termination Without Cause -- County shall have the right to terminate this Agreement without cause at any time upon giving at least 30 days written notice prior to the effective date of such termination.

Termination resulting from periodic rate revisions -- County shall have the right to terminate, and may terminate this Agreement upon 30 days written notice if Contractor fails to acknowledge in writing his or her acceptance or dispute of any rate revisions promulgated by the Mental Health Plan. Contractor shall have the right and may terminate this Agreement upon 30 days written notice to the Mental Health Plan if Contractor deems the revised rates unacceptable.

Termination By Mutual Agreement -- County and Contractor may otherwise agree in writing to terminate this Agreement in a manner consistent with mutually agreed upon specific terms and conditions.

15. **Compliance with Laws.** Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies, having jurisdiction over the scope of services or any part hereof, including Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), all provisions of the Occupational Safety and Health Act of 1979 and all amendments thereto, and all applicable federal, state, municipal and local safety regulations. All services performed by Contractor must be in accordance with these laws, ordinances, codes and regulations. Contractor shall indemnify, save and hold harmless County from any and all liability, fines, penalties and consequences from any noncompliance or violations of such laws, ordinances, codes and regulations. A violation of such laws, ordinances, codes and regulations shall constitute a material breach of this Agreement and can lead to the termination of this Agreement and appropriate legal proceedings.
16. **Unusual Occurrence and Death Reporting.** If a death, serious personal injury, or substantial property damage occurs in connection with the performance of this Agreement, Contractor shall immediately notify the Mental Health Plan Quality Assurance Office by submitting a written report. The report must follow the Mental Health Plan's Policy and Procedure on "Unusual Occurrence and Death Reporting" which can be accessed through the following link:
http://www.acbhcs.org/providers/QA/docs/ga_manual/6-3_SENTINEL_EVENT_DEATH_REPORTING_P.pdf.
17. **Service Verification.** On a regular basis, the Mental Health Plan performs service verification to verify with the beneficiary that they actually received the services that were claimed for by the Contractor. Contractor shall notify the Mental Health Plan of any beneficiary change of address per the Mental Health Plan's Policy and Procedure on "Service Verification" which can be accessed through the following link:
http://www.acbhcs.org/providers/QA/docs/ga_manual/15-1_SERVIC_VERIFICAT_POLICY.pdf
18. **Non-Discrimination.** Contractor assures that he/she will comply with the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964. Contractor further agrees and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation or national origin, age, religion, Vietnam Era Veteran's status, political affiliation, or any other non-merit factors, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
19. **Drug-free Workplace.** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code Section 812, including marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor, within five days thereafter, shall notify the Mental Health Plan Network Office. Violation of this provision shall constitute a material breach of this Agreement.
20. **Modifications to Agreement.** Unless otherwise provided in Exhibit A(s) and/or B(s) to this Agreement, any adjustments requested by the Contractor to an Exhibit of this Agreement may only be made upon written approval of the Mental Health Plan. Such adjustments shall not alter (1) services or other performance to be provided under this Agreement, or (2) the time of performance of any act hereunder. This Agreement can be amended only by written agreement of the parties hereto.
21. **Designation of Authorized Personnel.** Contractor shall provide County with a list of Contractor's employees or members of Contractor's Board of Directors who have been authorized to act on behalf of Contractor in its dealings with County. An "act" on behalf of Contractor includes but is not necessarily limited to, execution of Agreement, Agreement amendments and exhibits, signing of claims, and authorization of payment on invoices. The list shall be updated as necessary to accurately reflect such authorizations.
22. **Venue.** In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of Alameda County, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Francisco, California.

23. **Notice.** All notices required hereunder will be in writing and served personally or by certified mail, return receipt requested, postage prepaid, at the addresses shown below:

CONTRACTOR: «first_name» «mid_init». «last_name», «Degree_1»
 «Mailing_Address_Street»
 «Mailing_Address_City», «Mailing_Address_State» «Mailing_Address_Zip»

COUNTY: Behavioral Health Care Services
 1900 Embarcadero Cove, Suite 205
 Oakland, CA 94606-5235

24. **Billing Address.** All payments and billing correspondence will be sent to the address below:

CONTRACTOR: «Bill_Address_Street»
 «Bill_Address_City», «Bill_Address_State», «Bill_Address_Zip»

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in on the date first mentioned above.

