



**Contract Number**

**SAP Number**  
4400018677

## Sheriff/Coroner/Public Administrator

<b>Department Contract Representative</b>	Kelly Welty, Chief Deputy Director of Sheriff's Administration
<b>Telephone Number</b>	(909) 387-0640
<b>Contractor</b>	Liberty Healthcare Corporation
<b>Contractor Representative</b>	Kevin Rice, Director of Operations
<b>Telephone Number</b>	(626) 665-7089
<b>Contract Term</b>	06/14/2022 – 06/13/2027
<b>Original Contract Amount</b>	\$120,782,788
<b>Amendment Amount</b>	-----
<b>Total Contract Amount</b>	\$120,782,788
<b>Cost Center</b>	4424601000

### IT IS HEREBY AGREED AS FOLLOWS:

**WHEREAS**, San Bernardino County (County) by and through its included Sheriff/Coroner/Public Administrator (Sheriff) desires to designate a Contractor of choice to provide comprehensive correctional mental health services (Services); and

**WHEREAS**, the County conducted a competitive process to find Liberty Healthcare Corporation (Contractor) to provide these Services, and

**WHEREAS**, based upon and reliance on the representation of Contractor made to the County, that is qualified to provide County with the Services described herein, the County finds Contractor has the knowledge and experience to provide the Services; and

**WHEREAS**, the County desires that such Services be provided by Contractor and Contractor agrees to perform these Services as set forth below;

**NOW, THEREFORE**, the County and Contractor mutually agree to the following terms and conditions:

#### A. DEFINITIONS

**A.1** Access to Care: A patient is seen by a qualified health care professional, is rendered a clinical judgment and receives care that is ordered in a timely manner.

- A.2** Accreditation: The process by which the National Commission on Correctional Health Care (NCCCHC) has determined and certified that all standards and compliance indicators for correctional health care are met.
- A.3** Clinically Indicated: Involving or relating to the direct medical treatment or testing of patients. Relating to objective findings (either through physical examination, testing or laboratory study) that would aid in the determination of a care or treatment plan.
- A.4** Community Re-entry Plan: Plan of action designed to assist patients with successful re-entry into society following incarceration.
- A.5** Continuous Quality Improvement (CQI): A deliberate, defined process which is focused on activities that are responsive to community needs and improving population health. It is a continuous and ongoing effort to achieve measurable improvement in the efficiency, effectiveness, performance, accountability, outcomes, and other indicators of quality for program levels.
- A.6** Continuous Quality Improvement (CQI) Committee: A multi-disciplinary group of health care providers working at the facility (the responsible physician and representatives of other departments) who meet to share the information collected, aggregated, analyzed and presented to representatives of the organization. The QI Committee is responsible for defining, prioritizing, overseeing and monitoring the performance improvement activities, including patient and environmental safety, within a correctional facility setting.
- A.7** Contract: The Contract between the County and the Contractor resulting from the award issued pursuant to a competitive bid for Services.
- A.8** Contractor: Any individual, company, firm, corporation, partnership or other organization to whom a Contract award is made by the County.
- A.9** Department: The San Bernardino County Sheriff/Coroner/Public Administrator.
- A.10** Discharge Planners: Personnel responsible for the development of ongoing, individualized program of care and support which meets the assessed needs of a patient leaving a County correctional facility.
- A.11** Discharge Planning: Planning and referral for patients with serious health needs. The patient's proposed treatment, medications, and other important information is to be provided to a contact in the community upon the release of the patient.
- A.12** Electronic Health Records System (EHR): A database that collects patient health information including, but not limited to; patient demographics, progress notes, problem lists, medications, vital signs, past medical history, immunizations, health assessments, and more data which creates an electronic repository to store information.
- A.13** Grievance: A verbal or written complaint or protest of an action or inaction. This is the process in which a patient appeals an action or decision related to their health care.
- A.14** Health Care: The sum of all actions, preventive and therapeutic, taken for the physical and mental well-being of a population. Health Care includes all services provided under the Statement of Objectives and any other services that are medically necessary.
- A.15** Health Care Provider: Any individual that provides, or assists in the provision of, health care, including, but not limited to, a physician, nurse practitioner, qualified health care professional, qualified mental health care professional, or Mid-Level Provider.

- A.16** Health Services Administrator: San Bernardino County Sheriff's Department Health Services Appointed Authority.
- A.17** Medication Assisted Treatment (MAT): The use of prescribed medications, in combination with counseling and behavioral services, in the treatment of substance abuse disorders.
- A.18** Mental Health Screening: Includes, but not limited to, a structured interview with inquiries into medication history, substance abuse, suicidal behavior, victimization, sexual abuse, etc. as outlined in NCCHC standards and performed by qualified mental health professionals or qualified health professionals.
- A.19** Mental Health Treatment: The evaluation and treatment for a mental disorder.
- A.20** NCCHC: National Commission on Correctional Health Care
- A.21** Protected Health Information: Health data created, received, stored, or transmitted by HIPAA-covered entities and their business associates in relation to the provision of healthcare, healthcare operations and payment for healthcare services.
- A.22** Policy: A written official position on a particular issue related to an organization's operations.
- A.23** Procedure: Describes in detail, sometimes in sequence, how a policy is to be carried out.
- A.24** Proposal: The offer to provide specific goods or Services at specified prices and/or other conditions specified in the RFP.
- A.25** Psychoeducational Groups: Structured groups that provide substance abuse, or illness-related education, and coping strategies to help improve and manage symptoms.
- A.26** Psychopharmacology: The study and therapeutic use of psychotropic medication to treat mental health conditions.
- A.27** Purchasing Agent: The Director of the County Purchasing Department, or their designee.
- A.28** Qualified Health Care Professional: Includes physicians, nurse practitioners, nurses, psychiatrists, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the medical health needs of the patient.
- A.29** Qualified Mental Health Professional (QMHP): Includes clinical social workers, licensed mental health clinicians, psychologists, nurse practitioners, psychiatrists and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients.
- A.30** Request for Proposal (RFP): The request for an offer from Proposers interested in providing the identified Services sought to be procured by the County. The RFP specifies the evaluation factors to be used and contains or incorporates by reference contractual terms and conditions applicable to the procurement.
- A.31** Receiving Screening: A system of structured inquiry and observation designed to prevent newly arrived patients who pose a health or safety threat to themselves or others from being admitted to the facility's general population and to identify those newly admitted patients in need of health care. This process is also referred to as initial or intake health screening.
- A.32** Serious Mental Illness: A mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities.

- A.33** Sick Call: On-site health care Services rendered to a patient with health care complaints that are evaluated and treated during regularly scheduled appointment times.
- A.34** Substance Use Disorder: A disease that affects a person's brain and behavior and leads to an inability to control the use of a legal or illegal drug or medication.
- A.35** Services: The requested Services described in the Contract.
- A.36** Subcontractor: An individual, company, firm, corporation, partnership or other organization, not in the employment of or owned by Contractor who is performing Services on behalf of Contractor under the Contract or under a separate contract with or on behalf of the Contractor.
- A.37** Title 15: Minimum Standards for Local Detention Facilities. Please refer to the Board of State and Community Corrections webpage to obtain the Regulations ([www.bscc.ca.gov](http://www.bscc.ca.gov)).
- A.38** Treatment Plan: A therapeutic strategy that may incorporate patient education, dietary adjustment, an exercise program, drug therapy, and the participation of nursing and allied health professionals. Treatment plans are especially important in the optimal management of complex or chronic illnesses.

## **B. CONTRACTOR RESPONSIBILITIES**

Within sixty (60) business days of Contract execution, Contractor shall be in compliance with Contract provisions set forth. Comprehensive mental health services shall either meet or exceed the requirements herein:

### **B.1 PERSONNEL REQUIREMENTS**

- B.1.1** Contractor shall provide licensed mental health and support personnel ("Personnel") who shall provide mental health and substance abuse assessment and treatment, crisis intervention, Psychoeducational groups and activities, psychiatric medication and stabilization, and other services, as required, to alleviate symptoms and help patients attain adequate functioning, as listed below:

<b>POSITION</b>	<b>FULL-TIME EQUIVALENT (FTE)</b>
Chief Psychiatrist (40 hrs/week/FTE*)	1
Mental Health Director (40 hrs/week/FTE*)	1
Psychiatrists (40 hrs/week/FTE*)	11.53
Mental Health Nurse Practitioner (40 hrs/week/FTE*)	6.82
Licensed Clinical Supervisor (40 hrs/week/FTE*)	5
Mental Health RN (40 hrs/week/FTE*)	24
Master's Degree Level Clinician (40 hrs/week/FTE*)	50
Social Worker (40 hrs/week/FTE*)	4
Office Assistant (40 hrs/week/FTE*)	3
<b>TOTAL FTE</b>	<b>106.35</b>

\*A single FTE shall mean one full-time equivalent person contracted to work 1,840 hours per year. Compensation shall only be entitled for actual costs of FTE positions filled by Contractor.

**B.1.1.1** Dependent on the availability of County resources, the number of positions and type(s) may be increased or reduced as determined by the Sheriff's Health Services Administrator or designee. Personnel placement shall be flexible based on the clinical and workload needs of each correctional facility as determined by the Sheriff's Health Services Administrator, or their designee.

**B.1.2** Contractor shall provide Personnel in a manner such that 24-hour nursing coverage is achieved. Personnel coverage shall be detailed within a daily mental health staffing plan (Attachment C). The staffing plan may only be modified by written approval of the Sheriff's Health Services Administrator, or their designee.

**B.1.2.1** Mental Health RNs shall use a combination of 12-hour work-shifts and 8-hour work-shifts. Each two-week pay period shall be an 80-hour work week that is comprised of one week of three 12-hour workdays (totaling 36 hours) and one 8-hour workday (totaling 44 hours):

$$\begin{array}{|c|} \hline \text{First week} \\ \hline 12 + 12 + 12 \\ \hline (36 \text{ hours}) \\ \hline \end{array} + \begin{array}{|c|} \hline \text{Second week} \\ \hline 12 + 12 + 12 + 8 \\ \hline (44 \text{ hours}) \\ \hline \end{array} = \begin{array}{|c|} \hline \text{Total of} \\ \hline 80 \text{ hours} \\ \hline \end{array}$$

**B.1.3** Contractor shall ensure Personnel are in good standing and maintain unencumbered licenses, certifications, and registrations as required by the State of California, or federal licensing requirements applicable to mental health providers, to perform contracted Services. Proof of such licensing compliance shall be provided by the Contractor to the County within 30 days of renewal or new hire date. If the required certification has not been achieved, the Personnel shall be prohibited from providing direct care until the essential documents are obtained.

**B.1.3.1** Contractor shall ensure that Personnel operate within the scope of their license(s), certification(s) and practice.

**B.1.3.2** Contractor shall require all licensed mental health care providers to receive training commensurate with their licensure. On a quarterly basis, Contractor shall provide documentation of required training, to the County's designated personnel, in a single .PDF document and delivered via electronic communication.

**B.1.4** Contractor shall comply with initial and ongoing training provided by the Sheriff's Health Services Administrator, Chief Medical Officer, and/or the Chief Psychiatric Officer. Training shall be individualized by licensure, experience, and includes, but is not limited to, familiarity with NCCHC guidelines and correctional mental health care.

**B.1.5** Contractor's Personnel shall participate in correctional mental health education and conferences; key Personnel shall successfully receive Certified Correctional Healthcare Profession – Mental health (CCHP-MH) designation by the NCCHC.

**B.1.6** Contractor shall provide to the Departments on-shift Nurse Supervisor/Charge Nurse and Watch Commander a list identifying all personnel working specific assignments, during specific time periods, on a daily basis, and at any time as requested by the Department.

**B.1.6.1** Contractor shall provide a list of all full-time equivalent Personnel to the Sheriff's Department Executive Officer of Detention & Corrections Support Bureau on a monthly basis.

- B.1.7** Contractor shall immediately report any Personnel or professional complaints to the Sheriff's Health Services Administrator, or their designee.
- B.1.8** Contractor's Personnel shall adhere to all rules, policies, and regulations of the correctional facility in which they serve.
- B.1.9** Contractor shall select a Mental Health Director who shall be responsible for the overall delivery of mental health care at the correctional facilities in accordance with Title 15 and NCCHC Standards.
- B.1.9.1** The Mental Health Director shall provide clinical and administrative direction for the daily operations of the Correctional Mental Health Services (CMHS) program, including adherence to the County's policies and procedures, any respective federal, state, or county laws, and the requirements of the Federal Consent Decree, attached hereto and incorporated therein (Exhibit A).
- B.1.9.2** The Mental Health Director shall be available Monday-Friday from 8:00 a.m. – 5:00 p.m. If the Mental Health Director is unavailable, Contractor shall designate a back-up primary contact and an after-hours business contact.
- B.1.10** Contractor shall be responsible for all employer obligations for Contractor Personnel, to include payment of salary and all other compensation and fringe benefits, to include medical benefits; responsibility for Federal and State withholding taxes and Social Security taxes; compliance with and responsibility for all applicable Federal and State wage/hour obligations; unemployment benefits; disability benefits; and all other applicable taxes, benefits, and contributions to employment-related insurance and similar programs.