COUNTY OF ALAMEDA

CONTRACTOR

Department Director

Behavioral Health Care Services
Department

Approved as to form:

Donna R. Ziegler, County Counsel,
Alameda County

«first_name» «mid_init». «last_name»,
«Degree_1»

Contractor

«Physical_Address_Street»

Street Address

«Physical_Address_City»,
«Physical_Address_State»,
«Physical_Address_Zip»

City, State, Zip Code

«Tax_Identification_No»

Federal ID No.

By

K. Scott Dickey, Deputy County Counsel

By

Authorized Signature of Contractor

Title

EXHIBIT A

1. **Scope of Services:** In consideration of the payments hereinafter set forth in Exhibit B, Contractor shall perform specialty mental health services as detailed in the rate schedule attached hereto, for County in accordance with the terms, conditions and specifications set forth herein and in the Alameda County Mental Health Plan Provider Network Handbook which is incorporated by reference herein.
2. **Prior Review:** In order to assess eligibility, responsibility for treatment and/or medical necessity, County reserves the right to require prior review of service requests for any client population County deems appropriate for review. Therefore, Contractor will comply with County requirements for prior review of services as contained in the Alameda County Mental Health Plan Provider Network Handbook. Contractor retains the right of appeal of any prior review decision made by County for sixty (60) days after being notified of the decision. If County determines that Contractor has failed, or will fail, through any cause, the County's prior review requirements, it shall be considered a material breach of this Agreement. County shall thereupon have the right to terminate the Agreement by giving written notice to Contractor of such termination and specifying the effective date of that termination.
3. **Medical Necessity:** In the absence of prior review, Contractor assumes responsibility for and is delegated to make medical necessity determinations for services provided under this Agreement. Contractor agrees to attest in writing to medical necessity as part of the claiming process in accordance with authorization and claiming procedures established by County and contained in the Alameda County Mental Health Plan Provider Network Handbook. Contractor's attestations of medical necessity are subject to audit by County. If County determines that Contractor is granting inappropriate determinations of medical necessity, County shall thereupon have the right to withhold payments and/or demand refund of payments made for those services deemed not medically necessary and also has the right to revoke Contractor's authority to make medical necessity determinations as part of this Agreement.
4. **Beneficiary Level of Care:** Contractor shall comply with federal contracting requirements as provided in Title 42, Code of Federal Regulations, Section 434.6. Provisions include that Contractor shall ensure beneficiaries and/or members will receive the same level of care as provided to all other patients served and assures that beneficiaries and/or members will not be discriminated against in any manner. Contractor will provide the same hours of operation as provided to all other patients served regardless of the Mental Health Plan-sponsored health care coverage.
5. **Minimum Number of Clients:** Contractor will make available a minimum number of three slots for Alameda County clients who meet Specialty Mental Health Services.
6. **Timeliness of Service:** Upon receipt of a referral letter from the Mental Health Plan ACCESS Office, Contractor shall outreach to the prospective client immediately. Provider shall provide services in a timely manner and within time frames as specified by the Mental Health Plan.
7. **Beneficiary Grievances and Appeals:** Provider shall make grievance and appeal materials accessible to beneficiaries per requirements listed in the Mental Health Plan Provider Network Handbook. Contractor will make records available for authorized review for beneficiary grievances and appeals in accordance with standards established in the Mental Health Plan Provider Network Handbook.
8. **Appeals:** All appeals regarding the provision of services performed under this Agreement and/or the payment thereof, shall be made in writing to the Alameda County Mental Health Plan. The resolution of all disputes shall be made by the Alameda County Mental Health Plan. To the fullest extent permitted by law, all such decisions will be final and binding.
9. **Credentialing and Monitoring for Exclusion and Debarment:** Alameda County Mental Health Plan will credential new practitioners before becoming part of the Mental Health Plan Provider Network, ensure providers are in good standing with Centers for Medicare and Medicaid Services (CMS) and the California Department of Health Care Services (DHCS) on an ongoing basis and conduct re-credentialing every three years.

Organizational Providers shall be responsible for verifying the credentials and licensing of their staff and employees at initial hire and every three years. In addition, ongoing monitoring for exclusions and debarment

through CMS and DHCS shall be performed according to the guidelines set forth in the Mental Health Plan Policy and Procedure: "OIG and Other Exclusion List Monitoring, Oversight, and Reporting" which can be found at the following link: http://www.acbhcs.org/providers/QA/docs/qa_manual/15-2_OIG_OTHER_EXCLUSION_LIST_MONITORING.pdf

10. **Licensure and Insurance Documentation**: Upon renewal of Contractor's license and/or insurance coverage, Contractor will provide the Alameda County Mental Health Plan or designee with a copy of their renewed license and/or certificate of insurance which documents the revised effective dates of licensure or coverage as appropriate. Group contractors will provide the Mental Health Plan with a list of their current providers. Any updates to the Contractor's license, including legal name changes as a result of marriage, divorce or a court-approved legal name change, and changes in license type (i.e., from MFT or LCSW to PsyD) shall be reported to the Mental Health Plan within 30 days with supporting documentation.
11. **Medi-Cal Site Certification for Organizational and Group Providers**: Contractor shall ensure that all service delivery sites are Medi-Cal certified by the Alameda County Mental Health Plan Quality Assurance Office and have a valid fire clearance at all times. Unless otherwise stated on the fire clearance certificate, a fire clearance is valid for one year; a new fire clearance certificate shall be submitted to the Mental Health Plan Quality Assurance Office. Address changes must be reported a minimum of 30 days prior to the move and the new site must have a valid fire clearance in order for the Contractor to operate. In addition, the new site must be Medi-Cal certified per the Mental Health Plan's Agreement with the California Department of Health Care Services.
12. **Special Reporting Requirements**: Contractor will provide such reports as required by Alameda County Social Services and/or other funding agencies for clients served through this contract as a designated beneficiary of a specialized funding program.

EXHIBIT B

AGREEMENT BETWEEN THE COUNTY OF ALAMEDA AND

I. CONTRACTOR PROFILE

Contractor Name: «first_name» «mid_init». «last_name», «Degree_1»

Mental Health Plan Provider

Number:

Professional License Number: «License_1»

II. PAYMENT

A. Recovery from Other Sources or Providers

Contractor shall recover the value of covered services rendered to beneficiaries whenever the beneficiaries are covered for the same services, either fully or partially, under any other State of Federal medical care program or under other contractual or legal entitlement including but not limited to, a private group or indemnification program, but excluding instances of the tort liability of a third party.

B. Third Party Tort Liability

Contractor shall make no claim for recovery of the value of covered services rendered to a beneficiary when such recovery would result from an action involving the tort liability of a third party or casualty liability insurance including Workers' Compensation awards and uninsured motorists coverage. Contractor will identify and notify County of cases in which an action by the beneficiary involving the tort or Workers' Compensation liability of a third party could result in recovery by the recipient of funds to which the County and/or the State Department of Health Services has lien rights.

C. Hold Harmless

Contractor agrees to hold harmless both the State of California and the beneficiary in the event of non-payment by County for services performed pursuant to this contract.

D. Invoicing

Contractor shall submit claims to the Mental Health Plan Provider Relations' Claim Processing Center within 60 days from the end of the service month and must conform to the billing and claims instructions specified in the Mental Health Plan Provider Network Handbook.

E. Retrospective Review

All payments are subject to retrospective review and approval or denial.

F. Outstanding Claims

If this contract is terminated by either party pursuant to the Termination Provisions, Contractor agrees to supply County with all information necessary for the reimbursement of any outstanding Medi-Cal and/or other eligible claims within sixty (60) days of the termination date.

G. Rates

The rates in the Exhibit B-1 and B-2 are effective **July 1, 2016**. Thereafter, the Mental Health Plan shall establish rates for these services on a periodic basis. Contractor shall submit written acknowledgement and acceptance of the established rates. Failure of Contractor to submit the written acknowledgment and acceptance may result in termination of this Agreement by the Mental Health Plan pursuant to the termination provisions of this Agreement. The payment of the established rate will constitute the sole obligation of the Mental Health Plan.

H. Available Resources

Parties to this contract acknowledge the uncertainty of the funding resources supporting this contract, which may impact payment rates for contracted services. Should it be necessary to adjust the amount of payment rates during the term of this contract, BHCS shall notify Contractor at least thirty days prior to the effective date of the adjustment.

I. Withholding of Payments

Contractor acknowledges and agrees that its failure to comply with the following requirements may result in the withholding of payment by Alameda County Mental Health Plan:

- Failure to complete application and/or credentialing requirements for Urgent Interim agreements only.
- Re-credentialing every three years;
- Monitoring for and maintaining good standing with CMS and DHCS;
- Maintaining valid license and professional liability insurance;
- Obtaining and maintaining Medi-Cal certification and valid fire clearance for all service delivery sites (for Organizational providers only);
- Timely invoicing; or
- Non-conformance with any part of the Contractor's responsibility contained in the Mental Health Plan Provider Network Handbook.