In the event that County is for any reason required to pay any such obligations, Contractor shall reimburse County for any and all amounts paid by County to meet such obligations. Contractor will make payroll records and time records available to the County, upon request, to enable the County to audit compliance with any staffing plan agreed upon by the parties. Contractor will not be responsible for any supplies, equipment, or costs other than the payment of amounts described in this paragraph. Contractor shall provide Personnel with personal time off and comply with all other state and or federally required regulations related to mandated employee leave requirements with hours billed to the County according to the rates specified within Attachment A - Cost. Personal time off will be scheduled in such a manner that it will not impair the work schedule or efficiency of the correctional facilities.

- B.1.11** County shall have the sole discretion to determine security acceptability of all Contractor's Personnel at any time during the Contract period. Personnel found to be unacceptable security risks will not be permitted to provide Services. Violation of the below provisions may result in the loss of Contractor Personnel security clearance. In addition to the terms and conditions listed in Section C.6 - Background Checks for Contractor Personnel, Contractor shall adhere to the following:

- **Contractor Personnel** – Contractor shall provide a list of individuals who render Services as Personnel, and/or a Subcontractor, who will enter County facilities under the Contract. The list shall be kept current and updated by the Contractor for the duration of the resulting Contract period. Personnel or Subcontractors may not be changed without written approval of the County. In addition, Contractor shall provide written notification to the Sheriff's Health Services Administrator, or their designee, no less than forty-eight (48) hours in advance of Contractor's intent to bring visitors to a County correctional facility.

Contractor shall immediately notify the Sheriff's Health Services Administrator, or their designee, regarding any Personnel reassignments, discharges, or terminations so that they may be removed from the facility access list. Contractor notifications regarding such action shall be submitted verbally (within twenty-four (24) hours), followed by written notification (within five (5) business days). All Contractor Personnel shall possess a government issued photo identification and shall meet the County's requirements for admission into any County correctional facility. Additionally, the County shall maintain information on Contractor's Personnel for safety and security purposes.

Contractor Personnel and Subcontractors shall be required to complete additional forms, including non-disclosure agreements, at any time. Non-disclosure agreements acknowledge that information Contractor Personnel and/or Subcontractors may encounter while at any County facility is confidential and proprietary. Any unauthorized release of confidential or proprietary information by Contractor, its Personnel, and/or Subcontractors shall constitute a breach of Contract and will be punishable by law. County reserves the right to enforce any available remedy at law, or in equity, in the event of such breach.

- **Background Investigations** – At Contractor's sole expense, all Personnel, and/or Subcontractors, performing work on behalf of the Contractor under the Contract are required to undergo, and pass to the satisfaction of the County, a background investigation as a condition of providing Services. Background investigations shall include, but are not limited to, criminal conviction information obtained through fingerprints submitted to the California Department of Justice and the Federal Bureau of Investigation, Live Scan, background questionnaire, and photographs.

Contractor Personnel must complete Live Scan fingerprinting services at the Sheriff's Headquarters located at 655 East Third Street, San Bernardino, California, 92415. Upon Contractor's Personnel, Subcontractors, or agents failing a background investigation, the County will request that the individual be removed from performing work at any time during the Contract. Contractor shall only be notified of the final security determination of its Personnel. Specific details shall remain confidential and will not be provided to the Contractor.

- **Orientation** – Contractor Personnel shall attend a County Custody Orientation prior to admission into secured facilities.
- **Correctional Facility Access** – The Department shall have the overall authority for denying access. The Department shall provide Contractor Personnel photo identification cards which must be presented when requesting access to any County correctional facility. Photo identification cards must be visible while providing Services.

Contractor Personnel shall be required to continuously safeguard their duty-related items, equipment in their possession, and may be subject to search and/or be required to allow inspections of items upon entry or exit from any County correctional facility (e.g., purses, bags, person, etc.).

County, at its sole discretion, may direct, in writing to Contractor, to replace any Personnel providing Services pursuant to the Contract who are deemed careless, incompetent, insubordinate, or otherwise objectionable, or whose continued employment is deemed a security risk or contrary to the best interest of the County. Contractor shall immediately remove the employee from their assignment, collect and return any County-issued identification to the Department, and immediately initiate action to replace the employee in a timely manner.

- i. Contractor shall not reassign these Personnel to any other County facility listed in the Contract without the written authorization of the Department.
- ii. In the event that removal of Contractor's Personnel occurs during the Personnel's response to an emergency crisis intervention, the Personnel replacement shall be provided as soon as possible following notification of removal.

**B.1.12** Contractor's Personnel shall conduct themselves in the following manner:

- Personnel shall always conduct themselves in a manner consistent with County policies and procedures. Contractor's Personnel shall be courteous to the public, fellow Personnel and County personnel. Contractor's Personnel shall be tactful in the course of their duties, shall control their tempers, exercise patience and discretion even in the face of extreme provocation. Contractor's Personnel shall not use coarse, profane, or violent language. Any breaches in conduct by Contractor's Personnel, as determined by Department personnel, shall be documented by Department and Contractor within 48 hours of a breach; this conduct shall not be repeated by the offending Personnel. If the breach is serious enough or continues, access to the County's correctional facility may be revoked.
- Contractor's Personnel shall avoid social contacts with patients, refrain from over-familiarity with patients, and maintain professional distance from patients; this includes social media platforms. If a patient is personally known to Contractor's Personnel, notification to the Sheriff's Health Services Administrator, or their designee, is required immediately.
- Contractor's Personnel shall have no correspondence with patients unless directly related to official business and approved by designated County personnel. Approved correspondence shall be professionally written.
- Contractor's Personnel shall have no unnecessary physical contact with patients.
- Contractor's Personnel shall immediately report improper patient conduct to County personnel.
- At Contractor's sole expense, Personnel shall be required to wear professional dress while on duty at all correctional facilities. Dress shall allow for the easy identification of said Personnel. Due to security concerns, dress shall not be a solid color like County patient uniforms. The Department has final approval authority regarding Personnel dress.

**B.1.13** Contractor's Personnel are not required by the Department to speak multiple languages; however, if needed, Contractor must provide means of communicating with patients (e.g., bilingual Personnel or through an interpreting service). Translation services will be provided at County cost.

**B.2 MENTAL HEALTH SERVICES**

**B.2.1** Contractor shall provide comprehensive mental health care Services as required under the Federal Consent Decree Section II: Mental Health Care. Contractor shall maintain collaborative efforts with the County to confirm that mental health Services meet the required standards outlined in the Remedial Plan mandated by the federal courts.

**B.2.2** Contractor shall comply with all applicable Federal, State, and local laws, regulations, policies, and procedures, including, but not limited to:

- Title 15, California Code of Regulations, Minimum Standards for Inmate Facilities and



#### Local Detention Facilities

- Correctional community standards for mental health care as per NCCHC guidelines
- County Health Services Division policies and procedures
- California Penal Code
- California Welfare & Institutions Code
- California Government Code
- California Health & Safety Code
- Americans with Disabilities Act
- U.S.C 1396 A
- HIPAA/HITECH Acts

**B.2.2.1** Contractor shall provide an Information Security Officer (ISO) who shall be responsible to assuring Contractor's compliance with Federal, State, and agency-specific security requirements. The ISO shall be responsible for monitoring and continually updating Contractor's security practices, routinely auditing Contractor's programs to ensure compliance with contractual requirements and company policies and reviewing new technologies to confirm their security and resiliency.

**B.2.2.2** Contractor's Chief Compliance Officer and Mental Health Director shall be responsible for the overall high-level compliance and the specific operation program-department compliance, respectively. The Compliance Officer shall work in conjunction with the Mental Health Director to confirm that Contractor, and its Personnel, remain compliant with Contractor's compliance obligations.

**B.2.2.3** Contractor's Personnel shall report any actual or perceived violations of law or reregulation, policy, or contract. Incidents or concerns shall be reportable by Personnel via several methods, including, but not limited to, a 24/7, toll-free, confidential corporate compliance hotline.

**B.2.2.4** All potential issues or violations that are deemed to be compliance matters, shall be investigated in a timely manner by Contractor's Compliance Officer. Upon investigation, findings shall be obtained and recommendations, up to and including disciplinary and corrective action, shall be made.

**B.2.3** Comprehensive mental health Services shall be provided to the following correctional facilities.

San Bernardino County Type II Correctional Facilities	
Facility Location	Mental Health Services Provided/Coverage
<b>West Valley Detention Center (WVDC)</b> 9500 Etiwanda Ave. Rancho Cucamonga, CA 91739 Approximate population: 3,347 inmates, including special needs medical and mental health	<ul style="list-style-type: none"><li>• 24/7 onsite mental health staff, including nursing staff</li><li>• Full range of mental health Services and groups/programs</li><li>• Seriously Mentally Ill housing units</li><li>• Acute care MH Observation unit</li></ul>

<b>High Desert Detention Center (HDDC)</b> 9438 Commerce Way Adelanto, CA 92301 Approximate population: 2,100 inmates	<ul style="list-style-type: none"> <li>• 24/7 onsite mental health staff, including nursing staff.</li> <li>• Provide basic Mental Health Services</li> <li>• Acute care MH Observation unit</li> </ul>
<b>Central Detention Center (CDC)</b> 630 East Rialto Ave. San Bernardino, CA 92408 Approximate population: 800 inmates	<ul style="list-style-type: none"> <li>• 24/7 onsite and/or on-call mental health staff</li> <li>• Provide basic Mental Health Services</li> </ul>
<b>Glen Helen Rehabilitation Center (GHRC)</b> 18000 Institution Rd. San Bernardino, CA 92407 Approximate population: 1,446 inmates	<ul style="list-style-type: none"> <li>• 24/7 onsite and/or on-call mental health staff</li> <li>• Provide basic Mental Health Services</li> </ul>

**B.2.4** Contractor shall provide comprehensive mental health and programming Services by licensed and/or certified mental health care professionals. Services shall be provided to patients 24-hours per day, seven (7) days per week, 365 days per year (366 days during a leap-year), including both on-site and on-call coverage, to West Valley Detention Center and High Desert Detention Center, and services to Glen Helen Rehabilitation Center, and Central Detention Center shall be provided in accordance with the approved Health Services Division Staffing Plan (Exhibit D), from the time of booking to release, including discharge planning and coordination of continued services in the community for mentally ill individuals who are currently on the MH caseload or classified as SMI, SMIL, and MHGP populations.

**B.2.4.1** Contractor shall provide access to mental health care through the following mechanisms:

<b>Mental Health Care &amp; Coverage</b>	<b>West Valley</b>	<b>High Desert</b>	<b>Glen Helen &amp; Central Detention</b>
Daily nursing sick call	7 days a week	None	None
Urgent/crisis consultation and evaluation	24/7 onsite	24/7 onsite and/or on-call	24/7 onsite and/or on-call
Intensive acute psychiatric stabilization	24/7 MH Observation Unit	Emergency transfers to West Valley facility as needed	
Suicide watch	24/7 onsite	Emergency transfers to West Valley facility as needed	
Seriously Mentally Ill housing units	24/7 onsite	None	None
Medication Assisted Treatment (MAT) and medical detoxification	West Valley only	None	None

**B.2.5** Contractor shall provide cost-effective and quality mental health Services to all patients in County custody by maintaining an emphasis on easy access to mental health Services and early intervention to prevent and reduce the severity of mental illness symptoms and behavior. This shall be accomplished by daily sick call so that patients can be readily seen and assessed for mental health and medical issues, providing timely crisis intervention and intensive stabilization treatments as needed, strengthening mental health programming for the Seriously Mentally Ill (SMI) and Seriously Mentally Ill Lockdown (SMIL) housing units, providing onsite intensive psychiatric stabilization, maintaining and efficient and effective staffing plan to meet current and changing needs, and scrutinizing the quality and effectiveness of Services for opportunities for improvement.

- B.2.5.1** Contractor shall identify patients at risk of serious psychiatric illness from the point of initial entry into a correctional facility; if needed, patients shall be seen by a QMHP as per Department policy.
- B.2.5.2** Patients receiving mental health Services shall be seen by Contractor as clinically indicated, at minimum every ninety (90) days. Those with chronic mental illness shall be seen as prescribed in their individual treatment plans.
- B.2.5.3** Frequency of treatment shall be based on a patient's level of Housing/Status, and shall be driven by the severity and acuity of the patient's mental health conditions and whether the individual has a chronic mental illness and/or is receiving psychiatric medications:

<b>Levels of Housing/Status</b>	<b>Frequency of Treatment Recurrence</b>
<b>Mental Health Observation Unit</b>	<ul style="list-style-type: none"> <li>• Minimum of daily encounter with QMHP and/or psychiatrist</li> <li>• Minimum of daily group session by QMHP</li> </ul>
<b>Safety Cells</b>	<ul style="list-style-type: none"> <li>• If suicide watch, patients will be seen in accordance with Department policy.</li> </ul>
<b>Administrative Housing (Ad Seg)</b>	<ul style="list-style-type: none"> <li>• Weekly encounter with QMHP</li> </ul>
<b>Seriously Mentally Ill Lockdown (SMIL) Units</b>	<ul style="list-style-type: none"> <li>• Weekly encounter with therapist and psychiatrist</li> <li>• Minimum of five (5) group hours per week</li> </ul>
<b>Seriously Mentally Ill (SMI) Units</b>	<ul style="list-style-type: none"> <li>• Monthly encounter with therapist and psychiatrist (or as indicated)</li> <li>• Minimum of five (5) group hours per week</li> </ul>
<b>General Population</b>	<ul style="list-style-type: none"> <li>• Daily sick call available</li> <li>• Scheduled onsite hours per week</li> </ul>

- B.2.5.4** Services provided by the Contractor are subject to change with new or amended laws or regulations, changes in NCCHC accreditation standards, or adoption of new best practices in the health care field.
- B.2.6** Contractor shall provide telehealth Services within a specified timeframe if the County so requests. Contractor will have access to telehealth equipment when Services are requested and become available. Contractor's Personnel providing telehealth Services shall be required to be physically located at one of the County's Type II Correctional facilities while providing such Services to patients located in any of the other County correctional facilities, unless prior written authorization is received by the Sheriff's Health Services Administrator.
- B.2.7** Contractor shall be responsible for regularly retrieving and reviewing all mental health patient sick call requests. Provisions shall be made to ensure that any patient requesting mental health attention be given such attention by licensed or certified mental health care Personnel appropriate to address the patient's mental health issue. In addition, with prior written approval from the Sheriff's Health Services Administrator, Contractor may hire pre-licensed, Master's Level Clinicians. Patients requiring medical intervention shall be assessed, treated, or referred to medical on a timely basis. Access to appropriate mental health care shall always be unimpeded. Contractor shall work within all required processes and programming to coordinate with the Sheriff's Health Services Administrator, Chief Medical Officer, and Chief Psychiatric Officer for effective programing as assigned. Contractor shall provide multiple mechanisms to facilitate timely access to sick call including, but not limited to:

- Mental health screening shall be completed within twenty-four (24) hours of admission, typically completed at the time of admission. The mental health assessment shall be completed within fourteen (14) days.

Face-to-face mental health sick call clinics shall be held on-site seven (7) days per week at all County Type II Correctional facilities, providing patients with a daily opportunity to request medical and mental health care in accordance with sick call policies and procedures. Contractor shall document all sick call clinic encounters in the patient's EHR and Contractor shall review for immediacy of need and appropriate intervention. Any request that describes a significant symptom shall have a face-to-face encounter with the patient scheduled within twenty-four (24) hours per NCCHC Standard MH-E-05. Additionally, Contractor's mental health professional shall conduct routine weekly round of Administrative Housing areas to specifically offer mental health Services to patients. If requested, a mental health appointment for a patient shall be scheduled as indicated.

- Contractor shall provide scheduled hours for psychiatric clinics for patients who are not actively receiving psychiatric treatment. Clinics shall allow general population patients to be evaluated by a psychiatrist and serve as a means for monitoring any ongoing medication management visits with a nurse and/or psychotropic medications.

**B.2.8** Contractor shall provide mental health receiving screening and assessments as defined in the NCCHC standards including, but not limited to, the following:

- **Comprehensive mental health screenings** – Mental health screening performed at the time of admission into a correctional facility by a qualified QHP/QHMP healthcare professional to identify and confirm that urgent mental health needs of patients are met. The screening shall identify serious or acute mental health needs, including those related to medical conditions, substance abuse, and intellectual disabilities that will need urgent, prompt, or subsequent mental health Services. Additionally, the assessment shall identify any acute or chronic psychiatric problems, mental health history, and current issues with suicidal ideation, substance abuse, psychotropic medications, intellectual disabilities, and adjustment to incarceration, and shall include a suicide risk evaluation. If the initial screening is positive for behavioral health issues, Contractor shall have patients assessed within fourteen (14) calendar days by a qualified mental health professional.
- **Identification of urgent or emergent care needs** – Contractor's Personnel shall be immediately available to respond to patients in urgent and emergent mental distress. This shall include patients who threaten self-injury or suicidality, show signs of imminent decompensation, display indications of acute psychotic process, or demonstrate other signs of acute emotional distress. Dependent on needs, the patient may be admitted to the Mental Health Observation Unit or a safety cell, for intensive observation and intervention and/or initiation of suicide watch. As needed, Contractor shall also coordinate urgent care with security and medical staff as indicated.
- **Identification of treatment of patients with substance use disorders** – Screening shall include a review of the patient's current and relevant abuse of alcohol, prescription medications, and illegal drugs. Direct clinical observations and responses indicative of intoxication or risk of withdrawal from alcohol and drugs shall result in prompt referral for closer medical examination and follow-up, which may include referral to a MAT program. Signs of substance abuse and other responses indicative of significant problems with the use and abuse of substances shall be flagged and the patient referred for follow-up evaluations by a mental health clinician for possible

substance abuse or dual diagnoses treatment.

- **Identification of serious mental illness** – In accordance with NCCHC standards, any patient who is identified as in need of mental health Services shall be seen by a QMHP for further mental health evaluation. Any identification of acute symptoms of serious mental illness and/or a history of severe and persistent mental illness shall be promptly referred for evaluation by a psychiatrist. Any patient identified with non-acute serious mental illness shall be housed in one of the residential units designated for SMI patients.
- **Evaluation of suicidal ideation** – Additionally, based on direct clinical observation and positive responses related to current and prior history of suicidal ideation, self-injury, severe behavioral outbursts/aggression, and other risk factors, the Contractor's Mental Health Clinician shall alert the appropriate medical, mental health, and security Personnel so that appropriate actions can be taken. These actions can include suicide precautions, further mental health evaluation, and special recommendations, such as admission to the Mental Health Observation unit, safety cells, or suicide watch cells located in intake, as clinically indicated and appropriate, and based on risk level per County policy.
- **Treatment, prescription, or medical records receipt follow-up** – Based on the mental health assessment and/or psychiatric evaluation, Contractor's Mental Health Clinicians shall create an individualized plan of treatment which may include multiple interventions or modalities, such as Psychopharmacology; individual and group counseling; behavioral interventions; substance abuse treatment; and psycho-educational programming specific to needs or issues. Treatment plans shall be tied to the assessment process to reflect changing needs of the patient and progress toward treatment goals and objectives.

If a patient is identified as having a chronic serious mental illness, has experienced a recent acute psychiatric history, or there are complex diagnostic questions, Contractor may seek a copy of available medical records to facilitate determination for the appropriate medication or treatment for the individual. Contractor Personnel shall obtain the appropriate release of information forms to obtain the patient's medical record.

**B.2.8.1** Contractor shall provide mental health evaluations using standardized forms for patients identified with mental health treatment history or demonstrating mental health symptomology within appropriate timelines as clinically indicated, per policy and procedures, and correctional mental health standards (CA Title 15 and correctional community standards for mental healthcare as per NCCHC guidelines) as assigned.

**B.2.9** When a patient is placed in suicide watch and/or a safety cell, Contractor's mental health staff shall provide daily or multi-daily monitoring and evaluation in conjunction with concomitant monitoring by medical and correctional personnel. Special attention shall be given to the evaluation and safe management of patients in psychological distress, particularly those in acutely psychotic states and those with severe depression and/or suicidality. Contractor shall assess risk of self-harm or harm to others for any patient who is placed in suicide watch and/or safety cell housing within twenty-four (24) hours of placement and every twenty-four (24) hours thereafter.

**B.2.10** Contractor shall provide all discharge planning for mentally ill individuals on the MH caseload or classified as SMI, SMIL, and MHGP populations, when mental-health related discharge planning is needed, per NCCHC standards for SMI/SMIL and MHG patients. Additionally, contractor shall provide discharge planning for those who are MAT patients. Contractor shall provide a team of, at minimum, ten (10) full-time equivalent Discharge Planners who shall be

specifically focused on developing and coordinating individualized discharge/aftercare plans as a part of their current clinical work. Community Re-entry Plans for each patient shall be completed on a monthly basis to establish appropriate resources for the patient upon discharge; discharge planning and re-entry strategies shall begin upon intake. Discharge Planners shall be master's or bachelor's level social workers/discharge planners and shall be supervised by a licensed Team Lead clinician.

**B.2.10.1** Discharge planning shall include, but is not limited to, discharges and referrals within the County correctional facility system (e.g., transfer to another correctional facility, discharge from a Mental Health Observation Unit and from the program back to the general population), as well as community release plans and discharge to community mental health providers.

**B.2.10.2** Contractor shall coordinate patient care and discharge planning with the pharmacy and other personnel, including mental health and medical professionals, through ongoing communication, including arranging appointments and tracking follow through. Contractor shall identify, link, refer, and help arrange community-based support and follow-up treatment to maintain psychiatric health and substance abuse recovery mentally ill individuals who are currently on the MH caseload or classified as SMI, SMIL, and MHGP populations. Contractor shall maintain referral relationships and detailed lists of community resources and partners, including, but not limited to, substance abuse treatment providers; Veterans services; homeless services; meals, domestic violence, and clothing assistance; National Alliance on Mental Illness (NAMI); faith-based organizations; mental health clubhouses; and 12 Step Fellowship meetings.

**B.2.10.3** When patient commitment or transfer to an inpatient psychiatric setting is clinically indicated, Contractor shall follow required procedures for transfers in a timely manner and take action to ensure the patient is safely housed and adequately clinically monitored until such transfer can be accomplished.

**B.2.10.4** If a patient is accepted into a community mental health program, and Contractor is contacted by the San Bernardino County Department of Behavioral Health and/or Probation, Contractor shall complete and provide the mental health section of the GP patient's release summary and Contractor's Psychiatrist shall write a prescription for psychotropic medication(s) if necessary.

**B.2.11** Contractor shall collaborate with County personnel to provide comprehensive Medication Assisted Treatment (MAT) program Services that include, but are not limited to, the following:

- **Induction** – Upon request from a patient, or medical clinician if potential need for MAT is identified, a physical examination and substance dependence assessment shall be conducted by a County medical provider. Medical risks of the patient shall be assessed and MAT Services including medication pros and cons, treatment expectations, and induction process shall be discussed with the patient. If approved, the County's medical provider and patient shall determine the date of the induction procedure and choice of medication from the (3) FDA approved medications – buprenorphine, Vivitrol, and methadone, based on the substance being abused. If the patient is female and pregnant, MAT treatment/medication shall be delivered in consultation with obstetrics and gynecology Services.
- **Maintenance** – If a patient progresses to previously established goals, the MAT medical provider shall discuss slowly reducing medication services to minimize withdrawal symptoms. Following detoxification, patients shall, at minimum, be referred to Contractor's mental health clinician for substance abuse education and risks of

withdrawal. Patients shall also be encouraged to engage in substance abuse programming that can include individual counseling, group-based counseling, psychoeducational group counseling, dual diagnosis groups/programming, and alcohol and addiction recovery support groups. Modalities shall include cognitive behavioral treatment, traditional 12-Step Fellowship, motivational interviewing, and dual diagnosis recovery. Patients returning to the community shall be referred to available substance abuse providers.

- **Discharge Planning and Community Continuity of Care** – In collaboration with the MAT medical provider, Contractor shall facilitate continuity of mental health care and psychiatric medications during incarceration, as well as discharge planning for follow-up community-based treatment. Contractor shall maintain a list of local community agencies and resources to which they can refer patients for follow-up services, including substance abuse recovery and related mental health services.

**B.2.11.1** Contractor shall establish an interdisciplinary team that is dedicated to the MAT program. At minimum, the MAT team shall include representation from a County RN Supervisor and medical physician, and Contractor psychiatrist, mental health RN and senior mental health clinician with specialization in substance abuse.

**B.2.11.2** The interdisciplinary MAT Team shall meet regularly (at a minimum of monthly) for treatment planning, developing program capacity, and monitoring outcomes.

**B.2.11.3** Contractor, in collaboration with the County, shall establish policies and procedures to facilitate referrals, evaluation, and consultation linkages between medical RNs and Contractor's mental health clinicians regarding patients who may benefit from MAT.

**B.2.11.4** Contractor shall work collaboratively to delineate respective roles and responsibilities of the medical and mental health clinicians in each of the three phases of the MAT program listed in Section B.2.11.

**B.2.11.5** Contractor shall introduce a standardized risk/needs screening tool for substance abuse (e.g., the Simple Screening Instrument for Alcohol and Other Drugs (SSI-AOD) to help determine the intensity, type and frequency of interventions.

**B.2.11.6** MAT team shall develop and implement an integrated individualized treatment plan that assists patients in following diagnosis-specific and recovery state-specific recommendations.

**B.2.11.7** Contractor shall obtain MAT certification for Contractor's psychiatrist(s) who serve on the MAT Team, to strengthen clinical specialization.