III. AUTOMATIC CONTRACT EXTENSION

Notwithstanding the Term of Agreement of this contract, if this contract is terminated by either party pursuant to the Termination Provisions, this contract shall be automatically extended sixty (60) days at reimbursement rates established by the most recently accepted rate structure. This two-month extension will allow for the orderly transfer of clients to other health providers who contract with the Mental Health Plan. All obligations of Contractor and County contained in this contract will remain in force during the period covered by this contract extension.

EXHIBIT E

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Exhibit, the HIPAA Business Associate Agreement (“Exhibit”) supplements and is made a part of the underlying agreement (“Agreement”) by and between the County of Alameda, (“County” or “Covered Entity”) and «first name» «mid init». «last name», «Degree 1», (“Contractor” or “Business Associate”) to which this Exhibit is attached. This Exhibit is effective as of the effective date of the Agreement.

I. RECITALS

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”);

Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH Act”), the regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”), and other applicable laws; and

The Privacy Rule and the Security Rule in the HIPAA Regulations require Covered Entity to enter into a contract, containing specific requirements, with Business Associate 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 (“C.F.R.”) and as contained in this Agreement.

II. STANDARD DEFINITIONS

Capitalized terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those terms are defined in the HIPAA Regulations. In the event of an inconsistency between the provisions of this Exhibit and the mandatory provisions of the HIPAA Regulations, as amended, the HIPAA Regulations shall control. Where provisions of this Exhibit are different than those mandated in the HIPAA Regulations, but are nonetheless permitted by the HIPAA Regulations, the provisions of this Exhibit shall control. All regulatory references in this Exhibit are to HIPAA Regulations unless otherwise specified.

The following terms used in this Exhibit shall have the same meaning as those terms in the HIPAA Regulations: Data Aggregation, Designated Record Set, Disclosure, Electronic Health Record, Health Care Operations, Health Plan, Individual, Limited Data Set, Marketing, Minimum Necessary, Minimum Necessary Rule, Protected Health Information, and Security Incident.

The following term used in this Exhibit shall have the same meaning as that term in the HITECH Act: Unsecured PHI.

III. SPECIFIC DEFINITIONS

Agreement. “Agreement” shall mean the underlying agreement between County and Contractor, to which this Exhibit, the HIPAA Business Associate Agreement, is attached.

Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. section 160.103, the HIPAA Regulations, and the HITECH Act, and in reference to a party to this Exhibit shall mean the Contractor identified above. “Business Associate” shall also mean any subcontractor that creates, receives, maintains, or transmits PHI in performing a function, activity, or service delegated by Contractor.

Contractual Breach. “Contractual Breach” shall mean a violation of the contractual obligations set forth in this Exhibit.

Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. section 160.103, and in reference to the party to this Exhibit, shall mean any part of County subject to the HIPAA Regulations.

Electronic Protected Health Information. “Electronic Protected Health Information” or “Electronic PHI” means Protected Health Information that is maintained in or transmitted by electronic media.

Exhibit. “Exhibit” shall mean this HIPAA Business Associate Agreement.

HIPAA. “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

HIPAA Breach. “HIPAA Breach” shall mean a breach of Protected Health Information as defined in 45 C.F.R. 164.402, and includes the unauthorized acquisition, access, use, or Disclosure of Protected Health Information which compromises the security or privacy of such information.

HIPAA Regulations. “HIPAA Regulations” shall mean the regulations promulgated under HIPAA by the U.S. Department of Health and Human Services, including those set forth at 45 C.F.R. Parts 160 and 164, Subparts A, C, and E.

HITECH Act. “HITECH Act” shall mean the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH Act”).

Privacy Rule and Privacy Regulations. “Privacy Rule” and “Privacy Regulations” shall mean the standards for privacy of individually identifiable health information set forth in the HIPAA Regulations at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

Secretary. “Secretary” shall mean the Secretary of the United States Department of Health and Human Services (“DHHS”) or his or her designee.

Security Rule and Security Regulations. “Security Rule” and “Security Regulations” shall mean the standards for security of Electronic PHI set forth in the HIPAA Regulations at 45 C.F.R. Parts 160 and 164, Subparts A and C.