**B.2.11.8** Contractor shall establish an array of both individual and group-based substance abuse interventions to engage patients receiving MAT. Contractor's psychiatrist shall provide consultative expertise on psychiatric medications used in combination with MAT-specific medications.

**B.2.11.9** Contractor's Psychiatrist shall be available to provide assistance to mental health RNs in administration of medications.

**B.2.11.10** Contractor shall establish a follow-up review process to monitor recovery or need for further support, including continuity of care.

**B.2.11.11** Contractor shall provide MAT specific programs for female patients including:

- Identification of MAT Female Candidates
- Referral to Mental Health for Evaluation
- Motivational Engagement
- Treatment Planning
- Psychiatric Treatment
- Behavioral Health Interventions

**B.2.12** Contractor shall provide psychotropic medication management as clinically indicated, per County policy, procedures, and correctional mental health standards (CA Title 145, NCCHC guidelines, and the Federal Consent Decree). Contractor shall ensure that psychotropic medications are verified within twenty-four (24) hours of admission intake and ordered by Contractor's physician within twenty-four (24) hours of verification. Additionally, Contractor shall provide twenty-four (24) hour, seven (7) days per week access to an on-call psychiatrist, for Mental Health RNs, who shall approve continuation of verified psychotropic medications.

**B.2.12.1** Contractor shall adhere to the following standard procedure regarding the verification and administration of psychotropic medications:

- At the time of intake/assessment, Contractor's RN shall verify that there is a current prescription for the medication(s) by contacting the pharmacy. The RN shall verify and transcribe the psychotropic medication(s), including name, dose, route, frequency, indication, and last fill date.
- Contractor's RN shall contact the Contractor's on-call psychiatrist.
- Contractor's RN shall enter the medication(s) into the EHR. The RN shall then administer the medication(s) to the patient and schedule a sick-call appointment for the patient to see a psychiatrist within twenty-four (24) hours.
- The patient shall be seen by the psychiatrist at the scheduled appointment time (within twenty-four (24) hours).

**B.2.13** Contractor shall manage emergency mental health care and establish and maintain procedures for handling mental health emergencies within the County's correctional facilities.

**B.2.13.1** Contractor shall establish procedures for prevention, detection, and early intervention including, but not limited to, the following:

- Identifying patients at risk of serious psychiatric illness from the point of initial entry into the correctional facility, and if present, Contractor shall ensure the patient is promptly seen by a psychiatrist or mental health clinician, as necessary.
- Completing a mental health screening of every patient (even if no mental health issues have been identified) and educate patients about available mental health Services.
- Ensuring access to mental health Services to prevent less serious symptoms/behavioral disturbances from escalating to crisis levels. This includes availability of daily sick call and on-call response capability.
- Providing an immediate crisis intervention response to "Officer of the Day Calls".
- Delivering timely intensive treatment and support to stabilize the most acutely ill patients.



- Monitoring patients with serious mental illness issues or at risk for decompensation to help maintain stabilization.

**B.2.13.2** Contractor shall maintain a daily schedule that specifies an on-call mental health professional to respond to mental health crises and emergencies which occur during regular business days. Contractor's mental health staff shall be staffed on-site at West Valley Detention Center and High Desert Detention Center on a 24/7 basis for crisis interventions. Mental health staff shall be accessible onsite at Central Detention Center and Glen Helen Rehabilitation Center during regular business hours and accessible on-call after regular business hours. Contractor shall provide an on-call clinician and/or psychiatrist who shall be available for consultation via phone during after-hours. Response shall be immediate Monday through Sunday, during normal business hours, including holidays, and within thirty (30) minutes by telephone/radio at all other times.

**B.2.13.3** Contractor shall provide psychiatrists, nurse practitioners, RNs and licensed clinicians, who are certified to involuntarily admit and hold individuals for evaluation and monitoring up to 72 hours, within a Mental Health Observation Unit, who are deemed to be a danger to self, a danger to others, or "gravely disabled" by their mental illness under California Welfare and Institutions Code (WIC) 5150. If a WIC 5150 hold is needed, the patient shall be transferred to the Arrowhead Regional Medical Center where they shall be admitted and assessed by hospital staff for crisis intervention.

**B.2.13.4** In the event of extended leave including, but not limited to, natural disasters, pandemics, and major emergencies within a facility, Contractor shall prioritize and focus available resources to patients with the most acute mental disorders. Contractor's Personnel and resources shall be deployed to avoid interruption in all services mandated by the Federal Consent Decree, including SMI/SMIL individual and group treatment and medication management. Contractor shall ensure that Personnel are cross-trained to perform shift-specific tasks and duties so that Personnel may be deployed to any facility, during any shift, for emergency coverage. Contractor Personnel shall be expected to report to duty on-site and provide service provisions in person as required by the County.

**B.2.14** Contractor shall utilize approved written policies and procedures for mental health treatment to include the immediate objective to alleviate symptoms of serious mental disorders and prevent relapses to sustain patients' abilities to function safely in their environment. Policies and procedures shall include, but are not limited to:

- Basic Mental Health Services
- Mental Health Screening, Assessment, and Evaluation
- Referrals to Mental Health Providers
- Individualized Treatment Plans
- Suicide Prevention Program
- Crisis Stabilization Unit
- Sheltered Housing
- Segregated Patients
- Psychotropic Medication Prescribing and Monitoring
- Emergency Involuntary Psychotropic Medication

- Use of Involuntary Non-Emergent Psychotropic Medications per County policy.
- Emergency Involuntary Psychotropic Medication per County policy.
- Restraint and Seclusion
- Use of Restraint Chair
- Managing Refusals to Eat
- Medical and Mental Health Assessment for Transportation to Court

**B.2.15** Contractor shall utilize approved written policies and procedures for mental health treatment, to include treatment goals such as development of self-understanding, self-improvement, and development of skills to cope with and overcome disabilities associated with various mental disorders.

**B.2.16** Contractor shall provide health education services in respect to all aspects of mental health care and treatment, including, but not limited to, health counseling and education on mental health diagnosis, findings, and treatment plans; and potential outcomes of compliance vs. non-compliance with the course of action that has been recommended by mental health providers, including discharge planning, as described in NCCHC standards.

**B.2.16.1 Integrated Interdisciplinary Approach** – Contractor's Personnel shall provide a range of education and guidance on an individual basis, or within psychoeducational groups and support groups, regarding living with serious and chronic mental illness, managing psychiatric medications, healthy lifestyle, substance abuse, and other related issues. The program shall consist of informal contact during daily activities, individual diagnosis and treatment, specific education during clinical encounters, and wellness education reading and video materials.

**B.2.16.2 Education Through Consent** – Contractor's Personnel shall offer medication consent forms, that are easily comprehended by patients, for carrying psychiatric medications. The consent forms shall provide a clear description of the reasoning for medication, possible side effects, and shall clarify the procedure to report questions or problems pertaining to a medication.

**B.2.16.3 Mental Illness Education** – Contractor shall educate patients, within individual and group formats, reference major mental disorders, causes, common symptoms, course of the illness, role of medications, early warning signs, when to speak to a professional, recovery, and self-management issues.

**B.2.16.4 Medication Management Education and Counseling** – Contractor shall provide education to patients about the reason for medication, how medication controls illness or behavior, proper usage of medication, possible side effects, early warning signs, when to seek professional consultation, and the consequences of medication misuse. Contractor shall assist patients in understanding the nature and symptoms of their mental disorder(s) and gaining the knowledge and skills to maintain mental health and avert relapse, including practical skills for managing medication, symptoms, and stressors.

**B.2.16.5 Co-Occurring Medical Conditions** – In coordination with the County, Contractor shall conduct specialty classes for the management of the diagnosing of conditions included in the Chronic Disease program, as well as other wellness topics. This education shall be delivered through distribution of reading materials, presentation of educational videos, and other material provided in a readable and understandable format, distributed by direct care staff during daily activities.

Topics that shall be covered include infectious disease prevention, HIV/AIDS prevention, smoking cessation, heart healthy diet, drug and alcohol abuse, sexually transmitted diseases, etc. Informal education, provided through individual and group interaction, shall include information on medication for discussions concerning general health issues including, but not limited to, proper exercise and weight reduction. The Contractor shall pay particular attention to patients with diabetes, epilepsy, heart, and vascular disease.

**B.2.16.6 Wellness and Mental Health Education/Activities** – Contractor shall provide psychosocial and psychoeducational group-based programming to meet correctional mental health needs for a facility's general population including, but not limited to, substance abuse, stress management, and adjustment to incarceration, or to patients with chronic and acute mental illness and other stress and adjustment problems such as understanding mental illness, symptom management, and medication management. Examples of the range of group-based programming include, but are not limited to:

• Rational Self-Counseling (Cognitive Retraining)	• Symptom management
• Understanding My Mental Illness (for Bipolar, Schizophrenia, and Depression)	• Medication Management
• Double Trouble: Substance Abuse and Mental Illness	• Stress Management
• Substance Abuse Rehabilitation	• Supportive Group Therapy
• AA/CA 12 Step Groups	• Social and Communication Skills
• Criminal Thinking	• Survivors of Abuse
• Adjustment to Incarceration	• Domestic Violence
• Violence Reduction	• Sex Offender-Specific Program
• Anger Management	• Female Offender Issues
• Healthy Parenting/Relationships	• Problem Solving
• Geriatric Wellness	• Veteran Affairs
• Job Skills/Resume Building	• Intellectual Abilities
• Developmental Disabilities	• Life Skills
• Activities of Daily Living	

Contractor shall provide wellness and health promotion groups including, but not limited to, chronic illness management (diabetes, HIV, hepatitis, asthma, etc.), medication management, physical health and wellness, nutrition and diet, smoking cessation, and socialization and recreational activities.

As requested by County, Contractor shall develop female-specific group programming that shall include education on topics including, but not limited to, Post Traumatic Stress Disorder (PTSD) and sexual abuse, sexuality and intimacy, body image and eating disorders, health care and pregnancy, domestic violence/dating conflicts, self-esteem and self-empowerment, healthy boundaries in interpersonal relationships, assertiveness, and parenting.

**B.2.16.7 Medication Assisted Treatment Program** – As stated in Section B.2.11, Contractor shall work with the County to provide individual and group education regarding substance abuse disorder, its multiple negative impacts, and the motivational stages of readiness to change.

**B.2.16.8 Contractor's Mental Health Director** shall collaborate with the County's medical

services personnel to establish a written policy and procedure manual section that assures both age and gender-appropriate mental health education is provided to patients. The education program shall be updated, as necessary, to address current mental health priorities and meet the needs of the confined population. Contractor shall provide this document to the County upon request.

**B.2.17** Contractor shall maintain Continuous Quality Improvement (CQI) including, but not limited to, monitoring compliance with key metrics and performance indicators, to identify any opportunities for improvement of Services

- **CQI Department** – Contractor shall establish and maintain a corporate CQI Department which shall monitor provider performance metrics, clinical efficiency evaluations, and provide ongoing monitoring of administrative and health care delivery programs within the correctional facilities.
- **CQI Committee** – Contractor's Mental Health Director, Chief Psychiatrist (Chief Medical Officer), Clinical Manager, and RN Supervisor shall actively participate in the County's CQI Committee.
- **Reporting CQI Findings** – Contractor shall report findings from the CQI Committee meeting to County management following each meeting, as directed by the County.

**B.2.17.1** Contractor shall maintain ongoing collaboration with the County to develop and implement key metrics and performance indicators including, but not limited to, items listed in Attachment D – Key Metrics and Performance Indicators.

**B.2.17.2** Contractor shall collect and monitor data (daily, weekly, and monthly) and measure outcomes on an ongoing basis to readily identify areas of service delivery that are performing below standard. Services below standard shall have the deficiency remediated by the Contractor, and Contractor shall establish a current baseline for comparison. Contractor shall apply CQI principles to develop a Performance Improvement Plan (PIP) or Corrective Action Plan (CAP) to define specific data that shall be collected to measure progress toward target mental health services, specify the time frame for correction, and designate Personnel who shall be responsible for overall plan implementation. Contractor shall continually reevaluate the plan of action to ensure the PIP or CAP is effective.

**B.2.18** Contractor shall maintain quality performance through a peer review process that includes regular random mental health record reviews. Chart audits shall be utilized to evaluate the timeliness, accuracy, and completeness of the documentation of individual patient status in the performance of their assigned clinical activities. Contractor's clinical supervisor shall also conduct focal point reviews for all supervisees. These formal peer reviews shall assess each clinician's job performance and competency. Contractor shall hold daily and weekly interdisciplinary treatment team meetings with appropriate personnel to identify and review the status of patients who may be at risk, vulnerable, agitated, or may otherwise need closer monitoring and observation.

**B.2.19** Contractor shall coordinate and communicate with County personnel to ensure cross-discipline collaboration, coordination, and integration. Collaboration regarding planning, training, facility operations, suicide prevention, medication assisted treatment, quality management, pharmacy, and other significant operational activities shall include the following:

- **Mental health training to County employees** – Contractor shall provide mental health and suicide prevention training to designated County employees which includes sixteen (16) hours of mental health operations training to trainees at the Sheriff's

Academy, eight (8) hours of suicide prevention training to Sheriff Deputies (delivered on a trimester basis), eight (8) hours of suicide prevention training for Sheriff medical personnel, two (2) hours of suicide prevention refresher training to Sheriff Deputies and medical personnel, and eight (8) hours of advanced mental health training for Sheriff Deputies assigned to mental health.

- **Daily mental health/security reviews** – Contractor shall conduct interdisciplinary treatment team meetings between mental health and custody personnel that occur on a daily basis to review the status of patients at risk for psychiatric and behavioral issues.
- **Custody participation in treatment team meetings** – Contractor shall request, as necessary, custody personnel participation in treatment team meetings in the SMI and SMI Lockdown Units to promote a consistent and coordinated approach to treatment.
- **Jail Excellence Team (JET)** – Contractor shall meet with County personnel each month (or as held) for JET meetings to discuss and problem-solve any issues that impact timely access to routine and urgent psychiatric, medical mental health Services in accordance with NCCHC standards.
- **Captains' meeting** – Contractor shall meet with the County's correctional facilities' commanders and managing personnel, as requested, to review operational issues, facilitate efficiencies, promote collaboration, anticipate and resolve problems and plan accordingly.
- **Executive team** – Contractor's Mental Health Director and Chief Psychiatrist shall meet monthly with the Sheriff's Executive Officer of Detention & Corrections Support Bureau and County support personnel to review and promote the consistent provision of integrated health services.
- **Persons of interest review team** – Contractor's Mental Health Director, Chief Psychiatrist, and Clinical Manager shall meet monthly with County personnel to review and problem solve any individual patient presenting with extreme problematic behavior or who may require extra medical, mental health, or security attention.
- **Suicide watch interdisciplinary team reviews** – Contractor shall assign Personnel to meet with County custody personnel to review the case of any patient who has been on suicide watch for three consecutive days.
- **Multidisciplinary discipline reviews** – Contractor's Mental Health Director and Clinical Manager shall participate in monthly meetings with County personnel to review and determine the extent to which a disciplinary charge is related to mental illness or a developmental disability, whether the mental condition is a legitimate mitigating factor for inappropriate behavior, and whether placement into administrative housing is appropriate, and, if indicated, develop an individualized behavior modification plan.
- **Medication Assisted Treatment (MAT) program team** – Contractor shall establish a MAT program team, in coordination with the County, which shall coordinate the care for patients in the MAT program, who have concurrent medical, mental health, and substance abuse issues.
- **In-custody Death Review committee** – Contractor's Personnel shall participate as part of the committee to summarize the mental health Services received by a patient involved in an in-custody death. In the event of a death by suicide, Contractor's Personnel shall perform and present the results of a psychological autopsy consistent with NCCHC standards. All reviews shall be completed within fourteen (14) days of an

in-custody death.

- **Interdisciplinary coordination via County committees** – Contractor shall, at minimum, participate in the following County committees that involve interdisciplinary coordination of care: Correctional Health Services Committee, Pharmacy Management, Continuous Quality Improvement Committee, and the NCCHC Survey Preparation Committee.

**B.2.20** Contractor shall verify and ensure continued mental health services provider competency and ongoing compliance with established policy and procedures in keeping with community standards; this shall include hands on and knowledge-based competency testing.

**B.2.21** Contractor shall identify and describe the duties of Personnel who will work collaboratively with sworn personnel in implementing the plan of care safely, timely and consistent with security regulations described in County policy.

**B.2.22** Contractor, per County policy, shall utilize the Columbia Suicide Risk Rating Scale as their standardized risk assessment tool for determining the suicide risk level of individual patients. Based on the risk assessment, Contractor's clinicians shall document the following risk levels in the patient's chart in the EHR:

<b>Risk/Acuity Level</b>	<b>Definition</b>	<b>Housing Placement</b>
High Risk – Acutely Suicidal	Patient poses an active threat of serious physical harm to self or others.	Housed at WVDC in a safety cell.
Moderate Risk – Potentially Suicidal	Patient does not pose an active threat of serious harm to self or others.	Housed in the intake area or Unit 1A (at WVDC).
Low Risk – Step-down from Suicide Watch or Close Observation for other mental health purposes	Patient no longer poses an imminent risk of harm to self or others but can benefit from increased contact with mental health services and stabilization.	Housed in the intake area or Unit 1A (at WVDC).
No Risk	Patient can be housed according to routine procedures.	Housed according to routine procedures.

**B.2.22.1** Contractor shall ensure all mental health personnel complete a minimum of eight (8) hours of suicide prevention specific training and two (2) hours of annual suicide prevention refresher training. Contractor shall provide cross-disciplinary suicide prevention training to Sheriff Deputies, medical personnel, and additional personnel as indicated in Section B.2.19.

**B.2.22.2** Contractor shall designate a six-member suicide prevention team with advanced suicide prevention training and skills.

**B.2.22.3** Contractor shall ensure patients on suicide watch are offered in-person contact and daily rounds seven (7) days per week.

**B.2.22.4** Contractor shall ensure that only a QMHP may rescind or downgrade a patient's risk level. Contractor shall ensure patients are reassessed daily by a QMHP to identify any change in risk, condition, or status. If needed, a QMHP shall consult with a psychiatrist to request a change in level of care.

**B.2.22.5** Contractor shall ensure patients housed in safety cells are observed by a QMHP at minimum every four (4) hours and documents progress notes regarding vital signs, behavior, mentation, hygiene, hydration and nutrition, etc. in the EHR.

**B.2.22.6** Patients may only be cleared from suicide prevention watch for other housing by a QMHP after completing a Discontinuation from Suicide Watch form, including a patient safety plan.

**B.2.22.7** All patients released from suicide prevention watch shall be evaluated by a QMHP with a documented progress note entered into the patient's EHR at the following intervals: 24 hours, 7 days, and 28 days.

**B.2.23** In the event unexpected situations or critical events occur, including but not limited to, a patient death, serious injury that may lead to death, or other serious mental health condition that might impact Contractor's Personnel or County patient(s), Contractor's Personnel shall respond via the following procedures:

- Personnel shall immediately notify their direct supervisor.
  - Contractor's supervisory Personnel shall be on-call twenty-four (24) hours per day, seven (7) days per week, and accessible to all floor Personnel.
- Immediately after a supervisor receives notification, they shall contact the Contractor's Mental Health Director (or designee) and triage the situation accordingly.
- The Mental Health Director shall notify the respective Watch Commander of the correctional facility where the event occurred, as well as the Sheriff's Health Services Administrator.
- If Contractor's Personnel identify a patient who is a potential danger to themselves or others, Contractor's Personnel shall immediately notify County custody personnel.
- Once proper notifications are made, Contractor's Mental Health Director and/or Chief Psychiatrist shall conduct a chart review to determine if proper protocol was followed with respect to provision of emergency mental health services.
- In the event of a patient suicide, or suspected suicide, Contractor's Mental Health Director and/or Chief Psychiatrist shall conduct a mortality review and document a psychological autopsy of the patient's history, as well as attend any preliminary and final in-custody death reviews.

**B.2.24** Contractor shall adopt/comply with the Prison Rape Elimination Act of 2003, 42 U.S.C. 15601 et seq. (PREA), any applicable PREA standards (including 28 C.F.R. 115 et seq.), and any related County ordinances or Department policies regarding PREA for preventing, detecting, monitoring, investigating and eradicating any form of sexual abuse. Such PREA standards require that all volunteers, officers, employees, agents and Subcontractors who have contact with residents under the Contract receive training pursuant to 28 C.F.R. 115.332. Contractor shall provide the County with documentation confirming that all volunteers, officers, employees, agents, and Subcontractors understand the training they have received. Contractor acknowledges that the County will monitor Contractor's compliance with PREA, any applicable PREA standards, and County ordinances or Department policies relating to sexual abuse and may conduct announced and/or unannounced compliance monitoring to include "on-site" monitoring. Failure to comply with PREA, including PREA Standards and County PREA policies, may result in termination of the Contract. Contractor shall comply with the above statement through the following:

- All clinical Personnel shall complete mandatory PREA training at the start of their employment at County correctional facilities to affirm awareness of PREA requirements, any applicable PREA standards, and County ordinances or policies relating to sexual abuse.
- All clinical Personnel shall complete any subsequent PREA refresher training and document that they have reviewed and learned any new or newly revised policies and procedures for the PREA program.
- All PREA training shall be documented.
- Contractor shall work closely with County medical providers and custody personnel to coordinate and maintain consistent application of policies and procedures for PREA assessments and preventive interventions at each correctional facility.
- Contractor shall select clinicians who shall actively participate in Suicide Watch Team Reviews, which shall be performed for any patient who is in suicide watch for three consecutive days for PREA-related suicide risk.
- Contractor mental health clinicians shall conduct PREA assessments as part of responsibilities for evaluating and assessing mental health and psychiatric issues.
- Contractor shall include a PREA risk screening at the time a patient receives their initial Mental Health Screening. If a positive indication of risk or victimization triggers an alert to custody and/or clinical Personnel, the intake clinician shall notify the patient of available protection and services.
- If PREA risk is detected at intake, or during a subsequent comprehensive mental health assessment, it shall be documented in the patient's EHR and notification shall be made to the respective clinical and custody personnel at the given correctional facility.
- Contractor shall provide all counseling for patients who are referred for, or who request, mental health services related to PREA.

**B.2.25** Regarding disputes concerning appropriate mental health care standards and/or provision of care, the Sheriff's Chief Medical Officer, the Sheriff's Health Services Administrator, or the San Bernardino County Public Health Officer's determinations shall take precedence.

**B.2.26** The County utilizes an EHR, Naphcare TechCare; Contractor is required to comply with the following requirements:

- Contractor's Personnel shall work with the EHR system service provider as directed by the County. Contractor Staff shall be required to successfully complete EHR training at the time of hire or as determined by the Sheriff's Health Services Administrator.
- A patient's EHR shall be the single source of medical information regarding the patient. The EHR is the legal medical record and shall contain all elements of the designated record set.
- Contractor shall document all patient care entries and patient-related documentation including, but not limited to, admission assessment, diagnoses, treatment, and follow-up plans, into the EHR as required by County policies and procedures, including the NCCHC Health Records Standard (J-A-08) and Title 15 (CCR § 1205 – Health Care Records).



- Contractor shall document in the EHR, by the end of each shift, all scheduled and completed clinician visits for ongoing quality improvement review for every patient encounter. Requirements shall include the (electronic) signature and name of the mental health provider, and the date and military time of service delivery of all visits, evaluations, reports, progress noted, and key documentation.
- Paper documents shall be digitally scanned by ancillary staff and stored in the EHR upon receipt.
- Contractor shall execute and adhere to the specific health information privacy provisions outlined in the Business Associate Agreement (Attachment B).
- Contractor shall ensure the use, confidentiality, and access to PHI by limiting access to role-specific permissions in the EHR.
- Contractor shall address health care complaints and grievances in accordance with County policies and procedures; respective laws; and NCCHC accreditation requirements. This may include responses to third-party complainants, attorneys, or other government agencies.
- Contractor shall document mental health care complaints and grievance responses/actions into the EHR and ensure designated County personnel are aware of all health care complaints and grievances in accordance with Department policies and procedures.
- Contractor shall develop procedures for documenting patient care in the event the EHR is temporarily offline. These procedures shall include any after outage work that will be required to upload information into the EHR.

**B.2.27** Contractor shall prepare and submit a written Continuity of Operations (COOP) within sixty (60) days of Contract execution to ensure that clinical staff remains in, or are available to respond to, the impacted facility or facilities to continue to provide mental health care during unexpected events. Contractor shall consult with the County to help ensure that Contractor's COOP is consistent with the disaster plan for County facilities. Contractor's COOP shall designate a COOP point of contact at each facility, along with at least one back-up point of contact. Contractor shall submit an updated COOP to the County for approval on an annual basis, no later than January 1<sup>st</sup> of each year.

### **B.3 ADDITIONAL REQUIREMENTS**

**B.3.1** Contractor shall be responsible to maintain a state of constant survey readiness, with the goal of ongoing review and accreditation, based on CA Title 15, NCCHC, and the Sheriff's Health Services Administrator Policies and Procedures for Correctional Mental Healthcare, and all other agencies with jurisdiction over patients.

**B.3.2** Contractor shall demonstrate compliance with all medical and mental health information confidentiality requirements, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and the California Welfare and Institutions Code Section 5328.

**B.3.2.1** Contractor shall abide by State and Federal breach reporting and notification requirements if a breach of unsecured PHI occurs.

**B.3.3** Contractor shall be responsible for proper disposal of documents containing PHI.

**B.3.3.1** Paper-based PHI shall be rendered unreadable and beyond reconstruction via

shredding (P4 cross-cut standard), burning, pulping, or pulverizing.

**B.3.3.2** Electronic PHI on electronic media is to be rendered unreadable by being overwritten, purged, or destroyed via disintegration, pulverization, melting, incineration, or shredding.

**B.3.4** Contractor shall ensure that all software used during the course of the Contract, with the exception of TechCare EHR, shall be 100% compatible with all current generation releases of the County's infrastructure. The Sheriff's Technical Services Division shall have final authority regarding installation and use of software.

**B.3.5** Contractor shall have no record of unsatisfactory performance as determined by the California Contractors State License Board and California Department of Consumer Affairs. Contractors who are or have been seriously deficient in current or recent Contract performance, in the absence of circumstances properly beyond the control of the Contractor, shall be determined to be unable to meet this requirement.

**B.3.6** Contractor shall maintain adequate files and records and meet statistical reporting requirements; administrative and fiscal capabilities shall ensure an acceptable audit trail.

**B.3.7** Contractor shall be responsible for maintenance to any outside facilities and/or equipment utilized by the Contractor. As listed in Section E.1, County shall only provide maintenance and repair of County provided equipment and office space due to normal usage, as needed, and within correctional facilities only.

**B.3.8** Contractor shall abide by any other additional requirements as agreed upon by both parties.

## **C. GENERAL CONTRACT REQUIREMENTS**

### **C.1 Recitals**

The recitals set forth above are true and correct and incorporated herein by this reference.

### **C.2 Contract Amendments**

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

### **C.3 Contract Assignability**

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

### **C.4 Contract Exclusivity**

This is not an exclusive Contract. The County reserves the right to enter into a Contract with other Contractors for the same or similar Services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work or receive compensation other than on a per order basis, under the terms of the Contract.

### **C.5 Attorney Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under the Indemnification and Insurance Requirements.

### **C.6 Background Checks for Contractor Personnel**

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) have not been convicted of a felony, are not proven substance abusers, and do not use legal or illegal substances in any manner which will impact

their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County, Contractor shall provide the results of the background check of each individual to verify that the individual meets the County's standards for employment. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 90-day period. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or provide Services, and County shall have the right, at its sole option, to refuse access by any Contract personnel to any County facility.

**C.7 Change of Address**

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

**C.8 Choice of Law**

The Contract shall be governed by and construed according to the laws of the State of California.

**C.9 Compliance with County Policy**

In performing the Services and while at any County facilities, Contractor personnel (including Subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to County facilities and the provision of Services, and all additions and modifications to each of subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and Subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under the Contract.

**C.10 Confidentiality**

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, regulations have been promulgated governing the privacy of individually identifiable health information. The HIPAA Privacy Rule and Security Rule specify requirements with respect to contracts between a Covered Entity and its Business Associates. Contractor shall execute and comply with the attached Business Associate Agreement (Attachment B). Contractor further agrees to comply with the requirements of other federal and state law that applies to the information collected and maintained by Contractor for Services performed pursuant to Contract.

**C.11 Primary Point of Contact**

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

**C.12 Reserved**

**C.13 County Representative**

The Sheriff/Coroner/Public Administrator or his designee shall represent the County in all matters pertaining to the Services to be rendered under the Contract, including termination and assignment of the Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If the Contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to the Contract.

**C.14 Damage to County Property**

The Contractor shall repair, or cause to be repaired, at its own cost, all damage to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. For such repairs, the Contractor, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at County's sole discretion.

**C. 15 Debarment and Suspension**

The Contractor certifies that neither it, nor its principals or Subcontractors is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its Subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

**C.16 Drug and Alcohol-Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of the Contract, Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

- C.16.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.16.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.16.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of the Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

**C.17 Duration of Terms**

The Contract, and all of its terms and conditions, shall be binding upon and shall inure to the

benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of the Contract.

**C.18 Employment Discrimination**

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

**C.19 Environmental Requirements**

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of the Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the County in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor must also be able to report on environmentally preferable goods and materials used in the provision Services to the County, utilizing a County approved form.

**C.20 Improper Influence**

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

**C.21 Improper Consideration**

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding the Contract.

The County, by written notice, may immediately terminate the Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the Proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a Contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

**C.22 Informal Dispute Resolution**

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to the Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement.

To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

**C.23 Legality and Severability**

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of the Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

**C.24 Licenses, Permits and/or Certifications**

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of the Contract. Contractor will notify the Sheriff's Health Services Administrator, or their designee immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain required licenses, permits and certification may result in immediate termination of the Contract.

**C.25 Material Misstatement/Misrepresentation**

If during the course of the administration of the Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, the Contract may be immediately terminated. If the Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

**C.26 Mutual Covenants**

The parties to the Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

**C.27 Nondisclosure**

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with the Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of the Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

**C.28 Notice of Delays**

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of the Contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

**C.29 Ownership of Documents**

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for Services

(and products, if applicable). All such items shall be delivered to County at the completion of work under the Contract.

**C.30 Participation Clause**

The County desires that Municipalities, School Districts, and other Tax Districts within the State of California requiring the same Services provided herein may at their option and through the County Purchasing Agent, avail themselves of the Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

**C.30.1** Such governmental body does not have and will not have in force any other contract for like purchases.

**C.30.2** Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of the Contract.

**C.31 Air, Water Pollution Control, Safety and Health**

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to the Contract.

**C.32 Records**

Contractor shall maintain all records and books pertaining to the delivery of Services under the Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor's personnel, consultants, Subcontractors, Services/Scope of Work and expenses pertaining to the Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

**C.33 Relationship of the Parties**

Nothing contained in the Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

**C.34 Release of Information**

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

**C.35 Representation of the County**

In the performance of the Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County.

**C.36 Strict Performance**

Failure by a party to insist upon the strict performance of any of the provisions of the Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of the Contract thereafter.

**C.37 Subcontracting**

Contractor agrees not to enter into any subcontracting agreements for work completed under the Contract without first obtaining written approval from the County. Any Subcontractor shall be subject to the same terms and conditions as the Contractor. Contractor shall be fully responsible for the performance and payments of any Subcontractor's Contract.

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any Subcontractors who may supply any part of the Services to County. At County's request, Contractor shall provide information regarding the Subcontractor's qualifications and a listing of a Subcontractor's key personnel including, if requested by the County, resumes of proposed Subcontractor personnel. Contractor shall remain directly responsible to County for its Subcontractors and shall indemnify County for the actions or omissions of its Subcontractors under the terms and conditions specified in Section G. All approved Subcontractors shall be subject to the provisions of the Contract applicable to Contractor Personnel.

For any Subcontractor, Contractor shall:

**C.37.1** Be responsible for Subcontractor compliance with the Contract and the subcontract terms and conditions; and

**C.37.2** Ensure that the Subcontractor follows County's reporting formats and procedures as specified by County.

**C.37.3** Include in the Subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of the Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

**C. 38 Subpoena**

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under the Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

**C.39 Termination for Convenience**

The County and the Contractor each reserve the right to terminate the Contract, for any reason, with a one hundred and eighty (180) day written notice of termination. Such termination may include all or part of the Services described herein. Upon such termination, payment will be made to the Contractor for Services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue Services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary), all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.



**C.39.1 Leave Behind Solution** – After termination of the Contract, the Contractor shall cooperate in the transition of Services to a new vendor. Unless mutually agreed upon in writing, the transition period shall not exceed one hundred twenty (120) days. During the transition period, the Contractor shall continue to maintain Services at the rates outlined in Attachment A – Cost. Contractor shall provide a leave-behind solution at the end of the Contract term; all records (i.e. physical, electronic, etc.), program specifications, and related documents and data generated by the mental health services program are property of the County and shall be provided to the County by the Contractor on a secure storage medium, and in a usable, user-friendly, searchable electronic format, at no cost to the County, within fifteen (15) calendar days following the expiration and/or cancellation of the Contract. The Contractor shall accept County's reasonable decision as to whether the solution provided is acceptable. The leave-behind solution shall be easily accessible for seven (7) years after Contract end date, and at County's option, the leave-behind solution must be located in a County designated location.

**C.40 Time of the Essence**

Time is of the essence in performance of the Contract and of each of its provisions.

**C.41 Venue**

The parties acknowledge and agree that the Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to the Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning the Contract is brought by any third party and filed in another venue, the parties here to agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

**C.42 Conflict of Interest**

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or Subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and State law. In the event the County determines a conflict of interest exists, any increase in costs, associated with the conflict of interest, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

**C.43 Former County Administrative Officials**

Contractor agrees to provide, or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, Chief Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

**C.44 Disclosure of Criminal and Civil Procedures**

The County reserves the right to request the information described herein from the Contractor.

Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of Services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

#### **C.45 Copyright**

County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under the Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of the Contract shall acknowledge the San Bernardino County as the funding agency and Contractor as the creator of the publication. No such materials, or properties produced in whole or in part under the Contract shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printer material, and periodicals, assembled pursuant to the Contract must be filed with the County prior to publication.

#### **C.46 Artwork, Proofs and Negatives**

All artwork, proofs, and/or negatives in either print or digital format for anything produced under the terms of the Contract are the property of the County. These items must be returned to the County within ten (10) calendar days, upon written notification to the Contractor. In the event Contractor fails to return the documents, the County is entitled to pursue any available legal remedies. In addition, the Contractor will be barred from all future solicitations, for a period of at least six (6) months.

#### **C.47 Iran Contracting Act**

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of

Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

**C.48 Reserved**

**C.49 Reserved**

**D. TERM OF CONTRACT**

The Contract is effective as of June 14, 2022 and expires June 13, 2027 and may be extended for (1) additional two-year period, or two (2) additional one-year periods, upon written agreement by the County and the Contractor, and County Board of Supervisors' approval, but may be terminated earlier in accordance with provisions of the Contract.

**E. COUNTY RESPONSIBILITIES**

**E.1** County shall provide the following for Contractor Personnel to properly complete the Services as set forth herein: adequate office and clinical space, furniture, supplies, equipment and utilities including, but not limited to, access to computers printers, software, internet and phone services.

**E.1.1** Operating expenses including, but not limited to, office space and business equipment (on-site computers, computer software, printers, fax machines, local and long-distance telephone services, internet access, office supplies, furniture, and utilities) shall be provided by the County.

**E.1.2** Cellular phones will not be provided by the County. Additionally, cellular phones are not allowed inside any of the County correctional facilities unless approved by the County (including any Contractor provided or employee-owned communication devices). Cellular phones, or the costs associated with making calls from the devices, shall not be included in the Contract.

**E.2** County shall provide security at all correctional facilities, following safety and security policies and procedures for all Personnel working directly with patient patients in secure locations.

**E.3** County shall provide training for Contractor Personnel in all relevant security and correctional facility policies.

**E.4** County shall provide all necessary transportation for County patients so that Contractor's Personnel may provide appropriate Services.

**E.5** County shall provide Contractor's Personnel access to, and utilization of, the County's EHR system for the term of the Contract, as well as seven (7) years after the Contract expiration; additionally, access shall be provided as required by the State of California or any other governmental or judicial entity, to all PHI of all individuals who have participated in the program, to the extent authorized by law.

**E.6** County shall notify Contractor in advance of any inspections or review by any appropriate inspecting or reviewing entities.

**E.7** County shall provide Contractor with a designated primary contact, and an additional back-up contact, who shall be available for contact by Contractor twenty-four (24) hours per day and seven

(7) days per week for emergencies and other communications needing urgent advisal or response.

**E.7.1** The designated primary contact and additional back-up contact shall be personnel who possess the authority to act immediately when safety requires immediate action.

**E.8** County shall comply with all Federal and State laws pertaining to the administration of the correctional facilities and keeping of patients.

**E.8.1** Contractor shall not be charged with, billed for, or otherwise be expected to provide patients with the items that the County is required to provide including but not limited to psychotropic medications as well as personnel to dispense them.

## **F. FISCAL PROVISIONS**

**F.1** The maximum amount of payment under the Contract shall not exceed \$120,782,788 and shall be subject to availability of funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's Services and expenses incurred in the performance hereof, including travel and per diem.

**F.2** In consideration of the Services provided herein, upon submission of an invoice for comprehensive correctional mental health Services, County will pay Contractor the rates detailed in the Attachment A - Cost, attached hereto and incorporated herein by reference.

**F.2.1** Contractor shall provide County itemized monthly invoices, in arrears, which provide detailed information on any position provided, time records, hourly rate, hours paid and/or Services performed under the Contract, and the Contract number. A paid hour by Contractor for staffing is hereby defined by the parties as an hour paid to a staff member, to fill hours set forth in the Agreement, which shall only include hours worked onsite, telemedicine/tele-psych hours supplementing on-site staff (if applicable), and training/orientation hours. All positions shall be billed monthly in an amount equal to actual hours worked multiplied by the applicable fulltime annual position rate divided by 1,840 hours.

Higher rates for overtime and backfill hours are specifically excluded from the Contract; any site and/or differential compensation rates, and overtime premium rates accrued by Personnel, shall be the responsibility of the Contractor and shall be at no additional cost to the County. Contractor shall include these items within the allotted FTEs, and rates, detailed in Attachment A - Cost.

The County will audit the invoices for accuracy and may require additional information or corrections from Contractor prior to issuing payment. The County shall make payment to Contractor within forty-five (45) working days after receipt of invoice or the resolution of any billing dispute. "Working days" for purposes of this section are days the County is open for business (Monday through Friday, excluding County observed holidays). Additionally, the County may conduct inspections at various times during the Contract term to check on the quality of work. Payments shall not be provided for Services deemed unacceptable by the County or its designee. The County reserves the right to refuse payment to, or seek reimbursement from, the Contractor, for any unsatisfactory work or Services provided by personnel not appropriately licensed or certified as required, and County will deduct the charges for those Services from Contractor's invoices. Reports and invoices shall be sent to the County via one of the following methods:

- Mail/deliver to: San Bernardino County Sheriff's Department  
Attn: Bureau of Administration – Accounts Payable Division  
655 East Third Street  
San Bernardino, CA 92415
- E-mail to: [BOFA-ACCOUNTSPAYABLE@SBCSD.ORG](mailto:BOFA-ACCOUNTSPAYABLE@SBCSD.ORG)

Year-over-year cost increases shall be four percent (4%) for Year two, and three percent (3%) per year for Years three, four, five, and if applicable, six and seven for position-related salary and benefits costs; the Administrative and Management fee shall equal 27.5% of the actual total filled position-related costs. Cost increases shall be added to Contract fees as stated at the start of each of the subsequent contract and option years (Years 2, 3, 4, 5, 6, and 7).

- F.3** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.
- F.4** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the Services rendered or equipment and/or parts supplied to the County pursuant to the Contract.
- F.5** Costs for Services under the terms of the Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- F.6** Funds made available under the Contract shall not supplant any federal, state or any governmental funds intended for Services of the same nature as the Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to the Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- F.7** Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) attached hereto (Exhibits B and C) when travel is pursuant to the Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation Services including, but not limited to, the Ontario International Airport, located in Ontario, California.

## **G. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

### **G.1 Indemnification**

Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless San Bernardino County, the State of California, as well as their departments, officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of or in connection with any act, error or omission or any failure by Contractor to perform under this contract from any cause whatsoever, including any costs or expenses incurred by San Bernardino County and the State of California on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. Contractor's indemnification obligation does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

San Bernardino County agrees to indemnify, defend (with counsel reasonably approved by Contractor) and hold harmless Contractor and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of or in connection with any act, error or omission or any failure by County to perform under this contract from any cause whatsoever, including any costs or expenses incurred by Contractor on account of any claim except where such indemnification is prohibited by law. County's indemnification obligation does not apply to Contractor's "sole negligence" or "willful misconduct."

In the event that Contractor and/or County are determined to be comparatively at fault for any claim, action, loss or damage, which results from their respective obligations under this Agreement, County, and/or Contractor shall indemnify the other to the extent of its comparative fault.

**G.2 Additional Insured**

All policies, except for Worker's Compensation, Errors and Omissions Cyber Liability and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers named as additional insured with respect to liabilities arising out of the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

**G.3 Waiver of Subrogation Rights**

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, Contractors and Subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

**G.4 Policies Primary and Non-Contributory**

All policies required herein, except Cyber Liability and Workers' Compensation Insurance, are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

**G.5 Severability of Interests**

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

**G.6 Proof of Coverage**

Contractor shall furnish Certificates of Insurance to the Department evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of Services hereunder, which shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of Services hereunder until the completion of such Services. Within fifteen (15) days of the commencement of the Contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

**G.7 Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

**G.8 Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**G.9 Failure to Procure Coverage**

In the event that any policy of insurance required under the Contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the Contract or obtain insurance if it deems necessary and any

premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

#### **G.10 Insurance Review**

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to the Contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

- G.11** The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in any way affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- G.11.1** Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing Services on behalf of the Contractor and all risks to such persons under the Contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- G.11.2** Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
- a. Premises operations and mobile equipment.
  - b. Products and completed operations.
  - c. Broad form property damage (including completed operations).

- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

**G.11.3** Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract Services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

**G.11.4** Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

**G.11.5** Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits

**or**

Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

**or**

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

**G.11.6** **Reserved**

**G.11.7** **Cyber Liability Insurance** - Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

**Abuse/Molestation Insurance** – Contractor shall have abuse or molestation insurance providing coverage for all employees for the actual or threatened abuse or molestation by anyone of any person in the care, custody, or control of any insured,



including negligent employment, investigation and supervision. The policy shall provide coverage for both defense and indemnity with liability limits of not less than one million dollars (\$1,000,000) with a two million dollars (\$2,000,000) aggregate limit.

**H. RIGHT TO MONITOR AND AUDIT**

**H.1** The County, State and Federal governments shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of Services provided under the Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of the Contract and comply with any and all reporting requirements established by the County. Contractor shall repay to County within thirty (30) days of receipt of audit findings any reimbursements made by County to Contractor that are determined by subsequent audit to be unallowable pursuant to the terms of the Contract or by law.

**H.2** All records pertaining to Services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under the Contract or until all pending County, State and Federal audits are completed, whichever is later.

**I. CORRECTION OF PERFORMANCE DEFICIENCIES**

**I.1** Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of the Contract shall be a material breach of the Contract.

**I.2** In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in the Contract:

- a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
- b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
- c. Withhold funds pending duration of the breach; and/or
- d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
- e. Terminate the Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under the Contract and the balance, if any, shall be paid by the Contractor upon demand.

**J. NOTICES**

All written notices provided for in the Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

*San Bernardino County  
Sheriff/Coroner/Public Administrator  
655 E. Third Street  
San Bernardino, CA 92415*

*Liberty Healthcare Corporation  
401 East City Ave., Suite 820  
Bala Cynwyd, PA 19004*

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**K. ENTIRE AGREEMENT**

The Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive

agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of the Contract not expressly set forth herein are of no force or effect. The Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read the Contract and signs the same of its own free will.

**K.1** Order of Precedence of Documents

**K.1.1** The Contract consists of the following:

- Body of the Contract
- RFP No. SHR121-ADMSR-3949
- Contractor's Proposal in response to RFP No. SHR121-ADMSR-3949

**K.1.2** In the event of any inconsistency in or conflict among the document elements of the Contract, the inconsistency or conflict shall be resolved by giving precedence to the elements in the following order:

1. Body of the Contract
2. RFP No. SHR121-ADMSR-3949, including all amendments thereto.
3. Contractor's Proposal in response to RFP No. SHR121-ADMSR-3949.
4. All other written documentation and correspondence pertaining to the Contract.

**IN WITNESS WHEREOF**, the San Bernardino County and the Contractor have each caused the Contract to be subscribed by its respective duly authorized officers, on its behalf.

Due to the COVID-19 pandemic, pursuant to the Uniform Electronic Transaction Act (Cal. Civ. Code §§ 1633.1 to 1633.17), and the San Bernardino County Board of Supervisors Resolution No. 2020-030, the parties have agreed to the use of facsimile, and/or digital signatures in the execution of the Contract and any of its subsequent amendments. Such signatures shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

SAN BERNARDINO COUNTY

►

Curt Hagman, Chairman, Board of Supervisors

Dated: \_\_\_\_\_

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Lynna Monell  
Clerk of the Board of Supervisors  
San Bernardino County

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

Liberty Healthcare Corporation

(Print or type name of corporation, company, contractor, etc.)

By ► \_\_\_\_\_  
(Authorized signature - sign in blue ink)

Name \_\_\_\_\_  
(Print or type name of person signing contract)

Title \_\_\_\_\_  
(Print or Type)

Dated: \_\_\_\_\_

Address 401 East City Ave., Suite 820

Bala Cynwyd, PA, 19004

**FOR COUNTY USE ONLY**

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
►	►	►
Richard D. Luczak, Deputy County Counsel		Kelly Welty, Chief Deputy Director of Sheriff's Administration
Date _____	Date _____	Date _____

## ATTACHMENT A – COST

LINE NO.	POSITION	PER POSITION COST			EXTENDED COST		
		FTE	SALARY	BENEFITS*	FTE	SALARY	BENEFITS*
1.	Chief Psychiatrist (40 hrs/week/FTE)	1	\$ 448,400.00	\$ 51,630.00	1	\$ 448,400.00	\$ 51,630.00
2.	Mental Health Director (40 hrs/week/FTE)	1	\$ 134,500.00	\$ 24,325.00	1	\$ 134,500.00	\$ 24,325.00
3.	Psychiatrist (40 hrs/week/FTE)	1	\$ 385,100.00	\$ 48,670.00	11.53	\$ 4,440,203.00	\$ 561,165.10
4.	Mental Health Nurse Practitioner (40 hrs/week/FTE)	1	\$ 182,935.00	\$ 28,076.00	6.82	\$ 1,247,616.70	\$ 191,478.32
5.	Licensed Clinical Supervisor (40 hrs/week/FTE)	1	\$ 134,500.00	\$ 24,325.00	5	\$ 672,500.00	\$ 121,625.00
6.	Mental Health Registered Nurse (12 hrs every other weekend/FTE)	1	\$ 118,690.00	\$ 23,477.00	24	\$ 2,848,560.00	\$ 563,448.00
7.	Master's Level Clinician **(40 hrs/week/FTE)	1	\$ 97,730.00	\$ 19,510.00	50	\$ 4,886,500.00	\$ 975,500.00
8.	Social Worker (BA) (40 hrs/week/FTE)	1	\$ 68,500.00	\$ 18,153.00	4	\$ 274,000.00	\$ 72,612.00
9.	Office Assistant (40 hrs/week/FTE)	1	\$ 50,500.00	\$ 12,687.00	3	\$ 151,500.00	\$ 38,061.00
10.	<b>SALARY &amp; BENEFIT SUBTOTAL</b>		<b>\$ 1,620,855.00</b>	<b>\$ 250,853.00</b>	<b>106.35</b>	<b>\$ 15,103,779.70</b>	<b>\$ 2,599,844.42</b>

LINE NO.	ADMINISTRATIVE EXPENSES	COST	PERCENTAGE OF EXTENDED COST
11.	Administrative or Management fees Do not include operating expenses in this section as listed in E. – County Responsibilities	\$4,868,496.63	27.500%
12.	<b>CONTRACT PER POSITION COST</b> (Line 10 [Per Position Cost Salary + Benefits] + Line 11 [Cost])	\$6,740,204.63	
13.	<b>INITIAL CONTRACT COST</b> (Line 10 [Extended Cost Salary + Benefits] + Line 11 [Cost])	\$22,572,120.75	

\* Includes cost for payroll taxes, fringe benefits and direct expenses (i.e. travel, training and staff incentives).

\*\*With prior approval, in writing from the County, Contractor may hire pre-licensed, Master's Level Clinicians. Such Clinicians shall be invoiced at 85% of the Master's Level Clinician position cost as noted in line 7 of Attachment A.

## **ATTACHMENT B BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (Agreement) supplements and is made a part of the contract (Contract) by and between the San Bernardino County Sheriff/Coroner/Public Administrator (hereinafter Covered Entity) and Liberty Healthcare Corporation (hereinafter Business Associate). This Agreement is effective as of the effective date of the Contract.

### **RECITALS**

**WHEREAS**, Covered Entity (CE) wishes to disclose certain information to Business Associate (BA) pursuant to the terms of the Contract, which may include Protected Health Information (PHI); and

**WHEREAS**, CE and BA intend to protect the privacy and provide for the security of the PHI disclosed to BA pursuant to the Contract 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 (HITECH Act), their implementing regulations, and other applicable laws; and

**WHEREAS**, The Privacy Rule and the Security Rule require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, sections 164.314, subdivision (a), 164.502, subdivision (e), and 164.504, subdivision (e) of the Code of Federal Regulations (C.F.R.) and contained in this Agreement; and

**WHEREAS**, Pursuant to HIPAA and the HITECH Act, BA shall fulfill the responsibilities of this Agreement by being in compliance with the applicable provisions of the HIPAA Standards for Privacy of PHI set forth at 45 C.F.R. sections 164.308 (Administrative Safeguards), 164.310 (Physical Safeguards), 164.312 (Technical Safeguards), 164.316 (Policies and Procedures and Documentation Requirements), and, 164.400, et seq. and 42 United States Code (U.S.C.) section 17932 (Breach Notification Rule), in the same manner as they apply to a CE under HIPAA;

**NOW THEREFORE**, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

#### **A. Definitions**

Unless otherwise specified herein, capitalized terms used in this Agreement shall have the same meanings as given in the Privacy Rule, the Security Rule, the Breach Notification Rule, and HITECH Act, as and when amended from time to time.

1. Breach shall have the same meaning given to such term under the HIPAA Regulations [45 C.F.R. §164.402] and the HITECH Act [42 U.S.C. §§17921 et seq.], and as further described in California Civil Code section 1798.82.
2. Business Associate (BA) shall have the same meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 U.S.C. section 17921 and 45 C.F.R. section 160.103.
3. Covered Entity (CE) shall have the same meaning given to such term as under the Privacy Rule and Security Rule, including, but not limited to 45 C.F.R. section 160.103.
4. Designated Record Set shall have the same meaning given to such term under 45 C.F.R. section 164.501.
5. Electronic Protected Health Information (ePHI) means PHI that is maintained in or transmitted by electronic media as defined in the Security Rule, 45 C.F.R. section 164.103.
6. Individual shall have the same meaning given to such term under 45 C.F.R. section 160.103.
7. Privacy Rule means the regulations promulgated under HIPAA by the United States Department of Health and Human Services (HHS) to protect the privacy of Protected Health Information, including, but not limited to, 45 C.F.R. Parts 160 and 164, subparts A and E.

8. Protected Health Information (PHI) shall have the same meaning given to such term under 45 C.F.R. section 160.103, limited to the information received from, or created or received by Business Associate from or on behalf of, CE.
9. Security Rule means the regulations promulgated under HIPAA by HHS to protect the security of ePHI, including, but not limited to, 45 C.F.R. Part 160 and 45 C.F.R. Part 164, subparts A and C.
10. Unsecured PHI shall have the same meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act, including, but not limited to 42 U.S.C. section 17932, subdivision (h).

## **B. Obligations and Activities of BA**

### **1. Permitted Uses and Disclosures**

BA may disclose PHI: (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) for purposes of Treatment, Payment and Operations (TPO); (iv) as required by law; or (v) for Data Aggregation purposes for the Health Care Operations of CE. Prior to making any other disclosures, BA must obtain a written authorization from the Individual.

If BA discloses PHI to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such PHI will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such breach. [42 U.S.C. section 17932; 45 C.F.R. sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]

### **2. Prohibited Uses and Disclosures**

- i. BA shall not use, access or further disclose PHI other than as permitted or required by this Agreement and as specified in the attached Contract or as required by law. Further, BA shall not use PHI in any manner that would constitute a violation of the Privacy Rule or the HITECH Act. BA shall disclose to its employees, Subcontractors, agents, or other third parties, and request from CE, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.
- ii. BA shall not use or disclose PHI for fundraising or marketing purposes.
- iii. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. (42 U.S.C. section 17935(a) and 45 C.F.R. section 164.522(a)(1)(i)(A).)
- iv. BA shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of CE and as permitted by the HITECH Act (42 U.S.C. section 17935(d)(2); and 45 C.F.R. section 164.508); however, this prohibition shall not affect payment by CE to BA for Services provided pursuant to this Agreement.

### **3. Appropriate Safeguards**

- i. BA shall implement appropriate safeguards to prevent the unauthorized use or disclosure of PHI, including, but not limited to, administrative, physical and technical safeguards that reasonably protect the confidentiality, integrity and availability of the PHI BA creates, receives, maintains, or transmits on behalf of the CE, in accordance with 45 C.F.R. sections 164.308, 164.310, 164.312 and 164.316. [45 C.F.R. sections 164.504(e)(2)(ii)(b) and 164.308(b).]
- ii. In accordance with 45 C.F.R. section 164.316, BA shall maintain reasonable and appropriate written policies and procedures for its privacy and security program in order to comply with the standards, implementation specifications, or any other requirements of the Privacy Rule and applicable provisions of the Security Rule.

- iii. BA shall provide appropriate training for its workforce on the requirements of the Privacy Rule and Security Rule as those regulations affect the proper handling, use confidentiality and disclosure of the CE's PHI.

Such training will include specific guidance relating to sanctions against workforce members who fail to comply with privacy and security policies and procedures and the obligations of the BA under this Agreement.

#### 4. Subcontractors

BA shall enter into written agreements with agents and Subcontractors to whom BA provides CE's PHI that impose the same restrictions and conditions on such agents and Subcontractors that apply to BA with respect to such PHI, and that require compliance with all appropriate safeguards as found in this Agreement.

#### 5. Reporting of Improper Access, Use or Disclosure or Breach

Every suspected and actual Breach shall be reported immediately, but no later than one (1) business day upon discovery, to CE's Office of Compliance, consistent with the regulations under HITECH Act. Upon discovery of a Breach or suspected Breach, BA shall complete the following actions:

- i. Provide CE's Office of Compliance with the following information to include but not limited to:
  - a) Date the Breach or suspected Breach occurred;
  - b) Date the Breach or suspected Breach was discovered;
  - c) Number of staff, employees, Subcontractors, agents or other third parties and the names and titles of each person allegedly involved;
  - d) Number of potentially affected Individual(s) with contact information; and
  - e) Description of how the Breach or suspected Breach allegedly occurred.
- ii. Conduct and document a risk assessment by investigating without unreasonable delay and in no case later than five (5) calendar days of discovery of the Breach or suspected Breach to determine the following:
  - a) The nature and extent of the PHI involved, including the types of identifiers and likelihood of re-identification;
  - b) The unauthorized person who had access to the PHI;
  - c) Whether the PHI was actually acquired or viewed; and
  - d) The extent to which the risk to PHI has been mitigated.
- iii. Provide a completed risk assessment and investigation documentation to CE's Office of Compliance within ten (10) calendar days of discovery of the Breach or suspected Breach with a determination as to whether a Breach has occurred. At the discretion of CE, additional information may be requested.
  - a) If BA and CE agree that a Breach has not occurred, notification to Individual(s) is not required.
  - b) If a Breach has occurred, notification to the Individual(s) is required and BA must provide CE with affected Individual(s) name and contact information so that CE can provide notification.
- iv. Make available to CE and governing State and Federal agencies in a time and manner designated by CE or governing State and Federal agencies, any policies, procedures, internal practices and records relating to a Breach or suspected Breach for the purposes of audit or should the CE reserve the right to conduct its own investigation and analysis.

#### 6. Access to PHI

To the extent BA maintains a Designated Record Set on behalf of CE, BA shall make PHI maintained by BA or its agents or Subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule. If BA maintains ePHI, BA shall provide such information in electronic format to enable CE to fulfill

its obligations under the HITECH Act. If BA receives a request from an Individual for access to PHI, BA shall immediately forward such request to CE.

7. Amendment of PHI

If BA maintains a Designated Record Set on behalf of the CE, BA shall make any amendment(s) to PHI in a Designated Record Set that the CE directs or agrees to, pursuant to 45 C.F.R. section 164.526, or take other measures as necessary to satisfy CE's obligations under 45 C.F.R. section 164.526, in the time and manner designated by the CE.

8. Access to Records

BA shall make internal practices, books, and records, including policies and procedures, relating to the use, access and disclosure of PHI received from, or created or received by BA on behalf of, CE available to the Secretary of HHS, in a time and manner designated by the Secretary, for purposes of the Secretary determining CE's compliance with the Privacy Rule and Security Rule and patient confidentiality regulations. Any documentation provided to the Secretary shall also be provided to the CE upon request.

9. Accounting for Disclosures

BA, its agents and Subcontractors shall document disclosures of PHI and information related to such disclosures as required by HIPAA. This requirement does not apply to disclosures made for purposes of TPO. BA shall provide an accounting of disclosures to CE or an Individual, in the time and manner designated by the CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or Subcontractors for at least six (6) years prior to the request. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the Individual's authorization, or a copy of the written request for disclosure.

10. Termination

CE may immediately terminate this agreement, and any related agreements, if CE determines that BA has breached a material term of this agreement. CE may, at its sole discretion, provide BA an opportunity to cure the breach or end the violation within the time specified by the CE.

11. Return of PHI

Upon termination of this Agreement, BA shall return all PHI required to be retained by the BA or its Subcontractors, employees or agents on behalf of the CE. In the event the BA determines that returning the PHI is not feasible, the BA shall provide the CE with written notification of the conditions that make return not feasible. Additionally, the BA must follow established policies and procedures to ensure PHI is safeguarded and disposed of adequately in accordance with 45 C.F.R. section 164.310, and must submit to the CE a certification of destruction of PHI. For destruction of ePHI, the National Institute of Standards and Technology (NIST) guidelines must be followed. BA further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any PHI retained by BA or its Subcontractors, employees or agents after the termination of this Agreement, and to limit any further use, access or disclosures.

12. Breach by the CE

Pursuant to 42 U.S.C. section 17934, subdivision (b), if the BA is aware of any activity or practice by the CE that constitutes a material Breach or violation of the CE's obligations under this Agreement, the BA must take reasonable steps to address the Breach and/or end eliminate the continued violation, if the BA has the capability of mitigating said violation. If the BA is unsuccessful in eliminating the violation and the CE continues with non-compliant activity, the BA must terminate the Agreement (if feasible) and report the violation to the Secretary of HHS.



### 13. Mitigation

BA shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to BA of a use, access or disclosure of PHI by BA, its agents or Subcontractors in violation of the requirements of this Agreement.

### 14. Costs Associated to Breach

BA shall be responsible for reasonable costs associated with a Breach. Costs shall be based upon the required notification type as deemed appropriate and necessary by the CE and shall not be reimbursable under the Agreement at any time. CE shall determine the method to invoice the BA for said costs. Costs shall incur at the current rates and may include, but are not limited to the following:

- Postage;
- Alternative means of notice;
- Media notification; and
- Credit monitoring Services.

### 15. Direct Liability

BA may be held directly liable under HIPAA for impermissible uses and disclosures of PHI; failure to provide breach notification to CE; failure to provide access to a copy of ePHI to CE or individual; failure to disclose PHI to the Secretary of HHS when investigating BA's compliance with HIPAA; failure to provide an accounting of disclosures; and, failure to enter into a business associate agreement with Subcontractors.

### 16. Indemnification

BA agrees to indemnify, defend and hold harmless CE and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, penalties, injuries, costs and expenses (including costs for reasonable attorney fees) that are caused by or result from the acts or omissions of BA, its officers, employees, agents and Subcontractors, with respect to the use, access, maintenance or disclosure of CE's PHI, including without limitation, any Breach of PHI or any expenses incurred by CE in providing required Breach notifications.

### 17. Judicial or Administrative Proceedings

CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the Privacy Rule, Security Rule or other security or privacy laws or (ii) a finding or stipulation is made in any administrative or civil proceeding in which the BA has been joined that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the Privacy Rule, Security Rule or other security or privacy laws.

### 18. Insurance

In addition to any general and/or professional liability insurance coverage required of BA under the Contract for Services, BA shall provide appropriate liability insurance coverage during the term of this Agreement to cover any and all claims, causes of action, and demands whatsoever made for loss, damage, or injury to any person arising from the breach of the security, privacy, or confidentiality obligations of BA, its agents or employees, under this Agreement and under HIPAA 45 C.F.R. Parts 160 and 164, Subparts A and E.

### 19. Assistance in Litigation or Administrative Proceedings

BA shall make itself, and any Subcontractors, employees, or agents assisting BA in the performance of its obligations under the Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers, or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its Subcontractor, employee or agent is a named adverse party.

## **C. Obligations of CE**

1. CE shall notify BA of any of the following, to the extent that such may affect BA's use, access, maintenance or disclosure of PHI:
  - i. Any limitation(s) in CE's notice of privacy practices in accordance with 45 C.F.R. section 164.520.
  - ii. Any changes in, or revocation of, permission by an individual to use, access or disclose PHI.
  - iii. Any restriction to the use, access or disclosure of PHI that CE has agreed to in accordance with 45 C.F.R. section 164.522.

#### **D. General Provisions**

##### **1. Remedies**

BA agrees that CE shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which CE may have at law or in equity in the event of an unauthorized use, access or disclosure of PHI by BA or any agent or Subcontractor of BA that received PHI from BA.

##### **2. Ownership**

The PHI shall be and remain the property of the CE. BA agrees that it acquires no title or rights to the PHI.

##### **3. Regulatory References**

A reference in this Agreement to a section in the Privacy Rule and Security Rule and patient confidentiality regulations means the section as in effect or as amended.

##### **4. No Third-Party Beneficiaries**

Nothing express or implied in the Contract or this Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

##### **5. Amendment**

The parties acknowledge that state and federal laws related to privacy and security of PHI are rapidly evolving and that amendment of the Contract or this Agreement may be required to ensure compliance with such developments. The parties shall negotiate in good faith to amend this Agreement when and as necessary to comply with applicable laws. If either party does not agree to so amend this Agreement within 30 days after receiving a request for amendment from the other, either party may terminate the Agreement upon written notice. To the extent an amendment to this Agreement is required by law and this Agreement has not been so amended to comply with the applicable law in a timely manner, the amendment required by law shall be deemed to be incorporated into this Agreement automatically and without further action required by either of the parties. Subject to the foregoing, this Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed and agreed to by BA and CE.

##### **6. Interpretation**

Any ambiguity in this Agreement shall be resolved to permit CE to comply with the Privacy and Security Rules, the HITECH Act, and all applicable patient confidentiality regulations.

##### **7. Compliance with State Law**

In addition to HIPAA and all applicable HIPAA Regulations, BA acknowledges that BA and CE may have confidentiality and privacy obligations under State law, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq. ("CMIA")). If any provisions of this Agreement or HIPAA Regulations or the HITECH Act conflict with CMIA or any other California State law regarding the degree of protection provided for PHI and patient medical records, then BA shall comply with the more restrictive requirements.

##### **8. Survival**

The respective rights and obligations and rights of CE and BA relating to protecting the confidentiality of a patient's PHI shall survive the termination of the Contract or this Agreement.