IV. PERMITTED USES AND DISCLOSURES OF PHI BY BUSINESS ASSOCIATE

Business Associate may only use or disclose PHI:

- A. As necessary to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, provided that such use or Disclosure would not violate the Privacy Rule if done by Covered Entity;
- B. As required by law; and
- C. For the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

V. PROTECTION OF PHI BY BUSINESS ASSOCIATE

- A. *Scope of Exhibit.* Business Associate acknowledges and agrees that all PHI that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording and electronic display, by Covered Entity or its operating units to Business Associate, or is created or received by Business Associate on Covered Entity’s behalf, shall be subject to this Exhibit.
- B. *PHI Disclosure Limits.* Business Associate agrees to not use or further disclose PHI other than as permitted or required by the HIPAA Regulations, this Exhibit, or as required by law. Business Associate may not use or disclose PHI in a manner that would violate the HIPAA Regulations if done by Covered Entity.
- C. *Minimum Necessary Rule.* When the HIPAA Privacy Rule requires application of the Minimum Necessary

Rule, Business Associate agrees to use, disclose, or request only the Limited Data Set, or if that is inadequate, the minimum PHI necessary to accomplish the intended purpose of that use, Disclosure, or request. Business Associate agrees to make uses, Disclosures, and requests for PHI consistent with any of Covered Entity's existing Minimum Necessary policies and procedures.

- D. *HIPAA Security Rule.* Business Associate agrees to use appropriate administrative, physical and technical safeguards, and comply with the Security Rule and HIPAA Security Regulations with respect to Electronic PHI, to prevent the use or Disclosure of the PHI other than as provided for by this Exhibit.
- E. *Mitigation.* Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or Disclosure of PHI by Business Associate in violation of the requirements of this Exhibit. Mitigation includes, but is not limited to, the taking of reasonable steps to ensure that the actions or omissions of employees or agents of Business Associate do not cause Business Associate to commit a Contractual Breach.
- F. *Notification of Breach.* During the term of the Agreement, Business Associate shall notify Covered Entity in writing within twenty-four (24) hours of any suspected or actual breach of security, intrusion, HIPAA Breach, and/or any actual or suspected use or Disclosure of data in violation of any applicable federal or state laws or regulations. This duty includes the reporting of any Security Incident, of which it becomes aware, affecting the Electronic PHI. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized use or Disclosure required by applicable federal and/or state laws and regulations. Business Associate shall investigate such breach of security, intrusion, and/or HIPAA Breach, and provide a written report of the investigation to Covered Entity's HIPAA Privacy Officer or other designee that is in compliance with 45 C.F.R. section 164.410 and that includes the identification of each individual whose PHI has been breached. The report shall be delivered within fifteen (15) working days of the discovery of the breach or unauthorized use or Disclosure. Business Associate shall be responsible for any obligations under the HIPAA Regulations to notify individuals of such breach, unless Covered Entity agrees otherwise.
- G. *Agents and Subcontractors.* Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions, conditions, and requirements that apply through this Exhibit to Business Associate with respect to such information. Business Associate shall obtain written contracts agreeing to such terms from all agents and subcontractors. Any subcontractor who contracts for another company's services with regards to the PHI shall likewise obtain written contracts agreeing to such terms. Neither Business Associate nor any of its subcontractors may subcontract with respect to this Exhibit without the advanced written consent of Covered Entity.
- H. *Review of Records.* Business Associate agrees to make internal practices, books, and records relating to the use and Disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to Covered Entity, or at the request of Covered Entity to the Secretary, in a time and manner designated by Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the HIPAA Regulations. Business Associate agrees to make copies of its HIPAA training records and HIPAA business associate agreements with agents and subcontractors available to Covered Entity at the request of Covered Entity.
- I. *Performing Covered Entity's HIPAA Obligations.* To the extent Business Associate is required to carry out one or more of Covered Entity's obligations under the HIPAA Regulations, Business Associate must comply with the requirements of the HIPAA Regulations that apply to Covered Entity in the performance of such obligations.
- J. *Restricted Use of PHI for Marketing Purposes.* Business Associate shall not use or disclose PHI for fundraising or Marketing purposes unless Business Associate obtains an Individual's authorization. Business Associate agrees to comply with all rules governing Marketing communications as set forth in HIPAA Regulations and the HITECH Act, including, but not limited to, 45 C.F.R. section 164.508 and 42 U.S.C. section 17936.
- K. *Restricted Sale of PHI.* Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to

Business Associate for services provided pursuant to the Agreement.

- L. *De-Identification of PHI.* Unless otherwise agreed to in writing by both parties, Business Associate and its agents shall not have the right to de-identify the PHI. Any such de-identification shall be in compliance with 45 C.F.R. sections 164.502(d) and 164.514(a) and (b).
- M. *Material Contractual Breach.* Business Associate understands and agrees that, in accordance with the HITECH Act and the HIPAA Regulations, it will be held to the same standards as Covered Entity to rectify a pattern of activity or practice that constitutes a material Contractual Breach or violation of the HIPAA Regulations. Business Associate further understands and agrees that: (i) it will also be subject to the same penalties as a Covered Entity for any violation of the HIPAA Regulations, and (ii) it will be subject to periodic audits by the Secretary.

VI. INDIVIDUAL CONTROL OVER PHI

- A. *Individual Access to PHI.* Business Associate agrees to make available PHI in a Designated Record Set to an Individual or Individual's designee, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. section 164.524. Business Associate shall do so solely by way of coordination with Covered Entity, and in the time and manner designated by Covered Entity.
- B. *Accounting of Disclosures.* Business Associate agrees to maintain and make available the information required to provide an accounting of Disclosures to an Individual as necessary to satisfy Covered Entity's obligations under 45 C.F.R. section 164.528. Business Associate shall do so solely by way of coordination with Covered Entity, and in the time and manner designated by Covered Entity.
- C. *Amendment to PHI.* Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 C.F.R. section 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. section 164.526. Business Associate shall do so solely by way of coordination with Covered Entity, and in the time and manner designated by Covered Entity.

VII. TERMINATION

- A. *Termination for Cause.* A Contractual Breach by Business Associate of any provision of this Exhibit, as determined by Covered Entity in its sole discretion, shall constitute a material Contractual Breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision in the Agreement to the contrary notwithstanding. Contracts between Business Associates and subcontractors are subject to the same requirement for Termination for Cause.
- B. *Termination due to Criminal Proceedings or Statutory Violations.* Covered Entity may terminate the Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which Business Associate has been joined.
- C. *Return or Destruction of PHI.* In the event of termination for any reason, or upon the expiration of the Agreement, Business Associate shall return or, if agreed upon by Covered Entity, destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

If Business Associate determines that returning or destroying the PHI is infeasible under this section, Business Associate shall notify Covered Entity of the conditions making return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Exhibit to such PHI and limit further uses and Disclosures to those purposes that make the return or destruction of the information infeasible.

VIII. MISCELLANEOUS

- A. *Disclaimer.* Covered Entity makes no warranty or representation that compliance by Business Associate with this Exhibit, HIPAA, the HIPAA Regulations, or the HITECH Act will be adequate or satisfactory for Business Associate’s own purposes or that any information in Business Associate’s possession or control, or transmitted or received by Business Associate is or will be secure from unauthorized use or Disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- B. *Regulatory References.* A reference in this Exhibit to a section in HIPAA, the HIPAA Regulations, or the HITECH Act means the section as in effect or as amended, and for which compliance is required.
- C. *Amendments.* The parties agree to take such action as is necessary to amend this Exhibit from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA, the HIPAA Regulations, and the HITECH Act.
- D. *Survival.* The respective rights and obligations of Business Associate with respect to PHI in the event of termination, cancellation or expiration of this Exhibit shall survive said termination, cancellation or expiration, and shall continue to bind Business Associate, its agents, employees, contractors and successors.
- E. *No Third Party Beneficiaries.* Except as expressly provided herein or expressly stated in the HIPAA Regulations, the parties to this Exhibit do not intend to create any rights in any third parties.
- F. *Governing Law.* The provisions of this Exhibit are intended to establish the minimum requirements regarding Business Associate’s use and Disclosure of PHI under HIPAA, the HIPAA Regulations and the HITECH Act. The use and Disclosure of individually identified health information is also covered by applicable California law, including but not limited to the Confidentiality of Medical Information Act (California Civil Code section 56 *et seq.*). To the extent that California law is more stringent with respect to the protection of such information, applicable California law shall govern Business Associate’s use and Disclosure of confidential information related to the performance of this Exhibit.
- G. *Interpretation.* Any ambiguity in this Exhibit shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA, the HIPAA Regulations, the HITECH Act, and in favor of the protection of PHI.

This EXHIBIT, the HIPAA Business Associate Agreement is hereby executed and agreed to by **CONTRACTOR:**

Name: «first_name» «mid_init». «last_name», «Degree_1»
By (Signature):
Print Name:
Title: