



January 26, 2021

Board of Supervisors
County of Kern Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

**PROPOSED AGREEMENT WITH TARZANA TREATMENT CENTERS, INC.
TO PROVIDE RESIDENTIAL SUBSTANCE USE DISORDER TREATMENT SERVICES
(Fiscal Impact: \$220,203; FFP, 2011 Realignment; Budgeted; Discretionary)**

Behavioral Health and Recovery Services requests your Board's approval of a proposed Agreement with Tarzana Treatment Centers, Inc. (Tarzana) from January 26, 2021 through June 30, 2021 to provide residential substance use disorder treatment in Bakersfield, in an amount not to exceed \$220,203. This Agreement will be funded by Federal Financial Participation and 2011 Realignment funds.

Under this proposed Agreement, Tarzana will provide residential substance use disorder treatment services to KernBHRS clients. Residential substance use disorder treatment services include individual and group counseling, along with related activities that support recovery and a commitment to abstinence.

In accordance with the County's procurement procedures, the Department published a Request for Proposals for residential substance use disorder treatment services on December 12, 2019 for services to begin in Fiscal Year 2020-2021. Tarzana is one of the agencies selected to provide these services.

This proposed Agreement has been approved as to form by the Office of County Counsel. Appropriations are included in the Department's requested Fiscal Year 2020-2021 budget to fund this Agreement.

Therefore, IT IS RECOMMENDED that your Board approve the proposed Agreement with Tarzana Treatment Centers, Inc. to provide residential substance use disorder treatment services for clients residing in the Bakersfield area, for the term January 26, 2021 through June 30, 2021, in an amount not to exceed \$220,203, and authorize the Chairman to sign.

Respectfully submitted,

Bill Walker, LMFT
Director

Cc: County Administrative Office
Auditor-Controller



AGREEMENT FOR PROFESSIONAL SERVICES

RESIDENTIAL SUBSTANCE USE DISORDER TREATMENT SERVICES

(COUNTY OF KERN – TARZANA TREATMENT CENTERS, INC.)

THIS AGREEMENT is made and entered into on _____, by and between the County of Kern (“County”), a political subdivision of the State of California, as represented by the Behavioral Health and Recovery Services Department (“Department” or “KernBHRS”), and Tarzana Treatment Centers, Inc. (“Contractor”), a California non-profit organization, with its principal place of business located at 18646 Oxnard Street, Tarzana, CA 91356.

WITNESSETH:

WHEREAS:

- A.** Government Code sections 31000 and 53060 permit the County Board of Supervisors to contract for the furnishing of special services with individuals specially trained and experienced and competent to perform those services; and
- B.** The Department requires a full continuum of substance use disorder services in a treatment environment that maximizes the integration of the services for Kern County adolescents and special populations clients who require residential substance use disorder treatment services; and
- C.** County desires to engage Contractor to provide said services and Contractor, by reason of Contractor’s qualifications, experience, and facilities for doing the type of work herein contemplated, has offered to provide the required services in accordance with the terms set forth herein.

NOW, THEREFORE, IT IS AGREED between the parties hereto as follows:

1. TERM

This agreement shall commence on the date first entered above and shall remain in effect through June 30, 2021, unless sooner terminated as hereinafter provided.

2. MODIFICATIONS OF AGREEMENT

Material changes to this agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

3. STANDARDS OF SERVICE

Contractor shall provide the services and adhere to the standards of service described in EXHIBIT A, "DESCRIPTION AND STANDARDS OF SERVICES," which is attached hereto and made a part hereof. Failure to comply with the standards of service shall be deemed a material breach of this agreement and may result in termination of the agreement.

Contractor shall comply with all applicable regulations set forth by the California Department of Health Care Services (DHCS) and any other applicable governing bodies. By this reference, those regulations are made a part of this agreement. Additionally, County requires Contractor to provide proof of adherence to specific administrative and ethical principles in order to be eligible to contract with County. These principles are included in EXHIBIT B, "ADDITIONAL ADMINISTRATIVE AND ETHICAL REQUIREMENTS," which is attached hereto and made a part hereof. Failure to comply with all applicable regulations and principles shall be deemed a material breach of this agreement and may result in termination of the agreement.

Contractor shall not be required to provide, reimburse for, or provide coverage of, a counseling or referral service if Contractor objects to the service on moral or religious grounds. (Section 1932(b)(3)(B)(i) of the Social Security Act, 42 Code of Federal Regulations ("CFR") § 438.1(g)(2)(ii)(A) and 438.102(a)(2).) If there are any referrals to services or counseling that Contractor will not provide, Contractor shall inform KernBHRS prior to the execution of this agreement or at least thirty (30) days prior to the effective date during the performance of this agreement. Contractor shall provide the same information to potential beneficiaries before and during enrollment and to beneficiaries at least thirty (30) days prior to the effective date of the policy for any particular service.

Contractor shall not, on the basis of health status or need for health care services, discriminate against Medi-Cal eligible individuals who require an assessment or meet medical necessity criteria for specialty mental health services or substance use disorder services. (42 CFR § 438.3(d)(3).)

Contractor shall not discriminate against Medi-Cal eligible individuals who require an assessment or meet medical necessity criteria for specialty mental health services or substance use disorder services on the basis of race, color, national origin, sex, sexual orientation, gender identity, or disability and will not use any policy or practice that has the effect of discriminating on the basis of race, color, national origin, sex, sexual orientation, gender identity, or disability. (42 CFR § 438.3(d)(4).)

4. COMPENSATION TO CONTRACTOR

A. County shall reimburse Contractor for services provided in accordance with Exhibit A up to the maximum amount set forth in Exhibit C, "Funding Schedule," which is attached hereto and made a part hereof. Funds provided to Contractor may be from one or more of the funding sources detailed in Exhibit C; however, County

may vary the allocated amount of each funding source within a budget unit, administratively, after notification to Contractor.

B. County shall compensate Contractor based on the following rates and billed monthly. The levels of care are identified by the American Society for Addiction Medicine.

1. For Level 3.3—Clinically Managed, Population Specific High Intensity Residential services rendered as described in Exhibit A, Contractor shall be paid at the rate of One Hundred and Ninety Two Dollars and Eighty Nine cents (\$192.89) per authorized resident for each day that clinical treatment services are provided, and Fifty Three Dollars and Five cents (\$53.05) for each day that the individual is in residence at the facility. The combined rate for room and board and clinical treatment services shall total Two Hundred Forty-five Dollars and Ninety-four cents (\$245.94) per day, per authorized resident.
2. For Level 3.5 Clinically Managed High-Intensity Residential services rendered for Adolescents as described in Exhibit A, Contractor shall be paid at the rate of One Hundred Seventy-seven Dollars and Six cents (\$177.06) per authorized resident for each day that clinical treatment services are provided, and Fifty-three Dollars and Five cents (\$53.05) for each day that the individual is in residence at the facility. The combined rate for room and board and clinical treatment services shall total Two Hundred Thirty Dollars and Eleven cents (\$230.11) per day, per authorized resident.
3. For Level 3.2-WM Clinically Managed Residential Withdrawal Management services rendered as described in Exhibit A, Contractor shall be paid at the rate of Five Hundred and Thirty Eight Dollars and Thirty Two cents (\$538.32) per authorized resident for each day that clinical treatment services are provided, and Ninety-seven Dollars and Ninety One cents (\$97.91) for each day that the individual is in residence at the facility. The combined rate for room and board and clinical treatment services shall total Six Hundred Thirty-six Dollars and Twenty-three cents (\$636.23) per day, per authorized resident.
4. Contractor shall only be compensated for room and board at the rate of Ninety-seven Dollars and Ninety-one cents (\$97.91) on days when no clinical services are provided.

C. In no event shall the maximum amount payable by County to Contractor, pursuant to this agreement, exceed the aggregate sum set forth in Exhibit C, unless the

agreement is modified by formal amendment, duly executed by the parties. No additional compensation will be paid for secretarial, clerical support staff, or overhead costs.

- D.** The maximum contract funding shown in Exhibit C absolutely limits County's liability to Contractor for services provided under this agreement, in total for the agreement as a whole, and individually for each funding source.
- E.** No funds paid to Contractor through this agreement shall be utilized to compensate employees of the Contractor for overtime or compensatory time off, except to the extent that Contractor is required to pay for overtime or compensatory time off, pursuant to the Fair Labor Standards Act of 1938, 29 United States Code (USC) Section 201, et seq., or applicable state law. Payments to Contractor shall be made only upon County's receipt of a Claim for Payment form. Such claim shall be submitted to the Director of the Kern Behavioral Health and Recovery Services Department, or his/her designee, within twenty-five (25) calendar days following the end of the month in which services are provided. Contractor's Claim for Payment submitted beyond the twenty-five (25) day period may be accepted at County's sole discretion. However, such claims must be filed no later than four (4) months following the month that services are rendered.
- F.** This agreement is subject to County's annual appropriation process. In the event that funds representing Contractor's compensation and reimbursement for expenses of the services provided pursuant to this agreement are not appropriated within the approved county budget in any fiscal year, this agreement shall be deemed terminated and shall be of no further force or effect as of the date County's budget is approved. County will provide Contractor with thirty (30) days' prior notice of any such action.
- G.** Contractor shall be liable for and accountable to County for any and all program funds improperly expended under this agreement by Contractor or any officer, employee, agent, or representative thereof, whether or not such officer, employee, agent, or representative was acting within the scope of his or her employment. County will notify Contractor in writing of any findings supporting a determination of such improper expenditure and notify Contractor about such findings. Contractor shall reimburse County the amount of any such improper expenditure upon demand, but such demand shall be subject to the paragraph of this agreement entitled "DISPUTE AND ISSUE RESOLUTION." If such amounts are unsuccessfully disputed, the Prime Interest Rate as published in the Wall Street Journal will accrue from the first business day of repayment demand.
- H.** No payment shall be made to Contractor if Contractor has any federal, state, or county liens outstanding. Should County discover a record of an outstanding lien, County shall immediately notify Contractor about the lien record, immediately investigate the circumstances, and determine a course of action within thirty (30)

days of discovery. The Department may consider a repayment arrangement between Contractor and the lien-maker as reasonably satisfying this agreement stipulation. Contractor shall provide to County, within fifteen (15) days of request, a copy of the repayment arrangement document(s), the name of the contact person with the lien-maker agency that can verify the repayment arrangement, and a written statement explaining what resources Contractor is using to accomplish the repayment.

- I. County will periodically evaluate Contractor's program costs for the purpose of assessing the reasonableness of County's payments for services provided. Contractor will be provided reasonable notice if additional contractual and/or service delivery issues are to be reviewed. Contractor is expected to prepare necessary reports and other material to adequately explain Contractor's use of funds as specified in Exhibit C of this agreement. County may prescribe specific report formats and data content as deemed necessary at the sole discretion of County.
- J. Monitoring and other reviews may be conducted by DHCS or other governing bodies in accordance with regulations in effect during this agreement. County will recoup payments for all claims disallowed from Contractor. Upon receiving notification of disallowed claims, County will send a demand notice to Contractor. Contractor shall reimburse County within thirty (30) days of the date of the demand notice. If disallowed claims are not paid to County within thirty (30) days of the date of the demand notice, County may exercise the option to withhold payments from Contractor until such time as payment is received in full. For all cases, County amounts withheld from Contractor shall be considered as payments to Contractor.
- K. Contractor shall determine the availability of any third-party insurance or payer source (including Medi-Cal) available to client at admission and monthly thereafter and notify County if any is available. Medi-Cal verification must specify county that issued Medi-Cal benefits. Any changes must be provided to KernBHRS billing staff on a monthly basis. KernBHRS follows the guidance in MHSUDS Information Notice 17-036 regarding County of Responsibility. Medi-Cal verification must specify Kern as the county that issued Medi-Cal benefits. If an individual has Medi-Cal that originated in a different county, Contractor shall assist the individual to update benefit information to Kern County. Contractor shall inform Substance Abuse Disorder (SUD) Administration when such changes would pose a hardship for the individual and/or family members receiving other healthcare services in a different county.

5. Submission of a Claim for Payment form

- A. All expenses being claimed through a monthly Claim for Payment must be in conformity with 2 Code of Federal Regulations (CFR) Parts 215, 220, 225, or 230, and 48 CFR 31.2, as applicable, and necessary and reasonable for the proper and

efficient administration of Contractor's services in order to be considered for County's reimbursement to Contractor.

B. Contractor, and any subcontractor or any network provider of Contractor, shall report to KernBHRS within sixty (60) calendar days when it has identified payments in excess of amounts specified for reimbursement of Medicaid services. (42 CFR § 438.608(c)(3).)

C. Contractor has two (2) options to satisfy exclusion reporting requirements listed in Exhibit M of this agreement. The options are as follows:

Option 1: Contractor shall submit with each Claim for Payment the results of the previous month's exclusion reporting required in Exhibit M of this agreement along with the appropriate exclusion attestation, required in **Exhibit K** of this agreement. Should Contractor not submit the report(s), the Department's Finance Division will not process the claim for payment. Any delayed payments will be processed upon receipt of the exclusion report(s).

Option 2: County will complete the exclusion reporting requirement for Contractor. In order for County to complete this task, Contractor shall provide the following information with each Claim for Payment:

- a. A list of all active employees for the time period on the claim for payment.
- b. A copy of each employee's driver's license and social security card. County only needs to receive copies of these documents once to verify identity of listed employee. These documents will be scanned into a secure monitoring tool, and the paper copies will then be destroyed.
- c. County will run the required exclusion reports. County will notify Contractor immediately if an employee's name appears on any Excluded list. Contractor will work with County to determine if the excluded individual is their employee, and/or Contractor will provide objective, verifiable evidence that the results of the exclusion list were a false positive and the excluded individual was not their employee.
- d. Should Contractor not submit the required information listed above with their Claim for Payment to allow County to run the required exclusion lists, the Department's Finance Division will not process the Claim for Payment. Any delayed payments will be processed upon receipt of the missing information.

D. Amending the contract funding

- i. Any change in funding terms between the parties shall require a mutually agreed upon written amendment to the agreement.

- ii. County reserves the right to reduce the contract funding during the term of this agreement based on any of the following elements:
 - e. Projected underspending of funding based on claims and anticipated costs to date;
 - f. Contractor not meeting the outcome measurements identified in the contract;
 - g. Contractor not providing the number of services negotiated between the parties; and/or
 - h. County identifying indicators of reduced or unsatisfactory performance.
- E. No funds paid to Contractor through this agreement shall be utilized to compensate employees of the Contractor for overtime or compensatory time off, except to the extent that Contractor is required to pay for overtime or compensatory time off, pursuant to the Fair Labor Standards Act of 1938, 29 United States Code (USC) Section 201, et seq., or applicable state law. Payments to Contractor shall be made only upon County's receipt of a Claim for Payment form. Such claim shall be submitted to the Director of the Kern Behavioral Health and Recovery Services Department, or his/her designee, within twenty-five (25) calendar days following the end of the month in which services are provided. Contractor's Claim for Payment submitted beyond the twenty-five (25) day period may be accepted at County's sole discretion. However, such claims must be filed no later than one (1) month following the month that services are rendered.
- F. Contractor shall take all necessary measures to obtain and maintain state certifications and/or licensure of the site(s) at which Contractor provides services under this agreement. Certification must be in accordance with Drug Medi-Cal regulations and the Americans with Disabilities Act (ADA). Official fire clearance must take place prior to service provision and annually thereafter. If Contractor performs laboratory testing on human specimens, Contractor shall have the appropriate certification by the Clinical Laboratory Improvement Amendments of 1988 (CLIA) or maintain a CLIA-Exemption. Contractor shall provide documentation of all applicable certifications and/or licensure to the System of Care (SOC) Administrator or designee upon agreement and annually thereafter. If a site is not Drug Medi-Cal certified, or if the Drug Medi-Cal renewal is delinquent, County will not bill for Medi-Cal services, or forward payments to Contractor, until site certification is obtained or renewed. Contractor shall comply with the following regulations and guidelines:
 - i. Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8
 - ii. Title 22, CCR, Sections 51341.1, 51490.1, and 51516.1

- iii. Minimum Quality Treatment Standards
 - iv. Title 9, CCR, Division 4, Chapter 4, Subchapter 1, Sections 10000, et. Seq.
 - v. Title 22, CCR, Division 3, Chapter 3, Sections 51000 et. Seq.
 - vi. In the event of conflicts, the provisions of Title 22 shall control if they are more stringent.
 - vii. Standard Terms and conditions of the Drug Medi-Cal Organized Delivery System (DMC ODS) waiver.
- G.** Contractor shall notify the KernBHRS SUD SOC Administrator or designee of intent to reduce covered services or relocate. Any reduction in covered services or relocation shall not be implemented until approval is issued by DHCS. A DMC certification application must be submitted to the DHCS Provider Enrollment Division sixty (60) days prior to the desired effective date of the reduction of covered services or relocation.
- H.** Program Complaints: KernBHRS shall be responsible for investigating complaints of Contractor's programs and providing the results of all investigations to the DHCS within two (2) business days of completion.
- I.** Drug Medi-Cal Post-Service-Post-Payment (PSPP) utilization review site visits are required under the Interagency agreement between County and DHCS. Following a PSPP site visit, the state will notify County of any disallowed claims. County will collect payments made for all disallowed claims from Contractor as mandated by Title 22 of the California Code of Regulations (CCR), Section 51341.1(j) and (m). Upon receiving notification of disallowed claims from the state, County will send a demand notice to Contractor. Contractor shall reimburse County within thirty (30) days of the date of the demand notice. If disallowed claims are not paid to County within thirty (30) days of the date of the demand notice, County may exercise the option to withhold payments from Contractor until such time as payment is received in full. In all cases, County amounts withheld from Contractor shall be considered as payments to Contractor.
- J.** Contractor shall determine the availability of any third-party insurance or payer source (including Medi-Cal) available to client at admission and monthly thereafter and notify County if any is available. Medi-Cal verification must specify county that issued Medi-Cal benefits. Any changes must be provided to KernBHRS billing staff on a monthly basis. KernBHRS follows the guidance in MHSUDS Information Notice 17-036 regarding County of Responsibility. Medi-Cal verification must specify Kern as the county that issued Medi-Cal benefits.
- K.** County and Contractor shall abide by the Department's Substance Use Disorder Program Monitoring policy. Additionally, County shall have the right to suspend

claims for payment to Contractor for late submission of corrective action plans required in response to Department's review of Contractor's client treatment charts or other programmatic and administrative reviews conducted by the County. Payments will be reinstated when Contractor has submitted an acceptable corrective action plan demonstrating how Contractor will resolve identified deficiencies.

5. PROGRAM DIRECTION, FISCAL AUDIT, INSPECTION, AND RETENTION OF RECORDS

- A.** County's Alcohol and Drug Program Administrator, as defined in Health and Safety Code Sections 11800 and 11962, shall be the Director of KernBHRS. Contractor's services pursuant to this agreement shall be provided and performed under the Director's general guidance or his/her designated representative. It shall be Contractor's responsibility to determine the specific means and methodology for accomplishing the services required under this agreement.
- B.** Contractor agrees to maintain and make available to County all of its premises, physical facilities, documents, contracts, computers, other electronic systems, and accurate books and records relative to all activities of the organization, including client information, information related to Medi-Cal enrollees, Medi-Cal related activities and information included in personnel records, limited to that needed for the verification of credentialing, experience, and background. Review of the organization's personnel files shall be subject to applicable confidentiality laws. Contractor shall maintain such data and records in an accessible location and condition for a minimum of ten (10) years after the close of the fiscal year in which services are rendered or until all audit issues are resolved, whichever is later, in accordance with 42 CFR 438.3(h); 42 CFR 438.3(u); and Welfare and Institutions Code, Section 14124.1. The state of California and/or any federal agency having an interest in the subject of this agreement shall have the same rights conferred upon County herein.
- C.** KernBHRS, DHCS, Centers for Medicare/Medicaid Services ("CMS"), or the Health and Human Services ("HHS") Inspector General may inspect, evaluate, and audit Contractor at any time if there is a reasonable possibility of fraud or similar risk. The inspection shall occur at Contractor's place of business, premises, or physical facilities. Contractor shall make all of its books and records available in a form maintained in accordance with the general standards applicable to such books or record keeping for a term of at least ten years from the close of the fiscal year in which this agreement is in effect.
- D.** Contractor shall permit County to audit, examine, and make excerpts and transcripts from such records and to conduct audits, reviews, and monitoring of Medi-Cal and financial records and all other data related to matters covered by this agreement. At County's discretion, County may request that Contractor deliver by

mail or electronic transmission to County, a copy of Contractor's accounting records prior to an on-site audit by County. Failure by Contractor to allow review shall be a material breach of this agreement by Contractor. County, at its sole option, may terminate this agreement and obtain damages from Contractor resulting from said breach, or County may exercise the option to withhold payments from Contractor until such time as all required documents are made available. Further, as one component of Medi-Cal records review and financial monitoring, Contractor may be required, at the sole option of County, to complete a Corrective Action Plan. County may exercise the option to withhold payments from the Contractor until such time as County accepts the Corrective Action Plan.

6. FISCAL AUDIT REQUIREMENT

- A.** At Contractor's expense, Contractor is required to submit an independent audit report of its financial statements no later than nine (9) months after the close of Contractor's fiscal year. The audit report shall be performed by a Certified Public Accountant licensed to perform attestations in the state of California. The independent audit shall be conducted in conformity with Public Law 98-502, the Federal Single Audit Act of 1984, the Single Audit Act Amendments of 1996, OMB Circular A-133, 2 CFR Parts 215, 220, 225, and 230, and CFR 48 subpart 31.2, the American Institute of Certified Public Accountants, and/or Government Auditing Standards, as applicable.

- B.** In addition to the basic financial statements, the independent audit shall include a Statement of Functional Expenses. The Statement of Functional Expenses shall include a breakout of all Department expenses with each program identified separately. Contractor shall provide a supplemental schedule to the Statement of Functional Expenses that breaks out all Department expenses for each program. If Contractor provides services to other County departments, then each department shall have a separate categorization. The expenses charged to County programs under the terms of this agreement as shown in Contractor's financial records must correlate with the costs claimed by Contractor in the annual cost reports.

The independent auditor engaged by Contractor shall be required by Contractor to prepare a description of Contractor's methods used to allocate costs to the various programs included in the Statement of Functional Expense. If the complete audit report is not submitted to County by the due date, County may exercise the option to withhold payments from Contractor until the audit report has been provided.

- C.** Failure to submit the independent audit within the timeframe stipulated in Paragraph 6.A may result in sanctions such as withholding of payments, corrective action notices, or any other actions deemed necessary to prompt and ensure contract and performance compliance.

- D. The independent auditor engaged by Contractor to conduct the independent audit shall be instructed and authorized by Contractor to send to the Director of KernBHRS a copy of the audit report and management report prepared by the independent auditor as a part of the engagement. KernBHRS will then forward reports to the Kern County Auditor Controller County Clerk's office and to the State of California. Should the independent auditor prepare any other reports about Contractor's performance, internal control, adherence to applicable laws, rules and regulations, or any other matters, such other reports shall also be copied.

7. SUBMISSION OF COST STATEMENT

KernBHRS will verify Contractor's cost statements from time to time through its financial monitoring process. Contractor will be notified of any necessary adjustments in writing. Should Contractor disagree with adjustments, the Contractor shall use the DISPUTE AND ISSUE RESOLUTION process found in Paragraph 48 of this agreement.

Paid costs that are inappropriately charged to County programs are immediately payable to County. The Department may opt to withhold inappropriately charged costs from subsequent claims.

8. COST REPORT SUBMISSION

- A. Contractor shall be required to submit a cost report on or before September 30th after the close of the County fiscal year. The cost report shall be prepared in the format required by County and by the State of California. The costs reported shall be in compliance with Public Law 98-502, the Federal Single Audit Act of 1984, and the Single Audit Act Amendments of 1996, Office of Management and Budget (OMB) Circular A-133, 2 CFR Parts 215, 220, 225, and 230, and CFR 48 subpart 31.2, as applicable. Compensation for services rendered subsequent to August 31 shall be withheld from Contractor until the cost report has been delivered.
- B. If Contractor fails to submit a complete annual cost report(s) and documents listed in 7G by such due date, then County may, at its sole discretion, assess a late penalty of one hundred dollars (\$100.00) for each day that the complete annual cost report(s) is (are) not submitted. The late penalty shall be assessed separately on each outstanding annual cost report. The late penalty shall commence on the 92nd day following either the end of the applicable fiscal year or the expiration date of this agreement, whichever comes first, and shall continue thereafter up to the 181st day.
- C. Such failure to submit a complete annual cost report(s) may result in County's withholding any further payments to Contractor under this or any other agreement at the sole discretion of County until the complete annual cost report(s) is (are) submitted.

- D. In the event Contractor does not submit a complete annual cost report(s) by the 181st day, then all amounts covered by the outstanding annual cost report(s) is (are) outstanding shall be due by Contractor to County.
- E. Should County delay providing to Contractor the necessary cost report data maintained by County, the beginning date of the late penalty will be changed, at the sole discretion of County, to extend the beginning date in order to reasonably accommodate for the delay.
- F. Requests to extend the deadline of cost report submission must be made in writing to the Department's Finance Manager.
- G. Contractor may use unaudited financial statements as the basis of cost information for completion of the cost report. Contractor shall forward a copy of the unaudited financial statements to County along with the completed cost report and any work papers necessary to support the amounts reported. Unaudited financial statements include, but are not limited to, trial balance and general ledger detail.
- H. At County's discretion, Contractor may be required to attend cost report training before the cost report due date. County staff will provide training. The training may be a group presentation or provided on an individual basis

9. COST REPORT SETTLEMENT

The annual cost report establishes state and federal liability to the Department for services represented in the cost report. The settlement process begins with the submission of the Department's cost report to the state, following the close of the fiscal year.

A. Definitions and Timing

i. Initial Cost Settlement:

Settlement calculation which takes place after receipt of Contractor's audited financial statements, as required in Paragraph 6.D of this agreement. County will compare the unaudited financial statements to audited financial statements. County will utilize the audited financial statements for settlement calculations. County will use the information in Contractor's financial records to compare with the cost report in order to accommodate for any difference in the fiscal year used by County versus Contractor's fiscal year. Upon conclusion of such review, County will issue a draft report to Contractor. Contractor shall be given thirty (30) days to respond to the draft report. County will review Contractor's response before issuing the final report. Contractor may dispute the final report by following the procedures included in Paragraph 48 of this agreement, "DISPUTE AND ISSUE RESOLUTION."

ii. State Reconciliation Cost Settlement:

Settlement calculation which takes place after the Department has received the interim settlement from the State. Approximately fifteen (15) months following the close of the fiscal year, the State issues an Interim Settlement to the Department based on approved units of service, marking the starting point at which the Department can calculate the State Reconciliation Cost Settlement which will determine the cost settlement between the Department and its providers.

iii. State Audited Cost Settlement:

Settlement calculation which takes place after the state has audited the Department. The State Audited Cost Settlement, based on the state audits, cannot be made between the Department and Contractor until the state has completed its cost report audit of the Department and any contractors selected by the state. That typically occurs three (3) years subsequent to the Interim Settlement from the state.

iv. Settlement Calculation Methodology:

The calculation of the cost report settlement follows the same process that the state agencies use.

B. For Medi-Cal and Indigent/Unfunded Services:

The Department will reimburse Contractor's actual cost incurred in the provision of services as specified in Exhibit A, to the maximum extent possible, as County determines, allowing for certain constraints. The maximum amount payable is contractually limited to the total funding of all revenue sources as displayed in Exhibit C of this agreement. Further, the maximum amount of discretionary funding payable is limited to the total discretionary funding listed in Exhibit C. Discretionary funding is allotted to the Department principally from state and federal sources and is annually capped. This cap has implications for Medi-Cal services. Federal Financial Participation (FFP) is unavailable if matching state or local funds are not available. Consequently, if Contractor claims actual Medi-Cal services that exceed the total match and discretionary funding available to Contractor according to Exhibit C, the state will recoup such excess FFP, and it will not be available to Contractor. The Department will pay for excess Medi-Cal services to the extent that discretionary funding allows. This may impact the funding that is made available for services to indigent and uninsured individuals, insofar as discretionary funding is diverted to FFP match.

C. For Categorically Funded Services: The Department will reimburse actual program costs up to the maximum allowable limits stated in Exhibit C.

- i. The maximum reimbursement for this agreement is Contractor's actual costs, not to exceed the amount stated in Exhibit C as well as the State Maximum Allowable or County's Approved Rates for the DMC ODS waiver.
- ii. Cost settlements as defined in Paragraph 8 A of this agreement will be determined for each funding source specified in Exhibit C, which lists the maximum funds available for each funding source.
- iii. All payments made to Contractor during the term of this agreement are considered to be interim payments. Disregarding the total interim reimbursement, final reimbursement will be settled to the lower of actual cost, per Contractor's annual cost report, or maximum funding, per Exhibit C.
- iv. In the event that Contractor has multiple agreements with the Department, all agreements will be taken in aggregate for the purpose of County's settlement-to-cost calculations.
- v. Upon completion of the cost report settlement calculations as defined in Paragraph 8 sub-paragraph A of this agreement, if Contractor's reimbursable cost exceeds the total of all interim payments made to Contractor by Department, the remaining reimbursement owed to Contractor will be immediately paid to Contractor by Department.
- vi. Upon completion of the cost report settlement calculations, if the total of all interim payments made to Contractor by Department exceeds Contractor's reimbursable cost, Department will immediately begin withholding payments for contracted services, such that the entire amount due is fully repaid within no more than twelve (12) months.
- vii. Department will pursue resolution of any disagreement between Department and Contractor coincident with the withholding.
- viii. In the event that Contractor and County's agreement terminates prior to full collection of settlement amounts due, the remaining unpaid balance will be immediately due. The Department will pursue any and all collection efforts necessary for recoupment of settlement amounts due to Department.
- ix. Contractor will be notified in a timely manner of any adjustments that state auditors make to its cost report. If Contractor wishes to appeal the state audit adjustments, it must do so within the permitted time period, and in the manner permitted for such appeal as stipulated by the Department of Health Care Services. Contractor shall forward such appeal to County with sufficient time to permit County to forward such appeal to the appropriate state authorities all within the permitted time period. County shall have no liability for Contractor's failure to comply with state time frames.

10. RECOVERY FROM OTHER SOURCES OR PROVIDERS

- A. Contractor shall recover the value of covered services rendered to beneficiaries whenever the beneficiaries are covered for the same services, either fully or partially, under any other state or federal medical care program or under other contractual or legal entitlement including, but not limited to, a private group or indemnification program, but excluding instances of the tort liability of a third party or casualty liability insurance.
- B. The monies recovered are retained by Contractor. However, Contractor's claims for Federal Financial Participation (FFP) for services provided to beneficiaries under this contract shall be reduced by the amount recovered.
- C. Contractor shall maintain accurate records of monies recovered from other sources.
- D. Nothing in this section supersedes Contractor's obligation to follow federal requirements for claiming FFP for services provided to beneficiaries with other coverage under this contract.

9. FINANCIAL SOLVENCY

Contractor shall maintain adequate provisions against the risk of insolvency.

10. TAX INFORMATION REPORTING

- A. Contractor shall submit its signed Internal Revenue Service form W-9, "Request for Taxpayer Identification Number and Certification," or Social Security Number, whichever is applicable, to facilitate appropriate fiscal management and reporting, and to ensure compensation is paid to the proper party.
- B. Upon County's request, Contractor shall provide County with certain documents relating to Contractor's employee income tax withholding. These documents shall include, but not be limited to:
 - i. A copy of Contractor's federal and state quarterly income tax withholding returns i.e., federal form 941 and state Form DE-6 or their equivalents.
 - ii. A copy of a receipt for or other proof of payment of each employee's federal and state income tax withholding, whether such payments are made on a monthly or quarterly basis.

11. COMPLIANCE WITH LAW – GENERAL PROVISIONS

- A. General Provisions

Contractor shall observe and comply with all applicable county, state, and federal laws, ordinances, rules, and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference, including, but not limited to, CCR Title 9, Chapter 11, Section 1810.436(a)(1-5) and 42 CFR § 438.230(c)(2) which provide that:

- Medi-Cal beneficiaries shall receive the same level of care as provided to all other clients; and
- Medi-Cal beneficiaries shall not be discriminated against in any manner; and
- Rates charged for Medi-Cal beneficiaries shall be the same or less than rates charged to beneficiaries of other programs or private pay individuals; and
- The rate paid is considered to be payment in full, subject to third party liability and beneficiary share-of-cost for the specialty mental health or substance use disorder services provided.
- Contractor shall make all records, program compliance, and beneficiary complaints available for authorized review and fiscal audit whenever requested to do so by county, state, or federal authorities; and

B. Contractor shall adhere to the following:

Title XIX of the Social Security Act and conform to all other applicable federal and state statutes and regulations.

- i. Additional Contract Restrictions: This agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this agreement in any manner.
- ii. Voluntary Termination of DMC-ODS Services: Department may terminate this agreement at any time for any reason, by giving sixty (60) days written notice to DHCS. Contractor shall be paid for DMC-ODS services provided to beneficiaries up to the date of termination. Upon termination, Contractor shall immediately begin providing DMC services to beneficiaries in accordance with the State Plan.
- iii. Nullification of this agreement: Contractor understands that failure to comply with the provisions of W&I Code Section 14124.24, the Special Terms and Conditions, and this agreement, shall be deemed a breach that results in the termination of this agreement for cause. In the event of a breach, DMC-ODS services shall terminate. Contractor shall immediately

begin providing DMC services to beneficiaries in accordance with the State Plan.

- iv. Hatch Act: Contractor shall comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
- v. No Unlawful Use or Unlawful Use Messages Regarding Drugs: Contractor agrees that information produced through these funds, and which pertains to drug and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of the drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). Contractor agrees that it shall enforce, and shall require its subcontractors to enforce, these requirements.
- vi. Noncompliance with Reporting Requirements: Contractor agrees that the Department and/or DHCS has the right to withhold payments until Contractor has submitted any required data and reports to the Department and/or DHCS as identified in this agreement.
- vii. Limitation on use of Funds for Promotion of Legalization of Controlled Substances: Contractor understands that none of the funds made available through this agreement may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).
- viii. Title XIX of the Social Security Act and conform to all other applicable federal and state statutes and regulations.

C. Health Insurance Portability and Accountability Act (HIPAA) of 1996:

If any of the work performed under this agreement is subject to HIPAA, Contractor shall perform the work in compliance with all applicable provisions of HIPAA. The Department and Contractor shall ensure mutual agreement as to those transactions between them, to which this provision applies.

- i. Trading Partner Requirements: No Changes. Contractor agrees that for the personal health information (Information), it shall not change any definition, data condition, or use of a data element or segment as proscribed in the federal Health and Human Services Transaction Standard Regulation. (45 CFR Part 162.915 (a))

- ii. No Additions. Contractor agrees that for the Information, it shall not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation. (45 CFR Part 162.916 (b))
- iii. No Unauthorized Uses. Contractor agrees that for the Information, it shall not use any code or data elements that either are marked "not used" in the HHS Transaction's Implementation specification or are not in the HHS Transaction Standard's implementation specifications. (45 CFR Part 162.915 (d))
- iv. Concurrence for Test Modifications to HHS Transaction Standards: Contractor agrees and understands that there exists the possibility that the Department or DHCS may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, Contractor shall agree that it shall participate in such test modifications.
- v. Adequate Testing: Contractor shall adequately test all business rules appropriate to their types and specialties. If Department is acting as clearinghouse for Contractor, Department has the obligation to adequately test all business rules appropriate to Contractor.
- vi. Deficiencies: Department will cure transactions errors or deficiencies identified by Contractor if Department is acting as a clearinghouse for Contractor. If Contractor is a clearinghouse, Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to subcontractors for which it provides clearinghouse services.
- vii. Code Retention: Contractor and Department agree to keep open code sets being processed or used in this agreement for at least the current billing period or any appeal period, whichever is longer.
- viii. Data Transmission Log: Both Department and Contractor shall establish and maintain a Data Transmission Log, which shall record and all data transmissions taking place between both Parties during the term of this agreement. Each Party shall take necessary and reasonable steps to ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the Parties and shall be retained by each Party for no less than twenty-four (24) months following the date of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if necessary, to do so, the information contained in the Data Transmission Log may be retrieved in a timely manner and presented in readable form.

- ix. Counselor Certification: Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS-licensed or certified program is required to be certified as defined in Title 9, Division 4, Chapter 9.

D. Cultural and Linguistic Proficiency:

To ensure equal access to quality care by diverse populations, Contractor shall adopt the federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards.

E. Nondiscrimination in Employment and Services:

By signing this agreement, Contractor certifies that under the laws of the United States and the State of California, incorporated into this agreement by reference and made a part hereof as if set forth in full, Contractor shall not unlawfully discriminate against any person.

F. Investigations and Confidentiality of Administrative Actions:

Contractor acknowledges that if under investigation by DHCS or any other state, local, or federal law enforcement agency for fraud or abuse, DHCS may temporarily suspend Contractor from the DMC program, pursuant to WIC 14043.36(a).

Information about Contractor's administrative sanction status shall be held confidential until such time as the action is either completed or resolved. DHCS may also issue a Payment Suspension to a provider pursuant to WIC 14107.11 and Code of Federal Regulations, Title 42, Section 455.23. Department will withhold payments from Contractor during the time a Payment Suspension is in effect.

1. Subcontract Provisions:

Contractor shall include all of the foregoing provisions in all of its subcontracts.

2. Coordination and Continuity of Care (42 CFR Section 438.208):

Contractor shall comply with all KernBHS policies and procedures pertaining to Coordination and Continuity of Care.

3. Provider-Preventable Conditions:

Contractor shall comply with all requirements pertaining to Provider-Preventable Conditions:

1. Contractor shall ensure compliance with the requirements mandating provider identification of provider-preventable conditions as a condition of payment.
2. Contractor shall report Provider Preventable Conditions as specified by DHCS in MHSUDS Information Notice 17-046.

12. COMPLIANCE WITH LAW - TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Contractor and its subcontractors that provide services covered by this agreement shall comply with Section 106 (g) of the Trafficking Victims Protections Act of 2000 ("TVPA") (22 U.S.C.7104(g)) as amended by section 1702.

A. Contractor, Contractor's employees, and subcontractors shall not:

1. Engage in any form of trafficking of persons during the period of time that the agreement is in effect;
2. Procure a commercial sex act during the period of time the agreement is in effect; or
3. Use forced labor in the performance of the contract or subcontract.

This agreement may be unilaterally terminated if Contractor or any subcontractor is determined to have violated a prohibition of the TVPA or has an employee who is determined by County to have violated a prohibition of the TVPA through conduct that is associated with the performance under the contract using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)."

Contractor must inform the SOC Administrator or designee immediately of any information received from any source alleging a violation of a prohibition of the TVPA.

B. Contractor and Contractor's employees who provide direct services to clients are required to participate annually in training on the topic of Human Trafficking and the Trafficking Victims Protection Act as provided by the Department, or an external source approved by the System of Care Administrator prior to the occurrence of the training. County will monitor the attendance of this training for Contractor through the Relias training system if Contractor utilizes this program. If Contractor does not utilize the Relias training system, completed training shall be documented with an agenda and attendance log. The agenda and training log should be available for County to review at any time and shall be documented in quarterly reports to ensure these required trainings are being completed.

13. COMPLIANCE WITH LAW – FEDERAL LAW REQUIREMENTS

Contractor shall adhere to the following federal law requirements:

- A. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally-funded programs.
- B. Title IX of the education amendments of 1972 (regarding education and programs and activities), if applicable.
- C. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin in the sale or rental of housing.
- D. Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.
- E. Age Discrimination in Employment Act (29 CFR Part 1625).
- F. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
- G. Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.
- H. Americans with Disabilities Act (28 CFR Part 36) regarding access.
- I. Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.
- J. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.
- K. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
- L. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
- M. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.

14. COMPLIANCE WITH LAW – STATE LAW REQUIREMENTS

Contractor shall adhere to the following state law requirements

- (i) Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (2 CCR 7285.0 et seq.).

- (ii) Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.
Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 10800.
- (iii) No state or federal funds shall be used by Contractor or its subcontractors for sectarian worship, instruction, or proselytization. No state funds shall be used by the Contractor or its subcontractors to provide direct, immediate, or substantial support to any religious activity.
- (iv) Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for DHCS to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.
- (v) Title 9 CDR Rehabilitative and Development Services, Division 4 Department of Alcohol and Drug Programs, Chapter 8 Certification of Alcohol and Other Drug Counselors Section 1300.
- (vi) State Administrative Manual (SAM) Chapter 7200, General Outline of Procedures.
- (vii) Government Code Title 2, Government of the State of California Division 4, Fiscal Affairs, Part 2 State Funds, Chapter 2. Special funds, Article 1.7 Federal Block Grant Funds, Section 16367.8.
- (viii) Title 21, CFR, Food and Drugs, Chapter II Part 1301 – Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances.
- (ix) Title 42 CFR – Public Health Chapter 1 Public Health Service, Department of Health and Human Services, Subchapter A Part 8 – Certification of Opioid Treatment Programs Subpart A – Accreditation Section 8.1-8.6
- (x) Health and Safety Code Division 10.5, Article 1. Statement of Problems Related to the Inappropriate Use of Alcoholic Beverages and Other Drug Use and the Reasons for and Limitations on State Government’s Role, commencing with Section 11760.

15. FINANCIAL AND STATISTICAL RECORDS

- A.** Contractor shall maintain and preserve all fiscal records, documents, and correspondence related to this agreement for a minimum period of ten (10) years after the close of the fiscal year in which services are rendered, or ten (10) years after final payment is made (Medi-Cal or MHSA), or until all audit issues are resolved, whichever is later.
- B.** Contractor shall maintain all financial, statistical, or accounting records associated with the provision of each type of service described in Exhibit A of this agreement, necessary to support the costs claimed pursuant to this agreement or any other

federal or state reimbursement claim report forms. Moreover, Contractor shall maintain all statistical data necessary to support the allocation of such costs among programs or types of programs and/or among payers; shall maintain auditable records, in accordance with generally accepted accounting principles, reflecting the methods and calculations used to make such allocations; and shall maintain such other statistical data as shall be necessary to satisfy the requirements of state and federal law.

- C. Contractor shall make any and all records, whether fiscal or other, generated pursuant to this agreement available for County's inspection. At County's discretion, County may request that Contractor deliver by mail or electronic transmission to County, a copy of Contractor's accounting records prior to an on-site audit by County. The State of California and/or federal agency having an interest in the subject of this agreement shall have the same rights conferred upon County herein.

16. **MEDICAL RECORDS MANAGEMENT**

- A. Contractor shall retain all medical treatment records for a period of at least ten (10) years after the client is discharged. If the client is a minor, the medical treatment records shall be retained for at least ten (10) years or for a period of at least one (1) year after the minor attains the age of twenty-one (21), whichever is later. Retention and destruction of medical records are subject to the provisions of Health & Safety Code Section 1457; Title 22 CCR 75343, 70751, and 72543. Such medical records shall be shredded before disposal or may be disposed of in any other commercially practicable fashion, which assures the confidentiality of the clients.

- B. Contractor shall obtain written approval for the destruction of the medical records from its Board of Directors. In the absence of a Board of Directors, the President or sole proprietor shall provide written approval for the medical record destruction.

A log shall be maintained which shall include, for each record destroyed, at least the following information on the client: name; chart number; date of birth; social security number; gender; treatment dates; and the date of destruction. The log of records destroyed shall also include the written authorization of the destruction and shall be maintained in such a format and location as to be readily available for purposes of monitoring contractual performance, as well as to provide information in response to legally authorized inquiries.

- C. Contractor shall be authorized and charged with the responsibility of determining when records may be destroyed pursuant to this agreement and in compliance with applicable law.

- D. Contractor shall make any and all records, whether medical or other, generated pursuant to this agreement available for inspection by County. At County's

discretion, County may request that Contractor deliver by mail or electronic transmission to County, a copy of Contractor's accounting records prior to an on-site audit by County. The state of California and/or federal agency having an interest in the subject of this agreement shall have the same rights conferred upon County herein.

17. ADDITIONAL PROVISIONS

- A. Books and Records** - Contractor shall maintain such books and records as are necessary to disclose how Contractor discharged its obligations under this agreement. These books and records shall identify the quantity of covered services provided under this agreement, the quality of those services, the manner and amount of payment made for those services, the beneficiaries who received covered services, the manner in which Contractor administered the provision of specialty mental health services and substance use disorder treatment services, and the cost thereof.

Such books and records shall include, but are not limited to, all physical records originated or prepared pursuant to performance under this agreement including: working papers, reports submitted to the Department, financial records, all medical and treatment records, medical charts and prescription files, and other documentation pertaining to services rendered to beneficiaries.

These books and records shall be maintained for a minimum of ten (10) years after the final payment is made and all pending matters closed, or, in the event Contractor has been notified that the Department, DHCS, HHS, or the Comptroller General of the United States, or their duly authorized representatives, have commenced an audit or investigation of the agreement, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later.

Contractor shall include in any subcontract for a sum in excess of Ten Thousand Dollars (\$10,000) that utilizes state funds a provision that states: "The contracting parties shall be subject to the examination and audit of the Department or Auditor General for a period of ten (10) years after the close of the fiscal year in which services are rendered or until all audit issues are resolved, whichever comes later, in accordance with 42 CFR 438.3(h); 42 CFR 438.3(u); and Welfare and Institutions Code, Section 14124.3."

Contractor shall also be subject to the examination and audit of the Department and the State Auditor General for a period of ten (10) years after the close of the fiscal year in which services are rendered or until all audit issues are resolved, whichever comes later, in accordance with 42 CFR 438.3(h); 42 CFR 438.3(u); and Welfare and Institutions Code, Section 14124.3."

- B. Transfer of Care** - Prior to the termination or expiration of this agreement, and upon request by the Department, Contractor shall assist the state in the orderly transfer of mental health or substance use disorder care for beneficiaries in Kern County. In doing this, Contractor shall make available to the Department copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor that is necessary for efficient case management of beneficiaries, as determined by the Department. Costs of reproduction shall be borne by the Department. In no circumstances shall a beneficiary be billed for this service.

- C. Department Policy Letters** - Contractor shall comply with all policy letters issued by the Department. Contractor shall also comply with DHCS Letters and Information Notices issued to all Mental Health Plans as defined in California Code title 9, § 1810.226, County Alcohol and Drug Administrators, Substance Use Disorder (“SUD”) state plans and DMC-ODS plan, as such DHCS Letters and Information Notices remain in effect unless amended, repealed, or readopted by the Department. DHCS Letters and Information Notices shall provide specific details of procedures established for performance of contract terms when procedures not covered in this agreement are determined to be necessary for performance under this agreement but are not intended to change the basis and general terms of the agreement.

18. BENEFICIARY HANDBOOK

Contractor shall provide the KernBHRS Beneficiary Handbook to enrollees when first accessing specialty mental health services or substance use disorder services. The Beneficiary Handbook may be made available in hard copy, electronically through the KernBHRS public website, or the provider website.

19. BENEFICIARY RIGHT TO GRIEVANCE, APPEAL, AND FAIR HEARINGS

Contractor is to provide all Medi-Cal beneficiaries who access specialty mental health or substance use disorder services with information on their rights and a process to file a grievance, appeal, or expedited appeal, and a State Fair Hearing as outlined in KernBHRS Policy 10.1.3.

20. GRIEVANCES AND APPEALS

Contractor shall notify beneficiaries or beneficiaries’ representatives of KernBHRS’s grievance and appeal system which includes the grievance process and the appeal or expedited appeal processes.

Contractor shall report all beneficiary grievances and appeals to KernBHRS Patient’s Rights office by secure email to BHRSPatientsRights@kernbhros.org for inclusion on the Grievance and Appeal Log within one (1) working day of receiving this information from

the beneficiary. Contractor shall not subject a beneficiary to discrimination or any other penalty for filing a grievance, appeal, or expedited appeal.

21. NOTICE OF ADVERSE BENEFIT DETERMINATION

- A.** Contractor shall comply with Kern BHRS policy and procedure number 10.1.9. County shall provide a beneficiary with a Notice of Adverse Benefit Determination (NOABD) under the following circumstances:
- i. The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit. (42 CFR § 438.400(b)(1).)
 - ii. The reduction, suspension, or termination of a previously authorized service. (42 CFR § 438.400(b)(2).)
 - iii. The denial, in whole or in part, of payment for a service. (42 CFR § 438.400(b)(3).)
 - iv. The failure to provide services in a timely manner, as defined by the Department. (42 CFR § 438.400(b)(4).)
 - v. The failure of the Contractor to act within the timeframes provided in 42 CFR §438.408(b)(1) and (2) regarding the standard resolution of grievances and appeals. (42 CFR § 438.400(b)(5).)
 - vi. The denial of a beneficiary's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other beneficiary financial liabilities. (42 CFR § 438.400(b)(7).)
- B.** County shall give beneficiaries timely and adequate notice of an adverse benefit determination in writing and shall meet the language and format requirements of 42 CFR Part 438.10 (42 CFR § 438.404(a); 42 CFR § 438.10.) and DHCS Information Notice 18-010E. The NOABD shall contain the items specified in 42 CFR Part 438.404 (b) and California Code of Regulations, Title 9, Section 1850.212.
- C.** When the denial or modification involves a request from Contractor for continued County payment authorization of a specialty mental health or DMC-ODS service or when County reduces or terminates a previously approved County payment authorization, notice shall be provided in accordance with California Code of Regulations, Title 22, Section 51014.1. (Cal. Code Regs., tit. 9, § 1850.210(a)(1).)

- D.** An NOABD is not required when a denial is a non-binding verbal description to Contractor of the specialty mental health services that may be approved by County (Cal. Code Regs., tit. 9, § 1850.210(a)(2).)
- E.** Except as provided in Subparagraph F below, an NOABD is not required when the denial or modification is a denial or modification of a request for County payment authorization for a specialty mental health or DMC-ODS service that has already been provided to the beneficiary. (Cal. Code Regs., tit. 9, § 1850.210(a)(4).)
- F.** An NOABD is required when County denies or modifies a payment authorization request from County for a specialty mental health or DMC-ODS service that has already been provided to the beneficiary when the denial or modification is a result of post-service, prepayment determination by County that the service was not medically necessary or otherwise was not a service covered by County (Cal. Code Regs., tit. 9, § 1850.210(b).)
- G.** County shall deny Contractor's payment authorization request and provide the beneficiary with an NOABD when County does not have sufficient information to approve or modify, or deny on the merits, a County payment authorization request from Contractor within the timeframes required by Cal. Code Regs., tit. 9, §§ 1820.220 or 1830.215. (Cal. Code Regs., tit. 9, § 1850.210(c).)
- H.** County shall provide the beneficiary with an NOABD if County fails to notify the affected parties of a resolution of a grievance within ninety (90) calendar days, of an appeal decision within thirty (30) days, or of an expedited appeal decision within seventy-two (72) hours. If the timeframe for a grievance, appeal, or expedited appeal decision is extended pursuant to sections 1850.206, 1850.207, or 1850.208 of Title 9 of the California Code of Regulations and County failed to notify the affected parties of its decision within the extension period, County shall provide the beneficiary with an NOABD. (42 CFR § 438.408.)
- I.** County shall provide a beneficiary with an NOABD when County or Contractor determines that the medical necessity criteria in sections 1830.205(b)(1),(b)(2),(b)(3)(C), or 1830.210(a) of Title 9 of the California Code of Regulations have not been met and that the beneficiary is not entitled to any specialty mental health or DMC-ODS services from Contractor. The NOABD shall, at the election of County, be hand-delivered to the beneficiary on the date of the Adverse Benefit Determination or mailed to the beneficiary in accordance with Cal. Code Regs., tit. 9, § 1850.210(f)(1), and shall specify the information contained in Cal. Code Regs., tit. 9, § 1850.212(b). (Cal. Code Regs., tit. 9, § 1850.210(g).)
- J.** For the purpose of this paragraph, each reference to a Medi-Cal managed care plan in Cal. Code Regs., tit. 22, § 51014.1, shall mean County. (Cal. Code Regs., tit. 9, § 1850.210(h).)

- K.** For the purposes of this paragraph, “medical service,” as used in Cal. Code Regs., tit. 22, § 51014.1, shall mean specialty mental health or DMC-ODS services that are subject to prior authorization by County pursuant to Cal. Code Regs., tit. 9, §§ 1820.100 and 1830.100. (Cal. Code Regs., tit. 9, § 1850.210(i).)
- L.** County shall retain copies of all NOABDs issued to beneficiaries under this paragraph in a centralized file accessible to the State. The State shall engage in random reviews. (Cal. Code Regs., tit. 9, § 1850.210(j).)
- M.** County shall allow the State to engage in reviews of County’s records pertaining to an NOABD so the State may ensure that County is notifying beneficiaries in a timely manner.

22. FAIR HEARINGS

State “Fair Hearing” means the State hearing provided to beneficiaries pursuant to Sections 50951 and 50953 of Title 22 of the California Code of Regulations and Section 1810.216.6 of Title 9 of the California Code of Regulations 1810.216.6: If a beneficiary requests a State Fair Hearing, the Department shall grant the request. (42 CFR § 431.220(a)(5).) The right to a State Fair Hearing, how to obtain a hearing, and representation rules at a hearing must be explained to the beneficiary and provider by Contractor in its notice of decision or NOABD. (42 CFR § 431.206(b); 42 CFR § 431.228(b).) Beneficiaries and Contractor shall also be informed of the following:

- A.** A beneficiary may request a State Fair Hearing only after receiving notice that County is upholding the adverse benefit determination. (42 CFR § 438.408(f)(1).)
- B.** If County fails to adhere to notice and timing requirements under § 438.408, the beneficiary is deemed to have exhausted County’s appeals process, and the beneficiary may initiate a state fair hearing. (42 CFR 438.408(f)(1)(i); 42 CFR 438.402(c)(1)(i)(A).)
- C.** Contractor may request a State Fair Hearing only if the Department permits Contractor to act as the beneficiary's authorized representative. (42 CFR § 438.402(c)(1)(ii).)

23. ADVANCE DIRECTIVES

For purposes of this agreement, advance directive means a written instruction, such as a living will or durable power of attorney for health care, recognized under California law, relating to the provision of health care when the individual is incapacitated. (42 CFR § 489.100.)

- A. Contractor shall maintain written policies and procedures on advance directives that include a description of applicable California law. (42 CFR §§ and 438.3(j)(1)-(3), 422.128). Any written materials prepared by Contractor for beneficiaries shall be updated to reflect changes in state laws governing advance directives as soon as possible, but no later than 90 days after the effective date of the change. (42 CFR § 438.3(j)(4).)
- B. Contractor shall provide adult beneficiaries with the written information on advance directives. (42 CFR § 438.3(j)(3).)
- C. Contractor shall not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive. (42 CFR §§ 422.128(b)(1)(ii)(F), 438.3(j).)
- D. Contractor shall educate staff concerning its policies and procedures on advance directives. (42 CFR §§ 422.128(b)(1)(ii)(H), 438.3(j).)

24. NOTICES

- A. All notices required or provided for in this agreement shall be provided to the parties at the following addresses, by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received five (5) business days after deposit. A party may change the address to which notice is to be given by giving notice as provided below.
 - i. To County:
 - Kern Behavioral Health and Recovery Services
 - Bill Walker, Director
 - PO Box 1000
 - Bakersfield, CA 93302-1000
 - cc: Contracts Management
 - ii. To Contractor:
 - Albert Senella, President/ CEO
 - Tarzana Treatment Centers
 - 18646 Oxnard Street
 - Tarzana, CA 91356
- B. County requires Contractor to notify County thirty (30) days prior to any change in name, legal business status, corporate address, service site address, or Contractor's signatory power that occurs during the term of this agreement. At its option, County may choose to acknowledge a notice of these specific changes without a written amendment to the agreement.

- C. Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices required or permitted under this agreement by personal service.

25. MANDATORY MEETINGS

Contractor is required to participate in a monthly provider meeting and other meetings that the Substance Use Disorder System of Care (SOC) Administrator may call. Meetings may be held at Contractor's site, at a County location, or through video conferencing as the SOC Administrator determines. Meeting attendees must be familiar with and well-versed in the requirements of this agreement. Failure to comply with this requirement may lead to termination of the agreement.

26. CULTURAL COMPETENCE

Contractor shall comply with cultural competence requirements set forth by County, in accordance with Welfare and Institutions Code Section 5600.2 and CCR Title 9 Section 1810.410. Contractor shall participate in the Department's efforts to promote the delivery of services in a culturally competent manner to all enrollees, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation, or gender identity. Failure to comply with the following requirements may result in sanctions such as withholding of payments, corrective action notices, or any other actions deemed necessary to prompt and ensure contract and performance compliance.

- A. No later than sixty (60) days after the beginning date of the agreement, Contractor must submit its agency's cultural competence plan to the Department's Ethnic Services Manager.

Contractor must submit its agency's Bilingual Quarterly report prior to the 15th of the month following the close of the calendar quarter to their System of Care Administrator.

- B. Contractor understands that its staff must receive at least six (6) hours of cultural competence training each year. Training that is not provided through the Department must have the pre-approval of the Department's Ethnic Services Manager. If Contractor has Board of Behavioral Sciences or similar authorization to provide continuing education units for training it provides, it may submit proof of such authorization to the Department's Ethnic Services Manager in lieu of obtaining training pre-approval.

County will monitor the attendance of required Cultural Competence trainings through the Relias training system if Contractor utilizes this program. If Contractor does not utilize Relias, Contractor will need to develop an internal tracking mechanism to monitor its staff's attendance. This tracking system should be available for County to review at any time to ensure that these required trainings are being completed.

27. TRANSLATION AND INTERPRETATION SERVICES

- A. Contractor shall make translation and interpretation services available for beneficiaries, as needed.
- B. Pursuant to Welfare and Institutions Code (WIC) Section 14029.91(a)(1)(C), Contractor shall not require a beneficiary with limited English proficiency to provide his or her own interpreter or rely on a staff member who does not meet the qualifications described in WIC 14029.91(a)(1)(B).
- C. Contractor shall not rely on an adult or minor child accompanying the limited-English-proficient beneficiary to interpret or facilitate communication except under the circumstances described in WIC Section 14029.91 (a)(1)(D).
- D. Contractor shall not require a beneficiary with limited English proficiency to accept language assistance services, pursuant to 45 CFR Section 92.201.
- E. Contractor shall notify its beneficiaries that oral interpretation is available for any language and written translation is available in prevalent languages to individuals whose primary language is not English. This may include, but is not limited to, qualified interpreters and information written in other languages.
- F. Contractor shall notify its beneficiaries that auxiliary aids and services are available upon request and at no cost for beneficiaries with disabilities to help them communicate better. These aids and services may include qualified sign language interpreters and written information in other formats.

28. NON-DISCRIMINATION AND FAITHFUL PERFORMANCE

- A. The parties mutually agree to abide by all federal, state, and local laws including, but not limited to, all laws respecting employment discrimination. Each party further agrees to fully and faithfully perform all covenants and portions of this agreement, and to take no action that may be inimical to the other party's faithful performance hereof.
- B. Contractor shall provide services that incorporate the racial and ethnic values and beliefs of the client, and shall deliver such services in a manner which meets the needs of the client and their families' lifestyles whenever possible.
- C. Contractor shall have in place written policies regarding nondiscrimination on the basis of race, color, creed, etc., and shall include nondiscrimination and compliance provisions in all subcontracts. Contractor and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from discrimination and harassment.

29. EMERGENCY AND DISASTER PREPARATION AND RESPONSE

In the event the federal government declares an emergency, County may, at its option, declare that Contractor's employees may become county or state emergency workers, under the supervision of the Director or his or her designee. Contractor will respond to the emergency at the direction and under the Department's Emergency Operations Plan.

- A.** Contractor shall develop and maintain an emergency response plan specific to each service delivery site. Plans shall be updated annually and submitted to the Director or his or her designee within sixty (60) days of contract execution. Contractor shall provide, at each service delivery site, annual training to its employees regarding the provisions of Contractor's plan. Failure to develop an emergency response plan, and train staff on the provisions of the plan, may result in sanctions such as withholding of payments, corrective action notices, or any other actions deemed necessary to prompt and ensure contract and performance compliance.
- B.** Upon request, expeditiously provide any additional information necessary to aid the County in planning to serve clients prior to an imminent man-made or natural disaster.
- C.** In the event of a declared local, state, or federal disaster, and while providing requested disaster behavioral health services, Contractor shall complete all necessary documentation required to support the County's reimbursement claims.

30. PUBLIC ANNOUNCEMENTS AND LITERATURE

- A.** In public announcements and literature distributed by Contractor for the purpose of apprising clients and the general public of the nature of its treatment services, Contractor shall clearly indicate that the County of Kern funds the services that Contractor provides under this agreement.
- B.** Contractor shall provide all written materials for potential beneficiaries and beneficiaries in a font size no smaller than 12 point. (42 CFR 438.10(d)(6)(ii).)
- C.** Contractor shall ensure its written materials are available in alternative formats, including large print, upon request of the potential beneficiary or beneficiary at no cost. Large print means printed in a font size no smaller than 18 point. (42 CFR § 438.10(d)(3))
- D.** Contractor shall make its written materials that are critical to obtaining services, including, at a minimum, provider directories, beneficiary handbooks, appeal and grievance notices, denial and termination notices, and Contractor's mental health and/or substance use education materials, available in the prevalent non-English languages in the county. (42 CFR § 438.10(d)(3).)

- E. Contractor shall include taglines in the sixteen (16) non-English languages in the state, as well as large print, explaining the availability of written translation or oral interpretation to understand the information provided. (42 CFR § 438.10(d)(2).)
- F. Contractor shall include taglines in the sixteen (16) non-English languages in the state, as well as large print, explaining the availability of the toll-free and Teletypewriter Telephone/Text Telephone (TTY/TDY) telephone number of Contractor's member/customer service unit. (42 CFR § 438.10(d)(3).)
- G. Contractor shall notify beneficiaries that written translation is available in prevalent non-English languages free of cost and shall notify beneficiaries how to access those materials. (42 CFR § 438.10(d)(5)(i), (iii); Cal. Code Regs., Title. 9, § 1810.410(e)(4).)
- H. Contractor shall make auxiliary aids and services available upon request and free of charge to each beneficiary. (42 CFR § 438.10(d)(3)-(4).) Contractor shall also notify beneficiaries of how to access these services. (42 CFR § 438.10(d)(5)(ii)-(iii).)
- I. Contractor shall make oral interpretation and auxiliary aids, such as TTY/TDY and American Sign Language (ASL), available and free of charge for any language. (42 CFR § 438.10(d)(2), (4)-(5).) Contractor shall notify beneficiaries that the service is available and of how to access those services. (42 CFR § 438.10(d)(5)(i), (iii).)

31. NETWORK ADEQUACY CERTIFICATION

- A. Contractor shall ensure that all services covered under this agreement are available and accessible to beneficiaries in a timely manner and comply with KernBHRS policy and procedure 5.1.12, Timeliness of Access to Services. Services will be available to Medi-Cal beneficiaries that are no less than the hours of operation during which the contractor offers services to non-Medi-Cal beneficiaries. If Contractor serves only Medi-Cal beneficiaries, Contractor shall ensure hours of operation are consistent with the needs of the beneficiaries in the geographic area.
- B. Contractor shall submit to the KernBHRS Quality Improvement Division ("QID") Administrator or designee all requested information necessary to certify the adequacy of the network. This may include, but is not limited to, the names of individual rendering providers, caseload size, bilingual certification, and specialized training of rendering providers. The information submitted will be accurate and complete and will be published in the Provider Directory. This information should be provided to the QID Administrator or their designee when any changes occur and reviewed and certified monthly attesting to the accuracy of previously submitted information even if no changes have occurred during the month. In addition, the information will be submitted to the Department of Healthcare Services as evidence of network capacity and availability.

32. NATIONAL PROVIDER IDENTIFICATION

Contractor shall comply with the National Provider Identification (NPI) system and will provide the Department with the NPI numbers for all staff providing direct health care or clinical services.

Contractor shall comply with all guidelines and requirements set forth in Exhibit M, "Program Integrity Requirements," attached hereto.

33. ACCREDITATION

Contractor shall inform KernBHRS if it has been accredited by a private independent accrediting entity. Contractor shall authorize the accrediting agency to provide KernBHRS with a copy of its most recent accreditation review, including: the accreditation status, survey type, and level, review results including recommended actions or improvements, corrective action plans, summaries of findings, and the accreditation expiration date. Contractor shall submit the information to the System of Care Administrator and the QID Administrator at the time of accreditation, and every new accreditation period thereafter.

34. SERVICE VERIFICATION

Contractor shall comply with the requirements pertaining to services verification contained in Exhibit M, "Program Integrity Requirements," attached herein.

Contractor shall obtain the client's electronic signature on the progress note for each office-based billable direct service, utilizing a signature pad compatible with the electronic health record.

35. CREDENTIALING

County and/or its delegated third-party vendor, shall establish and conduct a provider Credentialing Program for credentialing and re-credentialing of contract providers.

Contractor has two (2) options to satisfy the Credentialing and Re-Credentialing requirements listed in Exhibit O, "Credentialing and Re-Credentialing Requirements" of this agreement. The options are as follows:

Option 1:

Contractor shall complete the Credentialing and Re-Credentialing process for their own employees that are licensed, waived, or registered mental health providers and licensed, registered, or certified Alcohol or Other Drug Counselors at the time of hire and during the increments outlined in Exhibit O. County will audit these efforts quarterly to ensure compliance with this requirement. Non-adherence to the Credentialing and Re-Credentialing requirements will result in County issuing a plan of correction to Contractor to address this issue immediately. Serial plans of corrections in this area will result in Contractor no longer having the ability to

Credential or Re-Credential their own staff and this task will be then managed by County.

Option 2:

County will complete the Credentialing and Re-Credentialing for Contractor. In order for County to complete this task, Contractor shall provide the necessary information for all employees that are licensed, waived, or registered mental health providers and licensed, registered, or certified Alcohol or Other Drug Counselors at the time of hire and during the increments outlined in Exhibit O.

Regardless of the option chosen by Contractor, any employees that are licensed, waived, or registered mental health providers and licensed, registered, or certified Alcohol or Other Drug Counselors that are not credentialed will not be allowed to provide Medi-Cal reimbursable services nor participate in the plan's provider network.

36. EXCLUSION REPORTING

Contractor shall not knowingly have a relationship with any individual or entity who is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in any of such programs by any federal agency or by any department, agency, or political subdivision of the state.

Contractor shall comply with all guidelines and requirements set forth in Exhibit M, "Program Integrity Requirements," pertaining to exclusion reporting.

37. REPORTING UNUSUAL OCCURRENCES

A. Contractor shall report unusual occurrences to the Director or the appropriate System of Care Administrator within two (2) days from the date of the occurrence. Contractor shall comply with KernBHRS policy 11.1.1. Contractor shall utilize the Unusual Occurrence form referenced in KernBHRS policy 11.1.1, **Attachment A**. No other variations of this form will be accepted. Inpatient psychiatric facilities should continue to report unusual occurrences as outlined by the Crisis Administrator or their designee.

An unusual occurrence is any event or situation that has occurred at a service site or in the field that may have caused, or has the potential to cause, physical or psychological harm to clients who are receiving services. This definition also applies to visitors (i.e., individuals who are not directly receiving mental health or substance use disorder treatment services). An unusual occurrence that takes place in any type of work capacity must be reported.

In addition, an Unusual Occurrence report is required when:

- i. A client may have injured a staff member, another client, or visitor;

- ii. A client makes a serious threat to harm another person;
- iii. There is a suspected violation of professional licensure and/or ethics;
- iv. There is an unauthorized/inappropriate release of PHI, PI, and/or PII; and/or
- v. There is the possibility of threat or legal action and/or negative media attention for the department.

B. Principles: Unusual occurrences shall include but not be limited to:

- Death other than by suicide.
- Death by suspected or known suicide.
- Suicide attempt requiring Emergency Medical Treatment (EMT).
- Suicide Threat with intent or plan.
- Tarasoff Report, i.e., client makes a threat to harm another person.
- Aggressive/Threatening or destructive behaviors.
- Intentional injury (not suicide attempt) requiring EMT.
- Seclusion, restraint, or emergency manual/chemical containment.
- Client or visitor in possession of a weapon at the treatment site.
- Client unintentionally injured another client or visitor at a KBHRS site or work-related site.
- Client injured in a vehicular accident during treatment activities.
- Slip, trips, falls, non-serious accidents not requiring immediate medical attention.
- Natural disaster, environmental hazard or biohazard exposure while at treatment site.
- Medication prescription and/or administration errors.
- Medical health incident requiring immediate/urgent medical attention.
- Client exposed to communicable disease while at treatment site.
- Client exposed to infections (BBP, OPIM) while at treatment site.
- Allegations of neglect, verbal, physical, sexual assault of client/visitor as reported. For both current and historical events.
- Client/visitor is a victim of physical, sexual or verbal assault as observed/witnessed by staff.

- Client/visitor is a perpetrator of physical, sexual, or verbal assault as observed/witnessed by staff.
 - Unauthorized/inappropriate access, use, disclosure or storage of PHI, PI, and/or PII.
 - PHI, PI, and/or PII compromised due to inadequate security measures or theft.
 - Allegations of unethical relationships, behaviors, or other unprofessional conduct or licensure violation by staff.
 - Observation and/or information regarding questionable or inappropriate staff behavior related to client or visitor's care.
 - Possibility or threat of legal action and/or negative media attention.
 - Client at PEC longer than 23:59 hours.
 - AWOL from facility, elopement, wandering.
 - Unauthorized use and/or possession of legal or illegal substances.
 - Allegations of client/visitor's property loss as reported.
- C.** County retains the right to independently investigate unusual occurrences with the cooperation of Contractor.

38. CONFLICT OF INTEREST

- A.** Contractor shall comply with the conflict of interest safeguards described in 42 CFR Part 438.58 and the prohibitions described in Section 1902(a)(4)(C) of the Act. (42 CFR § 438.3(f)(2).)
- B.** Contractor's officers and employees shall not have a financial interest in this agreement or a subcontract of this agreement made by them in their official capacity, or by any body or board of which they are members unless the interest is remote. (Gov. Code §§ 1090, 1091; 42 CFR § 438.3(f)(2).)
- C.** Contractor shall not utilize in the performance of this agreement any state or county officer or employee in the state or county civil service or other appointed state or county official unless the employment, activity, or enterprise is required as a condition of the officer or employee's regular state or county employment. (Pub. Con. Code § 10410; 42 CFR § 438.3(f)(2).) Contractor shall submit documentation to KernBHRS of employees (current and former state and county employees) who may present a conflict of interest.
- D.** The parties to this agreement have read and are aware of the provisions of Section 1090, et seq., and Section 87100, et seq., of the Government Code relating to

conflict of interest of public officers and employees. Contractor agrees that it is unaware of any financial or economic interest of any public officer or employee of County relating to this agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this agreement, County may immediately terminate this agreement by giving written notice thereof. Contractor shall comply with the requirements of Government Code Section 87100, et seq., during the term of this agreement.

39. DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT

Contractor shall comply with the requirements pertaining to the Disclosure of Ownership and Control Interest Statement contained in Exhibit M, "Program Integrity Requirements" and submit to County the "Disclosure of Ownership and Control Interest Statement" form, which is included herein as Exhibit J.

40. TECHNOLOGY REQUIREMENTS

Contractor shall make reports as required by Director, Director's designee, or state regarding Contractor's activities and operations as they relate to Contractor's performance under this agreement.

- A.** Contractor shall participate in Information Technology System (ITS), including, but not limited to, Department's Electronic Health Record (EHR), currently Cerner Community Behavioral Health. Contractor shall report to County all programs, Individuals Served, staff and other data and information about Contractor's services as required by Director, or Director's designee. Information to be entered into the EHR shall include, but is not limited to: Client Index Card, Client Assignment, Demographic Information, Uniform Method of Determining Ability to Pay (UMDAP) / Financial Review, Third-Party Insurance, Diagnostic Review, Consent to Treat, Release of Information Authorizations. Psychiatric Evaluations and Psychiatric Visits are to be entered into the EHR for mental health or substance use disorder treatment services. Client data should only be entered into the EHR if the client has requested services.
- B.** Based on programmatic requirements, as specified in Exhibit A, Contractor shall enter the following information into the Department's EHR: Appropriate Assessment(s), California Outcomes Measurement System (CalOMS) Admission/Discharge/Annual Update (state SUD contracts only), Treatment Plan (based on Program), Treatment Plan Verification, and Progress Notes.
- C.** Contractor shall provide any billing services, which are not part of the entry of clinical documentation, using one of the following options. The specific option utilized for the agreement is at the discretion of Contractor and shall be indicated in Exhibit A. Actual payment to Contractor is based on the provisions of **Paragraph 4** of this agreement, Compensation to Contractor.

Option 1: Direct Data Entry

When using this option, Contractor shall enter service-related information directly into the Department's EHR. Such information shall include but is not limited to Service Code, duration, place of service, etc. For those services requiring a Progress Note, the service is entered as part of the note. For other services (e.g. bed days or dosing), the services are entered directly into screen(s) specific to the type of service provided. Contractor shall enter any billing services, which are not part of the entry of clinical documentation, into the Department's EHR on an average of less than five (5) days from the date the service was provided. In the event that the Department's information system is unavailable or experiencing significant response delays for an extended period of time, Contractor may submit a request, in writing, for a temporary waiver from the Behavioral Health and Recovery Services Administrator. This request for a waiver must include detailed information related to the system outage and/or system response delays, as well as a description of why the system outage and/or response delays have a material impact to Contractor's individual location or locations experiencing the problem. The Behavioral Health and Recovery Services Administrator, or designee, and the Information Technology Services Division Manager, or designee, will review the request. If approved, the waiver will be limited to a specific date range, and if appropriate, will establish a plan of correction to resolve the specific issues identified in the request.

Option 2: HIPAA Standard Transactions

Pursuant regulations found in CFR 45, Paragraph 162.923 et seq., the Department will support the Health Care Claims Professional (837P) and Health Care Electronic Payment/Remittance Advice (835) transactions as defined in the Standard Transaction Code Sets (TCS). Because these transactions are based on a concept of Managed Care, Contractor must submit Authorization Requests to the Department in advance of service provision. The format and timing of these Authorization Requests is specific to each program and will be provided to Contractor. A Transaction "Companion Guide" shall be provided to Contractor to delineate modifications and/or specific additions to the federally provided TCS "Implementation Guide" and the California "Companion Guide."

- D.** Notwithstanding any other provision of this agreement, the only units of service which shall be considered legitimate and reimbursable at annual cost report adjustment and settlement time, or otherwise, shall be those units of service entered by Contractor into the Department's EHR through the use of either Direct Data Entry or the HIPAA TCS transactions.
- E.** Contractor's staff shall be trained by the Department in the operation, procedures, policies, and all related uses of the Department's EHR. In exceptional circumstances, the Behavioral Health and Recovery Services Administrator may

authorize or direct Contractor to provide some or all elements of EHR training internally. The Technology Services Manager, or designee, must approve any requests for the contractor to provide any EHR training. Staff who have not been trained will not be provided a user identification number and will not have access to the Cerner Community Behavioral Health computer system. Prior to the training, Contractor's staff are to show proof of current HIPAA training completion. Staff who do not provide proof of current HIPAA training will be trained on the use of the EHR but will not be provided with their user identification number until HIPAA training is completed and verification submitted.

- F.** Director, or Director's designee, shall endeavor to provide as much advance notice as possible of required data or other information to be reported, but in no event shall such notice be less than fifteen (15) working days.
- G.** Contractor, in order to access Department EHR, policies and procedures, and other shared technology services, shall secure and maintain a Business Class broadband connection. County will provide access to appropriate information via a Virtual Private Network (VPN); software-based VPN connection of sites containing ten (10) or fewer workstation devices; and hardware-based Site-To-Site VPN connection of sites containing more than ten (10) workstation devices. County will coordinate configuration of VPN connections with Contractor.
- H.** Withholding of Payments for Non-submission of ITS and Other Information: County may withhold a maximum of ten percent (10%) of any monthly claim for payment, if any data, periodic evaluation data, as described herein, or other information is not submitted by Contractor to County within the time limits of submission as prescribed in this agreement or as specified by the Director, or Director's designee from time to time; or if any ITS data, periodic evaluation data, or other information is incomplete or incorrect or is not completed in accordance with the requirements of this agreement or as specified by the Director, or Director's designee. The Director or Director's designee shall endeavor to provide as much advance notice of required data as possible, but in no event shall such notice be less than fifteen (15) working days.

41. HIPAA/HITECH COMPLIANCE

- A.** Contractor is a Business Associate under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

- B.** Contractor agrees to execute a Business Associate Addendum with County to supplement this agreement which is attached as Exhibit F, and incorporated herein by reference.
- C.** Contractor represents that it has in place policies and procedures that will adequately safeguard any PHI it receives or creates, and Contractor specifically agrees, on behalf of itself, its subcontractors, and agents, to safeguard and protect the confidentiality of PHI consistent with applicable law, including currently effective provisions of HIPAA, the HITECH Act, and the HIPAA Regulations. Policies must address the confidentiality, integrity, and availability of all PHI and ePHI that is created, received, maintained or transmitted; identify and protect against reasonably anticipated threats to the security or integrity of PHI and ePHI; protect against reasonably anticipated, impermissible uses and disclosures; and ensure compliance by workforce members.
- D.** No later than thirty (30) days after the beginning date of the initial agreement, Contractor must submit to the KernBHRS Compliance Officer, the names and contact information of its current privacy officer, security officer, and compliance officer, and within thirty (30) days of any change of officer(s) during the year in any subsequent agreements, in accordance with federal and state regulations.
- E.** Where applicable, Contractor agrees to implement appropriate safeguards and maintain individually identifiable patient health information ("Protected Health Information or "PHI," including electronic PHI) as required by HIPAA.
- F.** Contractor agrees to submit to County a current copy of their HIPAA Security Rule Annual Risk Assessment upon request.
- G.** Contractor shall use and disclose only the minimum necessary PHI.
- H.** Contractor may use and disclose PHI only as permitted under HIPAA for legal, management, and administrative purposes in connection with treatment, payment, and healthcare operations or as required by law.
- I.** Contractor shall require third parties to whom it may disclose PHI to agree in writing to similar restrictions and to comply with HIPAA.
- J.** Contractor shall track disclosures of PHI as required under HIPAA, to include the nature of the information disclosed, the date of the disclosure, to whom the information was disclosed, address of the recipient, if known, and the purpose of the disclosure and provide County with an accounting of such disclosures promptly upon request.
- K.** Contractor shall promptly notify County of disclosures of PHI in violation of HIPAA and this agreement and take steps to mitigate, to the extent practicable, deleterious effects of improper use of PHI.

- L. Contractor shall promptly make PHI available to County and patients upon request.
- M. Contractor shall permit patients to request amendment to or correction of PHI, amend and/or correct PHI as appropriate when so requested, notify County of requests for correction and amendments to PHI by patients, and incorporate into PHI amendments and/or corrections made to PHI by County as directed by County.
- N. Contractor acknowledges that PHI received from County shall remain County's property and that within ten (10) business days of County's request or upon termination of this agreement, said PHI shall be returned to County or be destroyed, if County so directs.
- O. If such return or destruction is infeasible, Contractor shall use such PHI only for purposes that make such return or destruction infeasible, and the provisions of this agreement shall survive termination of the agreement with respect to such PHI. Contractor has established internal policies and procedures regarding HIPAA compliance, privacy, and security and agrees to make such policies and procedures available to County upon request.
- P. Contractor agrees to comply with the terms set forth in EXHIBIT L, "PRIVACY AND INFORMATION SECURITY PROVISIONS," from the Department of Health Care Services Performance agreement, which discusses controls for public, confidential, sensitive, and personal information.
- Q. Contractor shall agree to comply with the terms set forth in EXHIBIT M, "PROGRAM INTEGRITY REQUIREMENTS," from the DHCS Performance agreement, which addresses the Compliance conditions for receiving payment under a Medi-Cal managed care program.
- R. Contractor shall submit the completed EXHIBIT K, "PRIVACY AND COMPLIANCE INVESTIGATION SUMMARY" to the KernBHRS Privacy and Corporate Compliance office by email @ KernBHRSPrivacy@KernBHRS.org, within thirty (30) days of the end of each quarter.

42. CONFIDENTIALITY

- A. Contractor, in accordance with Title 45, CFR Regulations, Part 96, Section 96.132(e), shall have in effect a system to protect from inappropriate disclosure patient records maintained by Contractor, in connection with an activity funded under the program involved or by any entity, and such system shall be in compliance with all applicable state and federal laws and regulations, including 42 CFR Part 2. This system shall include provisions for employee education on the confidentiality requirements and the fact that disciplinary action may occur upon inappropriate disclosures.

- B. Contractor shall not, without the written consent of the Department, communicate confidential information, designated in writing or identified in this agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that it protects its own confidential information, unless such disclosure is required in response to a validly issued subpoena or other process of law. The provisions of this paragraph shall survive the termination of this agreement.

43. INDEMNIFICATION

Contractor agrees to indemnify, defend, and hold harmless County and County's agents, board members, elected and appointed officials and officers, employees, volunteers, and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, cost, and expense (including, but not limited to, reasonable attorneys' fees of County Counsel and counsel retained by county, expert fees, costs of staff time, and investigation costs) of whatever kind or nature that arise out of or are in any way connected with any act or omission of Contractor or Contractor's officers, agents, employees, independent contractors, subcontractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of County; and any workers' compensation claim, or suit arising from or connected with any services performed pursuant to this agreement on behalf of Contractor by any person or entity.

44. IMMIGRATION REFORM AND CONTROL ACT

Contractor, and all subcontractors hired by Contractor to perform services under this agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA") of 1986, Public Law 99-603. Contractor is and shall remain in compliance with IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this agreement are in compliance with IRCA. In addition, Contractor agrees to indemnify, defend, and hold harmless County, its agents, officers, and employees, from any liability, damages, or causes of action arising out of or relating to any claims that Contractor's employees, or the employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's subcontractor(s).

45. INSURANCE

Contractor, in order to protect County and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss, and damage as a result of Contractor's actions in connection with the performance of Contractor's obligations, as required in this agreement, shall secure and maintain insurance as described below. Contractor shall not perform any work under this agreement until

Contractor has obtained all insurance required under this section, and the required certificates of insurance and all required endorsements have been filed with the Department's Contracts Management. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein.

The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Contractor shall supply proof that such person is an authorized representative thereof and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon.

Contractor shall promptly deliver to the Department's Contracts Management certificates of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to Department's Contracts Management prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Contractor shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Contractor or county as an additional insured.

A. Workers' Compensation and Employers Liability Insurance Requirements:

In the event Contractor has employees or volunteers who may perform any services pursuant to this agreement, Contractor shall submit written proof that Contractor is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

Contractor shall require any subcontractors to provide workers' compensation for all of the subcontractors' employees, unless the subcontractors' employees are covered by the insurance afforded by Contractor. If any class of employees engaged in work or services performed under this agreement is not covered by California Labor Code section 3700, Contractor shall provide and/or require each subcontractor to provide adequate insurance for the coverage of employees not otherwise covered.

Contractor shall also maintain employer's liability insurance with limits of **ONE MILLION DOLLARS (\$1,000,000)** for bodily injury or disease.

B. Liability Insurance Requirements:

i. Contractor shall maintain in full force and effect, at all times during the term of this agreement, the following insurance:

a. Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the

indemnity provisions of this agreement with the county), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Contractor's performance of work under this agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Contractor shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this agreement. The amount of said insurance coverage required by this agreement shall be the policy limits, which shall be at least ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate.

- b. Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this agreement with coverage equal to the policy limits, which shall be at least ONE MILLION DOLLARS (\$1,000,000) each occurrence.
 - c. Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this agreement, with coverage equal to the policy limits, which shall not be less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and THREE MILLION DOLLARS (\$3,000,000) aggregate.
 - d. The Commercial General Liability insurance required in this subparagraph B shall include an endorsement naming the county and county's board members, officials, officers, agents and employees as additional insureds for liability arising out of this agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on Insurance Services Office (ISO) form Commercial General (CG) 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
- C.** Any self-insured retentions in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000) must be declared on the Certificate of Insurance or other documentation provided to county and must be approved by the County Risk Manager.

- D.** If any of the insurance coverages required under this agreement is written on a claims-made basis, Contractor, at Contractor's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this agreement with coverage extending back to the effective date of this agreement; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.
- E.** Cancellation of Insurance – The above-stated insurance coverages required to be maintained by Contractor shall be maintained until the completion of all of Contractor's obligations under this agreement except as otherwise indicated herein. Each insurance policy supplied by the Contractor must be endorsed to provide that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. Such notice shall be by certified mail, return receipt requested. This notice requirement does not waive the insurance requirements stated herein. Contractor shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- F.** All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. The County Risk Manager must approve any exception to these requirements.
- G.** If Contractor is, or becomes during the term of this agreement, self-insured or a member of a self-insurance pool, Contractor shall provide coverage equivalent to the insurance coverages and endorsements required above. County will not accept such coverage unless County determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Contractor is equivalent to the above-required coverages.
- H.** All insurance afforded by Contractor pursuant to this agreement shall be primary to and not contributing to all insurance or self-insurance maintained by County. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the county.
- I.** Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Contractor for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude County from taking such other actions as are available to it under any other provision of this agreement or otherwise in law.

- J. Failure by Contractor to maintain all such insurance in effect at all times required by this agreement shall be a material breach of this agreement by Contractor. County, at its sole option, may terminate this agreement and obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County shall deduct from sums due to Contractor any premiums and associated costs advanced or paid by County for such insurance. If the balance of monies obligated to Contractor pursuant to this agreement is insufficient to reimburse County for the premiums and any associated costs, Contractor agrees to reimburse County for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by County to take this alternative action shall not relieve Contractor of its obligation to obtain and maintain the insurance coverages required by this agreement.

46. SUBROGATION

In the event a beneficiary is injured by the act or omission of a third party, or has a potential or existing claim for a workers' compensation award, or a claim/recovery through uninsured motorist coverage, the right to pursue subrogation and the receipt of payments shall be as follows:

- A. Contractor may submit to the Department claims for Medi-Cal covered services rendered, but Contractor shall not make claims to or attempt to recoup the value of these services from the above-referenced entities.
- B. Contractor shall notify the Department within ten (10) days of discovery of all cases that could reasonably result in recovery by the beneficiary of funds from a third party, third party insurance carrier, workers' compensation award, and/or uninsured motorist coverage.

47. REPRESENTATIONS

Contractor makes the following representations, which are agreed to be material to and form a part of the inducement of this agreement:

- A. Contractor has the expertise, training, and experience necessary to provide the services described in this agreement; and
- B. Contractor does not have any actual or potential interest adverse to County nor does Contractor represent a person or firm with an interest adverse to County with reference to the subject of this agreement; and
- C. Contractor is willing and able to diligently provide all required services in a timely and professional manner in accordance with the terms and conditions stated in this agreement; and

- D. Contractor shall provide a beneficiary's choice of the person providing services to the extent feasible in accordance with California Code of Regulations, Title 9, Section 1830.225 and 42 CFR Part 438.3(l).

48. NON-ASSIGNMENT AND SUBCONTRACTING

- A. Contractor shall not assign, sublet, or transfer this agreement, or any part hereof, nor assign any monies due or that become due to Contractor under this agreement, without the prior written, or electronic, and express approval of County.
- B. Functions undertaken by Contractor may be carried out under subcontracts only upon obtaining the prior written approval of County. All such subcontracts shall be in writing and shall abide by such federal, state, and local laws and regulations that pertain to this agreement. No subcontract shall terminate or lessen the legal responsibility of Contractor to County to ensure that all activities under this agreement will be carried out.
- C. This section is applicable to only those subcontracts entered into by Contractor, the purpose of which is to provide services required under this agreement, and not to any other contracted services obtained by Contractor.
- D. Individuals subcontracted to work within contracted programs, who are working under programmatic supervision of Contractor, may be subject to the pre-approval requirement, as determined by County.
- E. Subcontracting requirements contained in the agreement between the DHCS and County of Kern specify the following:
 - i. No subcontract terminates the legal responsibility of County to the state to assure that all activities under this contract are carried out.
 - ii. All inpatient subcontracts shall require that subcontractors maintain necessary licensing and certification.
 - iii. Each subcontract shall contain:
 - a. Full disclosure of the method and amount of compensation or other consideration to be received by the subcontractor from County.
 - b. Specification of the services to be provided.
 - c. Specification that the subcontract shall be governed by County and construed in accordance with all laws and regulations and all contractual obligations of County to the state DHCS.
 - d. Specification of the term of the subcontract including the beginning and ending dates, as well as methods for amendment, termination and, if applicable, extension of the subcontract. The subcontract

must be subject to full or partial termination if Contractor's performance is inadequate.

- e. Contractor's agreement to make all of its books and records, contracts, computer or other electronic systems of the subcontractor, or of the subcontractor's Contractor pertaining to the goods and services furnished or determination of amounts payable under the terms of the subcontract available for inspection, examination, evaluation, or copying by the Department, DHCS, United States Department of Health and Human Services (HHS), the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives. The subcontract shall also state that inspection shall occur at all reasonable times, at Contractor's place of business, or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping, for a term of at least **ten (10)** years from the close of the state fiscal year in which the subcontract was in effect or from the date of completion or any audit, whichever is later. If the Department, DHCS, HHS, or the Comptroller General of the United States determines that there is a reasonable possibility of fraud or similar risk, they may inspect, evaluate, and audit the subcontractor at any time.
- f. Contractor's agreement that assignment or delegation of the subcontract shall be void unless prior written approval is obtained from County.
- g. Contractor's agreement to hold harmless both the state and beneficiaries in the event the County cannot or does not pay for services performed by the subcontractor pursuant to the subcontract.
- h. Contractor's agreement to comply with County's policies and procedures on advance directives and County's obligations for Physician Incentive Plans, if applicable based on the services provided under the subcontract.
- i. A requirement that County monitors Contractor and Contractor's obligation to provide a corrective action plan if deficiencies are identified.

49. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that the enforcement of these terms and conditions and all rights of action relating to such enforcement, shall be strictly reserved to County and Contractor. Nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of County and Contractor that any such person or entity, other than County or Contractor, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.

50. AUTHORITY TO BIND COUNTY

It is understood that Contractor, in Contractor's performance of any and all duties under this agreement, except as otherwise provided in this agreement, has no authority to bind County to any agreements or undertakings.

50. DISPUTE AND ISSUE RESOLUTION

- A.** Should a dispute occur concerning Contractor's performance or Contractor's interpretation of specific terms of this agreement, including, but not limited to, the validity of overpayment demands and proposed budget modifications, Contractor shall notify County's Substance Use Disorder Administrator of this issue within sixty (60) days of its occurrence. Such notification shall include specific identification of the issue(s) under dispute, Contractor's factual basis for the issue, Contractor's proposed solutions, and the documentary support for the solutions.
- B.** County's Substance Use Disorder SOC Administrator shall have fifteen (15) workdays from receipt of the notification to render a decision on the dispute. The County's Substance Use Disorder SOC Administrator may convene a conference between County and Contractor as part of the decision-making process. County's Substance Use Disorder SOC Administrator and Contractor may agree to extend the time period for a decision by the execution of a written memorandum, signed by the parties, specifying the new time period. The decision made by the County's Substance Use Disorder SOC Administrator shall be in writing and shall contain sufficient factual data and documentary evidence to reasonably explain the decision.
- C.** If Contractor disputes the decision made by County's Substance Use Disorder SOC Administrator, Contractor may request that the Director of the Kern County Behavioral Health and Recovery Services Department, or the Director's designee, review the decision. Such request shall be in writing and received by the Director, or the Director's designee, within five (5) workdays of the date of the Substance Use Disorder SOC Administrator's decision. Such request shall include identification of the items under dispute, Contractor's proposed solutions in summary form, the date of the Substance Use Disorder SOC Administrator's decision and any additional information Contractor deems necessary in support of its position. The Director, or the Director's designee, shall have fifteen (15)

workdays from the date of receipt of Contractor's request to render a final administrative decision. The Director, or the Director's designee, may convene a conference between County and Contractor as a part of the decision-making process. The decision of the Director, or the Director's designee, shall be the final administrative decision. Nothing in this agreement prevents Contractor from seeking judicial review of such a final administrative decision.

- D.** Pending conclusion of any dispute, the interpretation placed upon the agreement by County will govern operation hereunder, and Contractor shall proceed diligently with the performance of the agreement, except that Contractor may terminate this agreement in the manner set forth herein.

- E.** Contractor Appeal Process. Contractor may appeal a denied or modified request for county payment authorization or a dispute with County concerning the processing or payment of a provider's claim to county.
 - i. The written appeal shall be submitted to County within ninety (90) calendar days of the date of receipt of the non-approval of payment or within ninety (90) calendar days of County's failure to act on the request in accordance with time frames required by the California Code of Regulations, Title 9, "Provider Appeal Process."
 - ii. County has sixty (60) calendar days from its receipt of the appeal to inform Contractor in writing of the decision, including a statement of the reasons for the decision that addresses each issue raised by Contractor, and any action required by Contractor to implement the decision.
 - iii. If the appeal is not granted in full, Contractor shall be notified of any right to submit an appeal to the state as required by the California Code of Regulations, Title 9.
 - iv. If applicable, Contractor shall submit a revised request for County payment authorization within thirty (30) calendar days from receipt of County's decision.
 - v. If applicable, County shall have fourteen (14) calendar days from the date of receipt of Contractor's revised request for County payment authorization to submit the documentation to the Medi-Cal fiscal intermediary that is required to process County's payment authorization
 - vi. If County does not respond within sixty (60) calendar days to the appeal, the appeal shall be considered denied in full by the Mental Health Plan (MHP).

51. CHOICE OF LAW AND VENUE

The parties hereto agree that the provisions of this agreement will be construed pursuant to the laws of the state of California. This agreement has been entered into and is to be performed in the County of Kern. Accordingly, the parties agree that the venue of any action relating to this agreement shall be in the County of Kern.

52. NON-WAIVER

No covenant or condition of this agreement can be waived except by the written consent of County. Forbearance or indulgence by County in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Contractor. County shall be entitled to invoke any remedy available to County under this agreement or by law or in equity despite said forbearance or indulgence.

53. ENFORCEMENT OF REMEDIES

No right or remedy herein conferred upon or reserved to County is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder, now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

54. CAPTIONS AND INTERPRETATION

- A. Paragraph headings in this agreement are used solely for convenience and shall be wholly disregarded in the construction of this agreement.
- B. No provision of this agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this agreement shall be construed as if jointly prepared by the parties.

55. TIME OF ESSENCE

Time is hereby expressly declared to be of the essence of this agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this agreement.

56. COUNTERPARTS

This agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instruments.

57. NON-COLLUSION COVENANT

Contractor represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this agreement with

County. Contractor has not received from County any incentive or special payments, or considerations not related to the provision of services under this agreement.

58. ENTIRE AGREEMENT

This document, including all attachments hereto, contains the entire agreement between the parties relating to the services, rights, obligations, and covenants contained herein and assumed by the parties respectively. No inducements, representations, or promises have been made, other than those recited in this agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect.

59. NEGATION OF PARTNERSHIP

In the performance of all services under this agreement, Contractor shall be, and acknowledges that Contractor is, in fact and law, an independent contractor and not an agent or employee of county. Contractor has and retains the right to exercise full supervision and control of the manner and methods of providing services to County under this agreement. Contractor retains full supervision and control over the employment, direction, compensation, and discharge of all persons assisting Contractor in the provision of services under this agreement. With respect to Contractor's employees, if any, Contractor shall be solely responsible for payment of wages, benefits, and other compensation, compliance with all occupational safety, welfare, and civil rights laws, tax withholding and payment of employee taxes, whether federal, state, or local, and compliance with any and all other laws regulating employment.

60. SEVERABILITY

Should any part, term, portion, or provision of this agreement be decided finally to be in conflict with any law of the United States or the state of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement that the parties intended to enter into in the first instance.

61. TERMINATION

Either party may terminate this agreement in whole, with or without cause, upon thirty (30) days' prior written notice to the other party. In the event of termination of this agreement for any reason, County shall have no further obligation to pay for any services rendered or expenses incurred by Contractor after the effective date of the termination, and Contractor shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination. Should DHCS or any other oversight agency or KernBHRS determine that the delivery of service is unsatisfactory; KernBHRS may terminate the agreement in part or in whole.

62. IMMEDIATE TERMINATION

Notwithstanding the foregoing, County shall have the right to terminate this agreement effective immediately after giving written notice to Contractor in the event County determines that Contractor does not have the proper credentials, experience, or skill to perform the required services under this agreement; or in the event that continuation by Contractor in the providing of services may result (i) in civil, criminal, or monetary penalties against County, (ii) in the breach of any federal or state or regulatory rule or regulation or condition of accreditation or certification, or (iii) in the loss or threatened loss of County's ability to participate in any federal or state health care program, including Medicare or Medi-Cal.

63. SIGNATURE AUTHORITY

Each party has full power and authority to enter into and perform this agreement, and the person signing this agreement on behalf of each party has been properly authorized and empowered to enter into this agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS TO WHICH, each party to this agreement has signed this agreement upon the date indicated, and agrees, for itself, its employees, officers, partners, and successors, to be fully bound by all terms and conditions of this agreement.

APPROVED AS TO CONTENT:

Behavioral Health and Recovery Services

By:  _____

Bill Walker, LMFT

Director

COUNTY OF KERN

Board of Supervisors

By: _____

_____, Chairman

"County"

APPROVED AS TO FORM:

Office of the County Counsel

By: _____

Ann E. Garza, Deputy

TARZANA TREATMENT CENTERS, INC.

By:  _____

Albert Senella, President/ CEO

"Contractor"

TARZANA TREATMENT CENTERS, INC.

EXHIBIT A

DESCRIPTION AND STANDARDS OF SERVICES

(Residential Substance Use Disorder Treatment Services for Adults and Adolescents)

I. UNITS OF SERVICE

A Unit of Service is defined as the number of unique clients in the modality listed below.

The levels of service will be delivered in accordance with the American Society of Addiction Medicine (ASAM) criteria. The ASAM Levels of Care described in this Exhibit are:

3.3	Clinically Managed Population Specific High-Intensity Residential
3.5	Clinically Managed High-Intensity Residential, for Adolescents
3.2- WM	Clinically Managed Residential Withdrawal Management

II. GUIDING PRINCIPLES

Kern Behavioral Health and Recovery Services (KernBHRS) has embarked on a system-wide performance improvement process with the goal to implement a system of care characterized by providing welcoming, accessible, recovery-oriented, person and family-centered, co-occurring disorder capable and culturally-competent services. Substance use disorder providers have been specifically welcomed into this process in recognition of the fact that among clients receiving substance use disorder treatment, the presence of co-occurring mental health conditions, whether or not previously diagnosed, is sufficiently common to be considered an expectation.

The following standards are intended to be consistent with the above vision, and to provide a structure for services offered within KernBHRS Substance Use Disorder System of Care (SUD SOC) that are not regulated under existing requirements. Providers receiving funding for Drug Medi-Cal, Substance Abuse Prevention and Treatment Block Grant (SAPT) Discretionary, California Work Opportunities and Responsibility to Kids (CalWORKs), Perinatal Drug Medi-Cal, SAPT Perinatal Set Aside, SAPT Prevention Set Aside, or Assembly Bill 109 Public Safety Realignment Act must also comply with regulations and standards of those funding sources and programs. Those funding sources and programs support an integrated approach to addressing co-occurring mental health issues during the course of substance use disorder treatment.

- A. Contractor accepts that it is a member of a network of providers of KernBHRS's SUD SOC, a continuum of care based on American Society of Addiction Medicine (ASAM) criteria which includes prevention, early intervention, outpatient treatment, residential treatment, case management, recovery services, opioid treatment services and withdrawal management. Contractor readily accepts and shares the responsibility of providing quality services to all clients.

- B. Contractor shall demonstrate support of KernBHRS's SUD SOC by sharing information and resources and by actively seeking to recruit staff and volunteers who are bilingual and who represent the ethnic and cultural diversity of the community it serves.
- C. Contractor recognizes that within its current caseload are clients who have co-occurring mental health conditions. It is important that these clients are welcomed into care without experiencing stigma, and that the number of these clients is accurately identified so that needs can be effectively recognized and met.
- D. Contractor shall strive to participate in local area collaboration efforts and organized collaborative organizations and networks to raise awareness and educate its partners regarding the scope and breadth of substance use disorder problems in the community it serves.
- E. Contractor's programs and activities shall maintain a drug and alcohol-free environment at all times. Any information produced through these funds, and which pertain to drugs and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. No aspect of a drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol per HSC Section 11999-11999.3.
- F. Contractor shall collaborate with other programs, including mental health programs and physical healthcare providers, when using multiple social systems and levels within a community.
- G. The family unit and social support is considered an integral part of the treatment program for a person experiencing substance use or co-occurring disorders. Treatment interventions must at all times consider issues of family dynamics and key social relationships, including the possible presence of co-occurring mental disorders in the family.
- H. Contractor shall make efforts to provide outreach to the diverse cultural and ethnic groups within the community served, while ensuring that the dignity of clients and communities is preserved.
- I. Contractor shall ensure that all pertinent written, oral, and symbolic client and family materials, including but not limited to signage, pamphlets, educational brochures, referrals to resources or speakers, audiovisuals, and self-help kits, are interpreted and translated in the primary language of, and from the appropriate cultural perspective of, the communities served.
- J. Contractor shall continually evaluate the needs of the communities being served, and shall endeavor to meet those needs at all times. Further, Contractor shall incorporate the values of the community into its activities, services, and programs.
- K. Cultural and Linguistic Proficiency: To ensure equal access to quality care by diverse populations, Contractor shall adopt the federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards.
- L. Contractor shall be subject to an annual fiscal review conducted by KernBHRS, per state agreement guidelines.

- M. Contractor shall be subject to all former Department of Alcohol and Drug Program Bulletins and DHCS Mental Health Substance Use Disorder Services Information Notices relevant to the services provided through this contract.
- N. Medi-Cal funded Contractors shall adhere to the Minimum Quality Drug Treatment Standards for DMC.
- O. Contractor shall adopt practice guidelines that meet KernBHRS standards, which at a minimum follow the Substance Abuse and Mental Health Services Administration's (SAMHSA) Treatment Improvement Protocols (TIPS) and Technical Assistance Publications (TAPs) series.

III. FUNDING SOURCES AND POPULATIONS TO BE SERVED

Drug Medi-Cal: A program to fund medically necessary alcohol and drug treatment services for clients meeting eligibility requirements, including limited income and resources.

IV. ACCESS TO TREATMENT

KernBHRS's SUD SOC will screen and refer clients for notable substance use problems. Following a screening, clients are referred to a KernBHRS-approved treatment provider based on one (1) or more of the following: level of care, required funding need, and/or location proximity to the client. Referrals indicating the need for LOC 3.3 or adolescent LOC 3.5 will receive a KernBHRS facilitated initial assessment prior to connecting with Contractor.

- A. Contractor shall communicate intake appointment availability through secure e-mail to the Gateway team on a weekly basis to coordinate client referrals and admissions. Contractor may be required to use scheduler within the KernBHRS EHR in the future to streamline processes depending on volume of referrals.
- B. Contractor shall receive referrals directly through KernBHRS following an initial assessment. Gateway will coordinate directly with Contractor to schedule intake appointment and transportation of referred client(s).

If an individual presents at Contractor's program prior to screening through KernBHRS, Contractor shall complete a Release of Information ("ROI") for Kern Behavioral Health and Recovery Services- SUD Division and connect the individual to the SUD Access Line for initial screening and referral immediately.

C. Payor Source Verification:

Contractor shall determine the availability of any third-party insurance or payer source (including Medi-Cal) available to client at admission and monthly thereafter and notify County if any is available. Medi-Cal verification must specify Kern County as the county that issued Medi-Cal benefits. Any changes must be provided to KernBHRS billing staff on a monthly basis. KernBHRS follows the guidance in MHSUDS Information Notice 17-036 regarding County of Responsibility.

D. **Informing Materials:**

1. Contractor shall provide clients with the KernBHRS template of the Member Handbook and the KernBHRS Provider Directory at intake and upon request.
2. Contractor shall make the Member Handbook and the KernBHRS Provider Directory available in English and Spanish.
3. Contractor shall make written materials in English and Spanish available to clients with special needs; for example, visual disability or limited reading proficiency.
4. Contractor shall inform clients that information is available in alternative formats and how to access those formats. Contractor shall track requests for alternative formats and additional Member Handbooks in the KernBHRS provided template.

E. **Service Priority:**

1. Contractor shall adhere to the following for Perinatal Programs: Priority will be administered to pregnant and/or parenting clients or applicants for treatment in the following order:
 - a. Pregnant injecting drug users;
 - b. Pregnant substance users;
 - c. Parenting Injecting drug users; and
 - d. Parenting women drug users.
2. Contractor shall adhere to the following: Priority placement shall be provided to injecting drug users and pregnant women.

F. **Timeliness of Access into Treatment:**

1. Individuals referred for SUD treatment shall receive an initial assessment appointment within the following timelines:
 - a. Pregnant injecting drug users, within forty-eight (48) hours;
 - b. Pregnant substance users, within forty-eight (48) hours;
 - c. Individuals requesting Narcotic Treatment Program services, within three (3) business days;
 - d. Injecting drug users, within five (5) business days; and
 - e. All others, within ten (10) business days.
2. Contractor shall have a system in place to address timeliness requirements. When Contractor's available assessment appointments fall outside of the standards for timeliness into treatment, Gateway will notify Contractor. Contractor shall coordinate to add appointments to bring appointment availability into compliance.

- G. Contractor is required to provide interim services when access into treatment exceeds the timelines described in Paragraph IV.F above. Interim services shall follow guidelines as outlined in KernBHRS policy #5.6.6. Contractor shall submit a copy of the interim services group sign-in sheets weekly on Fridays by 3:00 pm to Gateway Team.
- H. Contractor agrees to report information regarding program capacity and waiting lists by submitting a Drug Abuse Treatment Access Report (DATAR) to County as outlined in KernBHRS policy #5.6.24.
- I. There shall be no barrier to access based solely on the presence of a current or past co-occurring psychiatric or medical diagnosis, or solely due to the client receiving prescribed medication.
- J. Admission and readmission criteria shall be in a written policy as stated in Paragraph XI.B of this document. Any exclusionary criteria shall be submitted to the KernBHRS SUD SOC Administrator for approval.

V. SERVICES

A. **Description of Services:** KernBHRS strives to provide all services in a welcoming, recovery-oriented, family inclusive, culturally competent, and co-occurring capable manner. Services will be provided according to the ASAM criteria in the continuum of care that ranges from early intervention to medically managed inpatient treatment and levels of care.

1. **ASAM Level of Care 3.3—Clinically Managed Population Specific High-Intensity Residential:**

- a. **Description:** Residential services are non-institutional, twenty-four (24) hour non-medical, short-term programs that provide rehabilitation services to clients who are unable to establish or maintain sobriety and/or make progress in treatment at an outpatient level. This level of care is only available for adults and addresses stabilization of multi-dimensional imminent danger along with less intense milieu and group treatment for those with cognitive, intellectual, developmental, or other impairments. The three components of imminent danger according to the ASAM criteria are:
 - I. the strong probability that certain behaviors, such as continued alcohol or drug use, or relapse, will occur;
 - II. the likelihood that such behaviors will present a significant risk of serious adverse consequences to the client; and
 - III. the likelihood that such adverse events will occur in the very near future, within hours and days, not weeks and months. The cognitive impairment may be temporary or permanent, and may be due to a substance related disorder, in combination with a brain syndrome or injury, developmental delay, or age-related cognitive decline.
- b. **Services:** In Clinically Managed Population Specific High-Intensity Residential Services, clients will receive daily services, delivered at a slower pace and in a more repetitive fashion in order to address cognitive impairments that the clients may be experiencing. Services include an assessment, treatment plan, group and individual counseling, collateral services, safeguarding medications, crisis intervention services, discharge

planning services; family therapy; patient education; and case management. Case management services in the metropolitan Bakersfield area will be provided by KernBHRS.

Case management services in the metropolitan Bakersfield area will be provided by KernBHRS.

- c. **Duration:** Residential length of stay will range from one (1) to ninety (90) days with a ninety (90) day maximum for adults, unless medical necessity authorizes a one-time extension of up to thirty (30) days on an annual basis.
- d. **Treatment Goals:** At discharge from this level of care, the client should acquire a period of abstinence and a willingness to participate in an outpatient level of care to continue recovery efforts.
- e. **Treatment Authorization:** Authorization for residential services will be approved by the Gateway Team. Appointments for continuing treatment in outpatient settings will be arranged prior to discharge from this treatment level.

2. **ASAM Level of Care 3.5—Clinically Managed High-Intensity Residential:**

- a. **Description:** Residential services are non-institutional, twenty-four (24) hour non-medical, short-term programs that provide rehabilitation services to clients who are unable to establish or maintain sobriety, make progress, or be safely treated at an outpatient level.

This level of treatment addresses stabilization of multi-dimensional imminent danger and prepares clients for outpatient treatment. Clients in need of this level of care may have multiple limitations, including criminal activity, psychological problems, impaired functioning, and disaffiliation from mainstream values. They are, however, able to tolerate and use a full milieu of services and engage with the therapeutic community.

The three (3) components of imminent danger according to the ASAM criteria are:

- i. the strong probability that certain behaviors, such as continued alcohol or drug use, or relapse, will occur;
 - ii. the likelihood that such behaviors will present a significant risk of serious adverse consequences to the client; and
 - iii. the likelihood that such adverse events will occur in the very near future, within hours and days, not weeks and months.
- b. **Services:** Clinically Managed High-Intensity residential services include daily services to build coping skills to establish abstinence outside of a controlled environment, begin establishing a daily routine that supports recovery, begin integrating support activities into daily living, and begin and maintain relationships that will support long term recovery. Services include an assessment; treatment plan; group and individual counseling; collateral services; safeguarding medications; crisis intervention services; and

discharge planning services. Residential substance use treatment programs are organized and staffed to provide a highly-structured environment that includes daily clinical services to improve the client's ability to organize daily living, daily clinical activities to stabilize symptoms of substance use disorders, planned community reinforcement to foster community living skills, and services for the client's family and significant others; family therapy; patient education; and case management. Case management services in the metropolitan Bakersfield area will be provided by KernBHRS.

- c. **Duration:** Residential length of stay is a thirty (30) day maximum for adolescents; unless medical necessity authorizes a one-time extension of up to thirty (30) days on an annual basis.
- d. **Treatment Goals:** At discharge from this level of care, the client should acquire a period of abstinence and a willingness to participate in an outpatient level of care to continue recovery efforts.
- e. **Treatment Authorization:** Authorization for Residential Services will be approved by the Gateway Team. Appointments for continuing treatment in outpatient settings will be arranged prior to discharge from this treatment level.

3. ASAM Level of Care 3.2 WM - Clinically Managed Residential Withdrawal Management:

- a. **Description:** Withdrawal Management services are provided on a continuum, which are determined to be medically necessary by a Medical Director or Licensed Practitioner of the Healing Arts (LPHA). Clinically managed services emphasize peer and social support rather than medical and nursing care and are provided by non-medical staff trained to implement physician-approved protocols. These services are provided at a licensed residential facility with detoxification certification and are designed to address moderate withdrawal in need of twenty-four (24) hour support to complete and increase the likelihood that clients will continue treatment and recovery.
- b. **Services:** Services include an assessment; observation to monitor the client's course of withdrawal; clinical support for understanding of addiction and withdrawal management process; and discharge planning into a lower level of care within the residential setting. Clients who experience medical complications during this level of service are directed to access emergency medical services as outlined in established clinical protocols.
- c. **Duration:** The duration of a course of withdrawal management is determined by the reduction in signs and symptoms of withdrawal so that the client can begin residential treatment services. This determination is made according to established clinical protocols, and averages between three (3) and five (5) days.
- d. **Treatment Goals:** The client will be able to participate in residential treatment services as withdrawal symptoms will have resolved sufficiently to be treated in a residential level of care.
- e. **Treatment Authorization:** Authorization for Withdrawal Management Residential Services will be approved by the Gateway Team. Appointments for continuing treatment in residential settings will be arranged prior to

discharge, with a plan for continued treatment at outpatient settings after the residential episode is completed.

C. Coordination and Continuity of Care

1. Contractor shall comply with the care and coordination requirements as set in 42 CFR §438.208. This shall include at a minimum:
 - a. All clients receiving DMC-ODS services from Contractor shall have a substance use disorder.
 - b. Contractor shall identify mechanisms to assess all clients and produce a treatment plan for those clients that have a substance use disorder. Treatment plan shall be:
 - i. Developed with client participation, and in consultation with any providers caring for the client.
 - ii. Developed by a person trained in person-centered planning using a person-centered process and plan, as defines in 42 CFR §441.301(c)(a).
 - iii. In accordance with quality assurance and utilization review standards.
 - iv. Reviewed and revised upon reassessment, as specified in this agreement or as client's circumstances or needs change significantly, or the request of the client per 42 CFR §441.301(c)(3).
 - c. Contractor shall have procedures in place to deliver care and to coordinate services for all clients.
 - d. Clients shall have a designated primary server and be provided with contact information for primary server.
 - e. Contractor shall assure uninterrupted transitions in level of care, other healthcare services, and community and social support services.
 - f. Contractor shall meet the standards of timeliness into treatment.
 - g. Contractor shall confirm SUD Referral Outcome with KernBHRS to ensure there is no duplication in services.
 - h. Contractor shall maintain and share, as appropriate, the client health record in accordance with professional standards.
 - i. Contractor shall ensure that in the process of coordinating care, each client's privacy is protected in accordance with the privacy requirements in 45 CFR parts 160 and 164 subparts A and E and 43 CFR Part 2, to the extent that they are applicable.
2. Residential Authorization and Reauthorization: Initial Residential Authorization is granted for a 30-day period. Contractor's Licensed Practitioner of the Healing Arts ("LPHA") shall complete and submit a Re-Authorization request to Gateway Team seven (7) days prior to expiration of current authorization to extend residential stay,

if medically necessary. Gateway will approve or deny Reauthorization request no later than seven (7) days following receipt of Reauthorization request. Lengths of stay guidelines are as follows:

- a. Adolescents, under the age of 21, may receive up to two 30-day non-continuous stays per 365-day period. Adolescent beneficiaries receiving residential treatment shall be stabilized as soon as possible and moved down to a less intensive level of treatment. Adolescent beneficiaries may receive a 30-day extension if that extension is determined to be medically necessary. Adolescent beneficiaries are limited to one extension per 365-day period.
 - b. DMC-ODS does not override EPSDT requirements. EPSDT beneficiaries may receive a longer length of stay based on medical necessity.
 - c. If determined to be medically necessary, perinatal beneficiaries may receive a longer length of stay than the specified in item (a) above.
3. Treatment Modifications:
- a. Contractor shall request a treatment modification from the Gateway Team via the electronic health record when, in the opinion of the LPHA, the client is ready to transfer to a lower level of care or is in need of a higher level of care when the level of care is not available at the current Contractor treatment program location where client is receiving services. Contractor shall not make direct referrals to other SUD treatment providers.
 - b. Services shall continue at the assigned level until the treatment modification form is complete and an appointment can be secured at the requested level of care. The Gateway Team will send a referral notification to the appropriate treatment provider for the new level of care.

VI. CLINICAL COMPONENTS

A. Assessment

1. The assessment is an individual face-to-face session conducted by a Licensed Practitioner of the Healing Arts (“LPHA”), or license-eligible LPHA using a Department-approved tool, based on ASAM Criteria dimensions and risk ratings, Stressful Life Experiences Screening (SLES) and/or another KernBHRS-approved instrument. The assessment is used to determine medical necessity, eligibility, and level of care for SUD treatment services.
2. The assessment may be completed with the client alone, or with a supportive family member, if indicated and with the appropriate authorization to release information.
3. The assessment interview is conducted for developing a biopsychosocial profile of the client and shall include the six (6) ASAM Criteria dimensions of withdrawal potential, medical conditions, emotional cognitive or psychiatric, motivation for recovery, continued relapse/problem potential, and recovery environment.

4. The assessment must be completed in a manner that considers the client's age, gender, ethnicity, sexual orientation, stage of change, and all cultural or special needs.
5. The assessment is the foundation for the development of the treatment plan and the initiation of clinical services.

B. Treatment Planning

1. LPHA, or license-eligible LPHA staff, shall use the KernBHRS-approved treatment plan form to develop an individualized treatment plan. It will be based upon the findings of the assessment instruments, with participation, approval, and signature from the client. The program must document client participation in the treatment planning process.
2. Treatment planning is an individual face-to-face session conducted using the County approved format and shall contain at a minimum:
 - a. Statement of the problems identified;
 - b. Goals identified by the client to resolve problems;
 - c. Objectives that are specific, measurable, attainable, realistic, and time limited, including action steps to be taken by clients to meet their goals with identified target dates;
 - d. Measurable interventions, that include frequency and duration;
 - e. Assignment of primary therapist;
 - f. Diagnosis;
 - g. Goal to obtain a physical examination, if documentation of a physical examination completed within a 12-month period prior to admission is not present in client file;
 - h. A goal that client will obtain appropriate treatment for an illness, when documentation of physical exam in file indicates a significant medical illness exists; and
 - i. Additionally, treatment plans must conform to Title 22 and DMC-ODS requirements with respect to frequency of updates and timelines for signature.
3. Treatment planning may be completed with the client alone or with a supportive family member or friend, if indicated, and with the appropriate authorization to release information. Documentation of client and family/support involvement should be evident in the progress note.
4. The treatment plan shall be developed from the information reported on the intake/assessment forms.
5. Treatment plans may include objectives related to helping the client develop skills to manage co-occurring mental health or medical issues that may affect progress in substance use disorder treatment.

6. As required, in order to increase care coordination, Contractor shall promptly obtain client consent to share treatment plans with agencies, including mental health programs, criminal justice, and child welfare agencies that may be monitoring client progress in treatment or treating the client collaboratively, in a timely manner.
7. All residents shall have a treatment plan completed within three (3) days of admission. Clinical staff shall complete the treatment plan, using the KernBHRS-developed form, with input from the client. The program shall document client participation in the treatment planning process.
8. Treatment plans shall be reviewed, updated, and signed every fifteen (15) days, or earlier if a significant change in treatment focus occurs, considering each resident's plan of services, goals, and progress toward goals. Documentation of review must include the individual's progress, or lack of progress, at each fifteen (15) day intervals, or sooner.
9. As required, programs shall obtain the resident's consent to share treatment plans with agencies that may be monitoring the resident's progress in treatment.
10. Assessments and treatment plans shall be conducted by an LPHA, or license-eligible LPHAs.

C. Justification for Continued Services

Contractor shall follow Exhibit A, V. Services, B. Coordination and Continuity of Care, 2. Authorization and Re-authorization.

If the Medical Director or LPHA determines that continuing treatment services for the beneficiary is not medically necessary, the contractor shall discharge the beneficiary from the current level of care and transfer to the appropriate services.

D. Reassessment

1. LPHA shall complete reassessments for residential (ASAM ~~3.1, 3.3~~ and 3.5) at a minimum thirty days (30) days after initial assessment, and every thirty days (30) days thereafter. This re-assessment will determine progress along the six (6) ASAM Dimensions to determine whether the client will continue in treatment or is ready for discharge.

E. Discharge Planning

1. Contractor shall ensure that a discharge plan is prepared with each client leaving the program, beginning at least fifteen (15) days prior to the expected discharge date. The discharge plan shall provide information related to the client's progress made in treatment, plans to support abstinence, and shall include provision for continuing medical care, mental health care and recovery services, when appropriate.
2. Contractor shall coordinate with the case manager and Gateway to ensure the pending transition in treatment is smooth and timely prior to discharge.
3. The discharge plan shall be completed with the participation of the client.

4. A copy of the discharge plan shall be maintained in the client record.
5. A KernBHRS-approved Discharge Summary shall be completed, and must contain at a minimum:
 - a. Reason for the discharge and type of discharge;
 - b. Duration of treatment;
 - c. Narrative summary of the treatment episode that addresses the six dimensions of the ASAM Criteria;
 - d. Current alcohol and/or drug use;
 - e. Vocational/educational achievements;
 - f. Legal status;
 - g. Living situation and/or support system;
 - h. Client's prognosis and plan for continued recovery;
 - i. Transfer and referral information; and
 - j. Client's comments.

F. Individual Counseling

1. Individual counseling is a contact between the client alone or with a significant other, and a clinician. Each counseling session shall focus on one (or more, if applicable) of the following topics:
 - a. Completion of the assessment process;
 - b. Evaluation of progress related to the client's treatment plan and identification of new issues pertinent to recovery from substance use;
 - c. Crisis intervention related to imminent relapse risk;
 - d. Collateral counseling focusing on the clients' recovery issues; or
 - e. Development of a plan for discharge from treatment.
2. Collateral visits are sessions with spouses or significant others, family members, or other significant persons with personal relationships (not official or professional) in the life of the client, that focus on the client's treatment needs to support the achievement of the client's treatment goals.
3. Crisis Intervention visits are contacts between a therapist or counselor and a client in crisis, which focus on alleviating immediate crisis problems specifically related to an actual relapse or an unforeseen event or circumstance, which presents an imminent threat of relapse or significant risk of harm to self or others. Crisis

intervention services shall be limited to stabilization of the client's emergency situation.

4. All individual counseling sessions must be documented in the client record in conformance with a KernBHRS-approved format and include at minimum: date and duration of the service; identification of the treatment plan goal or objective addressed; progress made; strengths identified; action plan; and the clinician's signature and title.
5. In order to monitor progress throughout the treatment episode, individual counseling sessions shall be provided in accordance with the client's individualized treatment plan and using clinical judgement and at the discretion of the clinician. The minimum requirements are listed below:
 - a. ASAM Level of Care 3.1 Clinically Managed Low Intensity Residential: Clients will receive a minimum of one (1) weekly individual counseling session to monitor progress along the six (6) ASAM dimensions and consider whether the client can transition to a lower level of care.
 - b. ASAM Level of Care 3.5 Clinically Managed High Intensity Residential: Clients will receive a minimum of one (1) weekly individual counseling session to monitor progress along the six (6) ASAM dimensions and consider whether the client is ready to transition to a lower level of care.

G. Group Counseling

1. Group counseling is defined as a face-to-face contact in which one (1) or more counselors treat two (2) or more clients at the same time, focusing on the needs of the clients. Clinical groups shall consist of at least two (2) clients but not more than twelve (12) clients, with a minimum of one (1) Drug Medi-Cal funded client.
2. All group counseling sessions shall be documented in the client record. Documentation shall conform to a KernBHRS-approved format and include, at minimum: the date and duration of the service; a description of the progress made relative to the treatment plan goals, objectives or action steps; action plan; and the clinician's signature and title.
3. Group counseling services shall be provided at a minimum of one (1) time weekly. More frequent group services may be provided based on clinical need and/or judgement. A group sign-in sheet shall document client attendance and shall conform to all Title 22 requirements.

H. Patient Education: Service consisting of research-based education on addiction, treatment, recovery and other associated health risks. This service is not considered a clinical activity and is therefore not subject to group size limitations. A group sign-in sheet shall document client attendance and conform to all applicable Title 22 requirements.

1. Health Education

- a. Contractor shall provide clients with education about the prevention of HIV/AIDS, tuberculosis, and Hepatitis C.

- b. The Department may assist the provider in acquiring screening and testing services for HIV/AIDS, tuberculosis, and Hepatitis C, but ultimate responsibility for referrals to screening and testing remains with the provider.
 - c. Contractor shall document the provision of the health education in the client record.
2. HIV Early Intervention Services
- a. Contractor shall directly provide, or arrange for the provision of, HIV early intervention services to clients in substance use disorder treatment programs. Early intervention with respect to HIV disease is defined by Title 42, United States Code, Section 300x-24(b) (7) (B) as:
 - i. Pre-test counseling;
 - ii. Testing clients with respect to such disease; and
 - iii. Appropriate post-test counseling.
 - b. All programs shall ensure that a confidential area is provided for pre/post-test counseling and collection of specimens for testing purposes.
 - c. HIV counselors may attend group alcohol and other drug (AOD) treatment sessions for the purposes of providing HIV education and offering testing services in a confidential manner.
 - d. Early intervention services for HIV disease must be undertaken voluntarily by, and with the informed consent of, each client. In addition, accepting such services cannot be a requirement of receiving substance use disorder treatment or any other such services.
 - e. In order to protect client confidentiality, services provided to clients receiving HIV testing and counseling shall not be documented in the clinical records, in accordance with the Department's policy.
 - f. Contractor shall ensure that health education materials are current, available and accessible, in English and Spanish versions.
- I. All services shall be provided face-to-face.

VII. COMMUNICATION WITH REFERRING AGENCIES

- A. A current and valid consent to release information must be documented in the EHR before there is any communication with a referring agency if the client requests such communication.
- B. **Progress Reports:** Contractor shall complete a monthly client progress report for the appropriate referring agency. Such reports may include information on client attendance, the program's clinical drug testing results, level of participation and compliance in treatment, fee compliance, progress evaluation and recommendations.

- C. Contractor shall immediately inform referring agency of any unusual circumstances or developments that occur within the treatment setting, that may have an effect on the client's status with the referring agency, such as a need to take a leave of absence from the treatment program, changes of address, employment status, failure to comply with treatment, including fee compliance and positive drug tests completed for clinical purposes.
1. Contractor shall work collaboratively with the referring agency to address client needs, including but not limited to, vocational, employment, physical health care, etc. throughout treatment.
 2. **Final Discharge Progress Report:** Contractor shall forward the final progress report to the referring agency prior to assignment closing in the electronic health record. Final progress report shall include the date of discharge, the reasons for the discharge, and other pertinent information.

VIII. OTHER TREATMENT RELATED SERVICES

A. Drug Testing

1. **Clinical Drug Testing:** All substance use disorder programs shall include drug testing as a part of their usual clinical procedures in addition to any court-ordered drug testing requirements. Contractor shall obtain and maintain current a Clinical Laboratory Improvement Amendments (CLIA) Certificate of Waiver to conduct drug testing onsite. Drug testing shall be conducted at a minimum of one (1) time every thirty (30) days; additional drug testing may occur at random or for cause.
 - a. Clinical drug testing is administered as a therapeutic tool in treatment to address denial of substance use disorder and address substance use behavior with clients. Programs may refer to the consensus document by the American Society of Addiction Medicine, Appropriate Use of Drug Testing in Clinical Addiction Medicine for additional guidance.
 - b. Tests may be conducted through urine, or oral fluid (saliva), hair or blood. At a minimum, a five-panel screen must be administered.
 - c. Programs must advise clients upon admission that they are subject to testing according to the program policy and to enhance treatment services.
 - d. All positive test results must be discussed with the client, and such discussion shall be documented in the client record.
 - e. Program ordered drug testing shall be at no cost to the client.
2. Contractor shall adhere to the Urine Surveillance standards specified in the State of California Standards for Drug Treatment Programs, 1981. Programs must have in place a policy specifying how drug testing is to be conducted. The policy must address the following:
 - a. Handling of client relapses
 - b. Description of the conditions under which testing will occur, i.e. random draw, after an unexcused absence, prior to discharge.
 - c. Procedures established to protect against the falsification and/or contamination of any urine sample.
 - d. Stipulation that the urinalysis result will be documented in the client's file.

B. Physician Consultation Services:

1. Physician Consultation Services include DMC physicians' consulting with addiction medicine physicians, addiction psychiatrists or clinical pharmacists. Physician consultation services are designed to assist DMC physicians by allowing them to seek expert advice when developing treatment plans for specific DMC-ODS clients. Physician consultation services may address medication selection, dosing, side effect management, adherence, drug-drug interactions, or level of care considerations.
2. Physician Consultation Services shall be accessed through KernBHRS.
3. Contractor shall be a DMC provider and when accessing physician consultation services will document the service in the EHR.

C. Quality Management Plan:

1. Contractor shall adhere to the KernBHRS Quality Management Plan and the performance improvement projects (PIPs) as designated by KernBHRS.

D. Referral Assistance

1. Contractor shall provide referral assistance to clients at all levels of treatment, as appropriate.
2. Referral assistance activities shall include, but not be limited to:
 - a. Referral to community resources;
 - b. Referral to mental health programs;
 - c. Referral to physical health services;
 - d. Coordination with other agencies providing client services;
 - e. Assistance in securing transportation;
 - f. Referral to vocational and literacy services; and
 - g. Assistance in accessing these services.
3. All referral assistance services must be documented in the client record.

E. Self-Help Meetings:

Contractor shall require clients to submit proof of attendance at provider-approved self-help meetings, which shall be documented in the case record.

1. Self-help meetings are defined as gatherings that focus on peer support for the purpose of overcoming substance use and other behavioral health disorders.
2. Self-help meetings may include 12-step meetings, or other meetings approved by the program as long as they satisfy the definition above.

3. Self-help meetings may also include meetings that have a specific focus on dual recovery.
4. Participation in self-help meetings is required at a minimum of two (2) meetings per month throughout the course of treatment, regardless of level of care.

F. Sites of Service

1. Contractor shall advise the County Alcohol and Drug Program Administrator or designee in writing of any potential or planned changes to service locations and/or reductions in services provided within sixty (60) calendar days prior to the planned change.
2. Contractor shall take steps necessary to maintain DHCS certifications and/or licensure of the site(s) at which services are provided or may be provided.
3. All of Contractor's sites where Drug Medi-Cal services are provided must be certified in accordance with Medi-Cal regulations and the Americans with Disabilities Act (ADA). Official fire clearance must take place prior to service provision. If a site is not Medi-Cal certified, or if the renewal is delinquent, the Department will not bill Medi-Cal, or forward payments to Contractor, until site certification is obtained. Contractor shall maintain a current copy of each required certification/license and provide a copy to the County Alcohol and Drug Program Administrator or designee. Contractor shall maintain a current copy of each required certification/license and provide a copy to the County Alcohol and Drug Program Administrator or designee.
4. Residential treatment contractors must have DMC certification, facility license, and an ASAM designation for residential level of care. Adolescent residential treatment facilities shall be licensed by the Department of Social Services or licensed by DHCS with an approved waiver to serve adolescents.

G. Hours of Service

1. Contractor shall provide services at times that meet the needs of the clients. This should include evenings and weekends to increase treatment accessibility.
2. Hours of operation and emergency telephone numbers shall be posted in English and Spanish, and other languages that may be appropriate for the communities served, at the main entrance, and other entrances that clients may commonly access. This posting shall include at least the agency's own crisis and after-hours phone number on the door. Similar information shall be available on a telephone answering device for after-hours and weekend coverage.

IX. SUCCESSFUL DISCHARGE FROM PROGRAM

At discharge from treatment, the progress towards the individualized treatment plan goals and other key indicators as listed below shall be considered for successful discharge from treatment.

A successful discharge from program shall include a discharge reason of "achieved goals" or "left before completion with satisfactory progress" along with the following criteria:

- A.** Attendance: Clients must maintain an attendance rate of eighty-five percent (85%) of scheduled services. Consideration for high-risk populations, i.e. co-occurring, high risk pregnancies, etc., may be given through case conferencing between the referring agency and the treatment provider. This attendance requirement shall be met in accordance with the client's individualized treatment plan, by using clinical judgement, and with County approval.

Clients referred by Child Protective Services and CalWORKs shall be required to attend all scheduled activities, unless prior arrangements have been made with the CalWORKs Social Service Worker or the treatment provider. Absences shall be documented as an excused cancellation or a "no show."

Excused cancellations may be granted under the following conditions:

1. Medical problems of client or child (documentation from medical provider may be required);
2. Problems in securing childcare, when this is not available at the treatment program;
3. Problem in securing transportation when transportation is not provided by the treatment program;
4. Death in the family;
5. Required court appearances (documentation may be required); and
6. Pre-approved family centered activities such as parent/teacher conferences, supervised visitation, etc.

- B.** Abstinence: Clients must have maintained abstinence from drugs and alcohol. Abstinence shall be verified by urinalysis and other appropriate testing methods. The minimum length of abstinence will not be the only consideration in discharging an individual from treatment.

1. Clients are expected to have documented abstinence of a minimum of ninety (90) days prior to discharge of the treatment episode. This requirement may be waived if a client experiences one (1) relapse but is demonstrating progress in all other areas that measure successful discharge from the program. This abstinence requirement is applicable to all outpatient ASAM levels of care.
2. For residential ASAM levels of care, clients are expected to have documented abstinence throughout their stay in treatment. This requirement may be waived if a client experiences one (1) relapse but is demonstrating progress in all other areas that measure successful program discharge.

- C.** Activity: Clients must demonstrate participation in recovery supporting activities such as employment, training, education, community service, or support groups. Documentation of a minimum of two (2) self-help groups per month for the duration of treatment is required.

- D.** Medical: Clients must demonstrate a means and/or a viable plan for obtaining treatment for medical or psychiatric conditions that present a risk for relapse.

- E. Relationships and Support: Clients should be engaged in satisfying and supportive relationships or have a credible plan for securing them. This may include plans for couples counseling, family of origin issues counseling, domestic violence counseling, anger management classes, parenting classes, etc. These specialty areas may not have been resolved in the course of the substance use treatment program.
- F. Fee Compliance: Clients must be required to meet their financial responsibilities.

X. DOCUMENTATION AND THE ELECTRONIC HEALTH RECORD

- A. Contractor shall maintain sufficient computer hardware and software to ensure that service data is entered into the County's computer system within the established documentation timelines.
- B. Contractor agrees to cooperate with outcomes management and reporting system requirements for DHCS and KernBHRS.
 - 1. Every staff member must fill out a Staff Master Form to gain access to the Cerner electronic data system. This document contains staff category, name, credential, start date, and a request for access to organizations' units/subunits.
 - 2. Each clinical staff member (counselor, LPHA and license-eligible LPHA, MD, etc.) shall have a National Provider Identification ("NPI") number in order to bill for the services provided.
 - 3. Contractor must request a Virtual Private Network ("VPN") number to access KernBHRS databases.
- C. Additional requirements specific to clerical staff:
 - 1. Clerical staff must attend two (2) days of Cerner training provided by KernBHRS. Additional documentation training provided by KernBHRS will be required if staff is associated with multiple documentation deficiencies during County audits or other utilization review activities.
 - 2. Clerical staff is responsible for the following:
 - a. Editing the Index Card for accuracy;
 - b. Editing the demographic information for accuracy;
 - c. Ensuring the accuracy of client financial information;
 - d. Ensuring correct pay sources of third-party coverage and closing files upon discharge; and
 - e. Updating Client Assignments to the correct clinical staff responsible for the client chart.

- D.** Additional requirements specific to treatment staff:
1. Staff providing treatment must attend three (3) days of Cerner and documentation training provided by KernBHRS. Additional training provided by KernBHRS will be required if staff is associated with multiple documentation deficiencies during KernBHRS audits or other utilization review activities.
 2. Treatment staff are responsible for completing the following:
 - a. An ASAM-based KernBHRS-approved assessment, either the adult or adolescent version, at intake appointment;
 - b. Stressful Life Experiences Screen (SLES) at intake appointment;
 - c. California Outcome Measurement System (CalOMS) standard admission, standard discharge, and annual update forms must be completed within two (2) business days of the timeline indicated in the Protocol for CalOMS Data Entry in the KernBHRS EHR.
 - d. Diagnostic Review based upon assessment;
 - e. Initial Treatment Plan within three (3) days for residential services;
 - f. For residential services, review and update treatment plan no later than 15 days after initial treatment plan, and no later than every 15 days thereafter.
 - g. Individual Progress Notes launched from the scheduler, based on approved note format;
 - h. Group Progress Notes launched from the scheduler, based on a note format approved by County;
 - i. Individual daily Progress Notes for residential and withdrawal management services documented within three (3) calendar days in the format approved by County;
 - j. SUD Discharge/Transfer Summary;
 - k. Progress Reports to the appropriate referring agency for each month of the client's participation in treatment.
 - l. Health Questionnaire at admission;
 - m. Admission Agreement at admission;
 - n. Program Rules at admission;
 - o. Consent for Treatment at admission; and
 - p. An SUD Outcome Measures at admission and discharge for each client discharged with a Standard CalOMS discharge code.
 3. LPHAs and license-eligible staff shall conduct and document assessments, re-assessments, determine medical necessity, create and update treatment plans.
 4. Treatment staff shall attend at least one (1) two-hour Title 22/DMC-ODS training annually or a KernBHRS-approved compatible training. The training must be approved by KernBHRS prior to occurrence.

E. Additional requirements specific to clinical supervisors:

1. Supervisors must attend one (1) day of training with KernBHRS, which will prepare them to utilize administrative reports useful in monitoring services.
2. Supervisors are responsible for reviewing the following:
 - a. Third Party Suspense Reports
 - b. Occupancy Reports
 - c. Third Party Pay Source Report
 - d. Client Services Management Report
 - e. Non-Final Approved Progress Note Report
3. Clinical staff must attend at least one (1) two-hour Title 22/DMC-ODS training

annually or a County approved compatible training. The training must be approved by the County prior to occurrence.

F. Electronic health record training requirement may be waived, and training may be provided by the contractor internally with approval by KernBHRS SUD SOC Administrator and the Information Technology Services Manager.

G. Timeliness of Documentation.

Contractor is responsible for compliance with medical record standards as defined by KernBHRS. All clinical service documentation shall be completed and entered into the electronic health record in a timely manner from the date of service.

1. **Assessments** are to be completed within two (2) business days of initial face to face contact.
2. **Initial Treatment Plans** are to be completed within three (3) calendar days of admission to residential treatment. Revisions to treatment plans shall be completed every fifteen (15) days or earlier if a significant change in the treatment focus occurs.
3. **Individual Counseling Progress Notes** must be completed within three (3) business days of the counseling session.
4. **Group Progress Notes** must be completed within three (3) business days of the counseling session.
5. **Discharge Summaries** - A KernBHRS-approved Discharge Summary must be completed within fifteen (15) days of the last service date.
6. **Residential Services Progress Notes** - shall be completed for all daily residential and withdrawal management services within three (3) business days of the service date.

XI. REQUIRED POLICIES AND PROCEDURES

Policies developed for the provision of services in this agreement must include documentation of approval from the Contractor's Board of Directors or other governing body of the program.

A. Minimum Quality Drug Treatment Standards for DMC and/or SAPT: Each Contractor either partially or fully funded through DMC and/or SAPT shall adhere to each DMC and/or SAPT Minimum Quality Drug Treatment Standards, according to funding. Policies and procedures must be present as required by the Quality Drug Treatment Standards for DMC and/or SAPT. The required policies and/or procedures include Personnel Policies and Program Management.

B. Admission and Readmission Criteria

1. Contractor shall maintain a written policy that describes the criteria for admission, admission priorities, readmission and exclusionary criteria. As noted above, the policy must clearly state that no client is automatically excluded due to the

presence of past or present co-occurring mental illness or due to receiving appropriately prescribed psychotropic medication.

2. The written policy shall describe the program's screening process and a review of eligibility factors that includes consideration of the client's strengths, needs, abilities, and preferences.

C. Client Fees

1. Contractor shall maintain a written description of its Client Fees Policies.
2. The description must include a complete list of customary fees, and state that the fee schedule will be posted on-site in an area easily accessible to clients.
3. A Client Financial Review Form must be fully completed on all clients entering treatment, and when any significant changes in financial status take place. Client fees shall be determined based upon information from the Client Financial Review Form.
4. All clients, except those funded by Drug Medi-Cal and CalWORKs, are to be assessed fees toward the cost of their treatment based on Contractor's determination of the client's ability to pay in accordance with Section 11991.5 of the Health and Safety Code.
5. Such fees shall be deducted from the treatment program's cost of providing services in accordance with Health and Safety Code Section 11987.9.
6. No one is to be denied access to treatment services because of an inability to pay.

D. Confidentiality/Information Sharing

1. Contractor shall maintain client confidentiality in accordance with Health Insurance Portability and Accountability Act (HIPAA and HITECH) and Part 2 of Title 42 of the Code of Federal Regulations.
2. Contractor must obtain written consent from the client before information can be disclosed to another party.
3. Clients entering treatment as a condition of probation or parole are also required to give consent.
4. Contractor shall submit progress reports to probation, child protective services, the courts, or any other applicable referring agency at least once per month, or more often if requested by the referring agency with appropriate client consent or authorization to release information.
5. County will approve formats of progress reports.
6. Contractor shall assure all staff complete Confidentiality training including HIPAA and 42 CFR upon hire or prior to accessing the EHR.

E. Cultural Competence

1. All services shall be delivered in a manner that respects and pays attention to the client's gender, language, ethnicity, spiritual beliefs, sexual orientation, and physical abilities.
2. Contractor shall have the ability to provide services in the established threshold languages of the County, whether by implementation of best practice, by having bilingual staff, or as a secondary process by utilizing interpreter services. Contractor shall report bilingual staff and interpreter services agreement(s) in the Bilingual Quarterly report as part of the Provider Quarterly Report.
3. Contractor shall have the ability to provide services to clients in any other preferred language at a minimum through the use of an interpreter. Interpreters may be a client's family member only if client makes this request. If family members are used as interpreters, interpreter must be over the age of eighteen and proficient in the subject languages and familiar with healthcare terminology.
4. Contractor treatment staff shall be required to attend a minimum of four (4) hours of cultural competency training annually, beginning with the effective date of this agreement.
5. Contractor shall strive to employ staff who represent the variety of clients served.
6. Services must be individualized and family-oriented in the context of racial, ethnic, and cultural values. Services shall be provided to all persons who request substance use disorder treatment and meet medical necessity.

F. Grievance Procedure

1. The program shall maintain a written description of its grievance procedures.
2. All clients shall be informed of the procedures for grievance resolution or due process.
3. Grievance procedures for all clients shall be posted in an area easily accessible to clients.
4. The procedure shall clearly state the methods by which persons served may speak to the program supervisor for problem resolution.
5. If discussion with the program supervisor does not result in a satisfactory outcome, the client may be referred to the Patients' Rights Office, although the client is free to contact the County Alcohol and Drug Program Administrator at any time.
6. Contractor shall follow KernBHRS policy #10.1.03 (Grievance and Appeal system) and provide required information on grievances to the Patients' Rights Office of KernBHRS.
7. Discrimination Grievances: "Discrimination Grievance" means a complaint concerning the unlawful discrimination on the basis of any characteristic protected under federal or state law, including sex, race, color, religion, ancestry, national

origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation. Contractor shall inform beneficiaries of processes for filing discrimination grievances as follows:

a. To file with KernBHRS contact:

Discrimination Grievance Coordinator
KernBHRS Patients' Rights and Family Advocacy
PO Box 1000 Bakersfield, CA 93302
Telephone number: 844-360-8250 (TTY 711)
Fax: 661-836-8143
BHRSPatientsRights@KernBHRS.org

b. To file with DHCS Office of Civil Rights contact:

Office of Civil Rights
Department of Health Care Services
P.O. Box 997413, MS 0009
Sacramento, CA 95899-7413
(916) 440-7370
CivilRights@dhcs.ca.gov

c. Discrimination based on race, color, national origin, sex, age, or disability can be filed directly with either KernBHRS, DHCS Office of Civil Rights, as described above, or by contacting the United States Department of Health and Human Services Office of Civil Rights electronically at <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf> or by phone or mail at:
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington, D.C. 20201
1-800-368-1019, 800-537-7697 (TDD)

Complaint forms are available at: <https://www.hhs.gov/ocr/complaints/index.html>

G. Unusual Occurrences

1. Unusual Occurrences: Contractor shall have a written procedure or policy to address Unusual Occurrence Reporting requirements such as outlined in Paragraph 34, "Reporting Unusual Occurrences" and KernBHRS Policy # 11.1.1.
2. Morbidity and Mortality: Contractor shall have a written procedure or policy for reviewing cases involving the following events as outlined in KernBHRS Policy #5.1.9: death other than suicide; death by suspected or known suicide; medication errors; and suicide attempts.
 - a. Contractor shall assign a Morbidity and Mortality Reviewing Committee to review Morbidity and Mortality cases and make recommendations to continuously improve quality of care.

- b. Contractor shall review the event within thirty (30) calendar days of the incident or learning of the incident.
 - i.
- c. The incident must be reported on the KernBHRS form “Morbidity and Mortality Summary - Contract Provider” located in KernBHRS Policy #5.1.9.
- d. Contractor shall make initial Morbidity and Mortality report event as specified by Policy 11.1.1, within two (2) business days. Contractor shall complete the “Morbidity and Mortality Summary - Contract Provider” report within two (2) days of report completion not to exceed thirty (30) calendar days from incident and submit to KernBHRS SOC Administrator or designee.
- e. KernBHRS SOC Administrator or designee shall forward the report to the KernBHRS Morbidity/Mortality Subcommittee chair following receipt of report for recording purposes.

H. Treatment Perceptions Survey:

Annually, or as designated by DHCS, Contractor shall collect client perception data for clients served by the programs. The information collected will be used to measure adult and youth clients’ perceptions of access to services and the quality of care. KernBHRS will coordinate the survey process in accordance with the DHCS established survey period dates. Contractor shall have a policy or procedure outlining the process for administering the Treatment Perceptions Survey. The policy or procedure shall include the following:

- 1. Administer survey for every client who physically presents and receives face-to-face services at providers within Kern County’s network during the selected survey period dates. This includes clients receiving services in substance use outpatient, residential, and opioid/narcotic treatment, and detoxification/withdrawal management. The target population also consists of clients served inside the office and outside of the office.

Clients not receiving face-to-face services during the survey period, and clients in crisis (e.g. emergency incidences) are not to be surveyed.
- 2. Follow all survey instructions and procedures when administering the survey and return completed surveys to KernBHRS.

I. Point in Time Survey:

KernBHRS will conduct Point in Time surveys throughout the year with clients selected at random at different points in time during their treatment episode. Surveys will be conducted by KernBHRS staff by phone, telehealth, or in-person. Contractor shall inform clients about these ongoing surveys and encourage participation in the data collection.

J. Program Integrity:

Contractor shall implement and maintain procedures that are designed to detect and prevent fraud, waste, and abuse as specified by 42 CFR Section 438.608. Procedures shall include the following:

1. A compliance program that includes all the minimum requirements specified in 42 CFR Section 438.608 as follows:
 - i. Written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable requirements and standards under the agreement, and all applicable federal and state requirements.
 - ii. Designation of a Compliance Officer who is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of this agreement and who reports directly to the Chief Executive Officer and the Board of Directors.
 - iii. Establishment of a Regulatory Compliance Committee on the Board of Directors and at the senior management level charged with overseeing Contractor's compliance program and its compliance with the requirements under this agreement.
 - iv. A system for training and education for the Compliance Officer, the senior management, and the employees for the federal and state standards and requirements under this agreement.
 - v. Effective lines of communication between the compliance officer and the organization's employees.
 - vi. Enforcement of standards through well-publicized disciplinary guidelines.
 - vii. Establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks; prompt response to compliance issues as they are raised; investigation of potential compliance problems as identified in the course of self-evaluation and audits; correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence; and on-going compliance with the requirements under this agreement.
2. Provision for promptly reporting to KernBHRS and DHCS all overpayments identified or recovered, specifying the overpayments due to fraud.
3. Provision to report to KernBHRS when receiving information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including a change in the beneficiary's residence and/or the death of a beneficiary.
4. Service Verification: Provision for a method to verify, by sampling or other methods, whether services that have been represented to have been delivered by network providers were received by beneficiaries and the application of such verification processes on a regular basis.
5. If Contractor makes or receives annual payments under this agreement of at least \$5,000,000, provision for written policies for all employees of the entity, and of any subcontractor or agent, that provide detailed information about the False Claims

Act and other federal and state laws described in section 1902 (a)(68) of the Act, including information about rights of employees to be protected as whistleblowers.

6. Provision for the prompt referral of any potential fraud, waste, or abuse that Contractor identifies to the Department Medicaid program integrity unit or any potential fraud directly to the State Medicaid Fraud Control Unit.
7. The Fraud, Waste, or Abuse Provision that states KernBHRS reserves the right to suspend payment to any network provider for which DHCS determines there is a credible allegation of fraud in accordance with 42 CFR §455.23.
8. Program Complaints: Procedure including provision that all program complaints received by Contractor regarding a DMC certified facility shall be forwarded to the KernBHRS SUD SOC Administrator or designee and to DHCS as follows:

Submit to Drug Medi-Cal Complaints:

Department of Health Care Services
P.O. Box 997413
Sacramento, CA 95899-7413

Alternatively, call the Hotlines:
Drug Medi-Cal Complaints/Grievances: (800) 896-4042
Drug Medi-Cal Fraud: (800) 822-6222

Complaints for Residential Adult Alcoholism or Drug Abuse Recovery or Treatment Facilities may be made by Contacting:

SUD Compliance Division:

Toll Free Number: (877) 685-8333

The Complaint Form is available and may be submitted online:
<http://www.dhcs.ca.gov/individuals/Pages/Sud-Complaints.aspx>

XII. STAFFING STANDARDS

A. Counselor Certification Requirements

Contractor must have sufficient knowledge of the State of California's regulations concerning counselor certification and LPHA requirements and be able to comply with all aspects of those regulations in the timeframes allowed by law. Programs are responsible for being familiar with updates to regulations and law regarding these requirements. Those regulations supersede the terms of this agreement.

B. Program Staffing and Supervision

Contractor shall employ clinical staff consisting of LPHAs, license-eligible LPHAs, registered Alcohol and Other Drug (AOD) counselors, and/or certified AOD counselors.

1. AOD counseling staff: Contractor shall ensure that all AOD counseling staff members have the necessary credentials and expertise to perform assigned tasks,

in accordance with the following requirements:

- a. A minimum of thirty percent (30%) of the primary alcohol and drug counselors will be certified by a DHCS approved counselor certification agency. LPHA and license-eligible staff are considered certified counselors for the purpose of this ratio.
 - b. One hundred percent (100%) of all non-certified alcohol and drug counselors shall be registered with a DHCS approved counselor certification agency prior to initial date of hire.
 - c. Registered counselors will have completed at a minimum:
 - i. Seventy-five (75) percent of the formal Alcohol and Other Drug (AOD) classroom hours of instruction; or
 - ii. A bachelor's degree from an accredited college or university in behavioral science or related field; and one hundred sixty (160) supervised hours in a counseling setting.
 - d. Registered staff shall have direct supervision by certified staff while counseling clients.
 - e. Certified and Registered AOD counselors will be able to provide individual counseling, group counseling, case management and recovery services.
2. LPHAs include the following: Physician, Nurse Practitioner (NPs), Physician Assistants (PAs), Registered Nurses (RNs), Registered Pharmacists (RPs), Licensed Clinical Psychologists (LCPs), Licensed Clinical Social Workers (LCSWs), Licensed Professional Clinical Counselors (LPCCs), Licensed Marriage and Family Therapists (LMFTs), License-Eligible Practitioners working under the supervision of licensed clinicians. Contractor shall ensure that all LPHA staff members have the necessary credentials and expertise to perform assigned tasks, in accordance with the following requirements:
- a. Licensed by or registered with the appropriate agency.
 - b. License-Eligible practitioners must have supervision by a licensed individual in accordance to applicable regulations.
3. LPHAs, acting within their scope of practice, will be required to conduct intake/assessments, determination of medical necessity, create and update treatment plans, and conduct re-assessments.

C. Personnel Files

Personnel files shall be maintained for each staff member and volunteers/interns and shall adhere to the Minimum Quality Drug Treatment Standards for DMC and/or SAPT, as applicable to Contractor's funding. The file should contain, at a minimum, all of the following:

1. Application for employment and/or resume;
2. Signed employment confirmation statement/duty statement;

3. Job description;
4. Performance evaluations;
5. Health records/status as required by program or Title 9;
6. Training documentation relative to substance use disorders and treatment;
7. Current registration, certification, intern status, or licensure;
8. Proof of continuing education required by licensing or certifying agency and program;
9. Program Code of Conduct and for registered, certified, and licensed staff, a copy of the certifying/licensing body's code of conduct as well; and
10. Other personnel actions;

D. Staff Competencies

1. Contractor understands that most individuals in substance use disorder treatment may have a current or past co-occurring mental health condition. Contractor shall require staff to obtain training on co-occurring psychiatric disorders in an effort to continuously improve the quality of services that are provided within each program. Training topics may include review of specific disorders, evidence-based practices, and treatment approaches that include medications.
2. Contractor staff shall show competence in co-occurring disorders by completing training. This requirement is fulfilled by completing at a minimum two (2) credit hours of Co-Occurring Psychiatric Disorder training on Relias within the first twelve months of hire or upon execution of this agreement. A list of approved courses is listed within the *KernBHRS SUD Division Contractor Training Requirements Guide*.
3. Contractor must ensure that treatment for co-occurring psychiatric conditions is addressed during the course of SUD treatment, and that staff encourage clients to follow through with services with other treatment providers including therapy, psychiatric evaluations, psychiatric medication management, lab work, etc.

XIII. MEETING REQUIREMENTS

- A. Contractor agrees to have staff and administrative representation at regular provider meetings including, but not limited to, the County's Chief Executive Officer meeting, the Quarterly Quality Improvement Division SUD meeting, and SUD Treatment Provider meetings.

XIV. TRAINING REQUIREMENTS

- A. Contractor shall have staff representation at County-offered training sessions that are applicable to the services performed in this agreement and/or Contractor may participate in an in-house training approved by the Board of Behavioral Sciences.
- ~~B.~~ ASAM Criteria Training: All direct service staff shall be trained in ASAM Criteria Training prior to delivering SUD treatment services. Direct service staff are required to complete at minimum one of the following:
 - a. Two e-Training modules entitled "ASAM Multidimensional Assessment" and "From Assessment to Service Planning and Level of Care".
 - b. A KernBHRS approved ASAM Criteria Training.

A module entitled "Introduction to the ASAM Criteria" is recommended for all direct service staff.

- C.** Evidence Based Practices (EBP's): Contractor shall, for all modalities of treatment contracted to provide, incorporate Evidence Based Practices. County approved EBP's include the following: Motivational Interviewing, Cognitive-Behavioral Therapy, Relapse Prevention, Trauma-Informed Treatment, and Psycho-Education. Credit for courses other than those aforementioned shall not be given unless course is approved by KernBHRS.
1. Select two (2) evidence-based practices (EBPs) for each contracted modality of treatment; and
 2. Ensure that direct service staff are trained in two (2) EBPs for each modality of treatment for which they provide direct services. Staff training requirements are as follows:
 - i. At a minimum, a six (6) continuing education credits/contact hours (CEs/CHEs) course per modality of treatment is required within the first 12 months of hire; and
 - ii. Two Relias courses per modality of treatment provided are required annually thereafter. The staff hire date demarcates annual increments.
- D.** Addiction Medicine Continuing Education: All LPHA (including both doctors and therapists) staff shall receive a minimum of five (5) hours of continuing education related to addiction medicine each year.
- E.** Drug Medi-Cal Organized Delivery System (DMC-ODS)/Title 22 Training: Direct service staff shall be trained annually on the DMC-ODS/Title 22 Requirements Training. Staff are required to complete a two (2) hour live training facilitated by KernBHRS or a compatible training pre-approved by KernBHRS.
- F.** Contractor shall maintain training documentation for all training requirements contained in this agreement and as specified in the *KernBHRS SUD Division Contractor Training Requirements Guide* for staff as follows (unless otherwise noted in this agreement):
1. File in the staff's personnel file, within seven (7) days, verification of all completed training required by this agreement. Verification documentation of training shall include name of course, source of training, CEs/CEHs earned, and completion date.
 2. Trainings completed in Relias, or through a KernBHRS facilitated event may be verified with a Relias course transcript document.
 3. Trainings completed through sources other than Relias or KernBHRS may be verified with a certificate of completion placed in the staff's personnel file and emailed to the SUD Provider Liaison Team at: SUDLiaison@KernBHRS.org
- G.** Contractor is subject to disciplinary action for non-compliance with training standards until Contractor is back in compliance.
- Contractor shall write a Corrective Action Plan (CAP) for each staff failing to maintain compliance with training requirements. That CAP shall be written as specified by KernBHRS.

XV. OTHER RESIDENTIAL GENERAL REQUIREMENTS

A. General Requirements

1. Contractor shall strictly adhere to and follow all CCR Title 9 Regulations regarding the operations of drug and alcohol residential treatment facilities and the Youth Treatment Guidelines.

B. Admission Criteria

1. Contractor shall complete with each resident a signed and dated inventory of the resident's clothing, personal property, and give one (1) copy to the resident, while retaining one (1) copy for the case record. This inventory is to be updated as necessary.
2. Contractor shall have written program rules with which clients are expected to comply.
3. Contractor shall provide all clients an orientation to the program that includes an explanation of the program's services, client rights, rules, and performance expectations.
4. Contractor shall collect documentation from each client of a tuberculosis screening obtained no sooner than six (6) months prior to admission and no later than thirty (30) days after admission.
5. If the client is determined to be unsuitable for this level of care, the Contractor shall arrange for a referral to the Gateway Team who will determine the appropriate course of action.

C. Staffing

1. Staffing levels shall be based on a resident-to-counselor ratio of one (1) staff member to every ten (10) residents.
2. Staffing shall be dependent on the time of day and intensity of recovery or treatment services provided.
3. Additional staffing requirements are contained in Paragraph XII, Staffing Standards within this agreement.

D. Facility Services

1. No more than five percent (5%) of the facility may be used for individuals other than residents, children of residents, or staff.
2. A toilet, washbasin, and shower or bathtub shall be available for each six (6) persons residing at the facility.
3. Each resident shall be provided three (3) meals per day.
4. A daily service schedule shall be available to residents.

5. Contractor shall ensure the following community living components are available:
 - a. A daily schedule of activities;
 - b. Regular meetings between the clients and the program personnel, addressing matters of program operations, problems, plans and the use of program resources;
 - c. A safe, clean, and secure physical plant, in good repair;
 - d. Opportunities to participate in activities that would be found in a home setting, including activities such as the preparation of food and the performance of routine household duties;
 - e. Adequate personal space for privacy;
 - f. Security of residents' property;
 - g. A home-like and comfortable setting;
 - h. Evidence of individual possessions and decorations;
 - i. Daily access to adequate nutritious meals and snacks;
 - j. Access to medical, dental, mental health, and pharmaceutical services; and
 - k. Separate sleeping areas in accordance with the genders, ages, and needs of the persons served.

XIX. OTHER REPORTING REQUIREMENTS

- A. Quarterly Provider Report: Contractor is required to send a Quarterly Provider Report to the SUD Administrator or designee. Report is due the 7th calendar day proceeding each month the Contractor serves a Kern beneficiary. The report shall be submitted electronically using the provided KernBHRS template. Information must be accurate and valid and include updates to the following:

1. Agency name
2. Legal business status
3. Corporate Address
4. Service site address
5. Contractor's signature power
6. Program Leads
7. Service days or hours
8. Unusual Occurrences Summary
9. Morbidity and Mortality Summary
10. Attestation of monthly checks of exclusion lists
11. Staff roster
12. Staff required training

- B. Monthly Medi-Cal Provider Directory and Network Adequacy Updates

Contractor is required to send a monthly submission to the SUD SOC Administrator or designee. The report is due by the seventh (7th) calendar day of each month for the previous reporting month. The report shall be submitted electronically using the provided KernBHRS template. Information will be accurate and valid. The report will include updates to the following:

- i. For each Contractor staff member:
 - a. Modality served
 - b. Provider type
 - c. Registration, certification, licensure and waiver numbers

- d. Registration, certification, licensure, and waiver entity information
 - e. Age groups served
 - f. Full-time equivalent
 - g. Language capacity
 - h. Maximum caseload
 - i. Assigned caseload
 - j. Cultural competence training
 - k. Providing mobile services
 - l. Radius of mobile services provided
- ii. For each Contractor site:
- a. Organization Provider name
 - b. NPI number – Type 2
 - c. Tax ID
 - d. DEA Number
 - e. DMC Certification Number
 - f. Provider Group Name/Affiliation
 - g. Organizational Provider Address
 - h. Ownership Type
 - i. Name of CEO/CFO
 - j. Telephone number
 - k. Business hours
 - l. Specialty
 - m. Accreditation and any accreditation reviews
 - n. Website URL
 - o. Cultural and linguistic capabilities, including languages (including American Sign Language) offered by the provider or a skilled medical interpreter at the provider’s office, and whether the provider has completed cultural competence training; and
 - p. Accommodations for people with physical disabilities, including offices, exam room(s) and equipment.

C. Monthly Suspense Corrections Report: Contractor shall receive a monthly Suspense Corrections Report from KernBHRS. Contractor must adhere to the KernBHRS specified timelines to complete the corrections.

D. Monthly CalOMS Corrections Report: Contractor shall receive a monthly CalOMS Corrections Report from KernBHRS. Contractor shall adhere to the KernBHRS specified timelines to complete the corrections.

E. Monthly Level of Care Report: Contractor shall report monthly cumulative data including all level of care information collected through an ASAM based assessment. Data shall include all elements described in MHSUDS Information Notice 17-035.

F. Contractor shall notify the KernBHRS SOC Administrator and QID designee of any external agency audit, review, or other utilization review immediately and no later than two (2) business days of notification. Results from external agency audits, reviews, or other utilization reviews must also be forwarded to KernBHRS SOC Administrator and QID designee within two (2) business days of review. Correction Plans for DHCS Post Service Post Payment (PSPP) reviews and Drug Medi-Cal Reviews must be submitted to KernBHRS for review and submission to DHCS.

XX. OUTCOME MEASURES

A. Contractor shall provide data as requested by County in order to verify Contractor is meeting the identified outcome measures. An Admission Outcome and Discharge Outcome form shall be completed in the EHR for a minimum of 75% of all standard discharged clients for data to be considered valid. Contractor agrees to submit complete and accurate data. A Corrective Action Plan will be issued at the discretion of KernBHRS for excessive data entry errors.

1. **ASAM Levels of Care: 3.1-Clinically Managed Low-Intensity Residential, 3.5-Clinically Managed High-Intensity Residential:** A minimum of fifty percent (50%) of all clients who discharge from this level of treatment services will be able to:
 - a. Demonstrate an understanding of factors that have contributed to his or her drug and/or alcohol use;
 - b. Demonstrate the ability to deal with daily stressors without the use of drugs and/or alcohol;
 - c. Engage and participate in fulfilling activities that support recovery; and
 - d. Commit to abstinence.
 - e. Recognize and articulate negative consequences of his/her use of drugs and/or alcohol.

Outcome will be evidenced by pre and post-tests and drug testing. Data will be submitted to KernBHRS' Substance Use Disorder System of Care through the Cerner electronic health record.

2. **ASAM Levels of Care: 3.1-Clinically Managed Low-Intensity Residential, 3.5- Clinically Managed High-Intensity Residential:** A minimum of fifty percent (50%) of all clients who discharge this level of treatment services will be able to recognize and articulate negative consequences of his or her use of drugs and/or alcohol and will have progressed along the "stages of change" continuum, (i.e., from "pre-contemplation" to "contemplation" or "action").

Outcome will be evidenced by data collected from pre and post treatment tests. Data will be submitted to KernBHRS' SUD SOC through the Cerner electronic health record.

3. **ASAM Levels of Care: 3.1-Clinically Managed Low-Intensity Residential, 3.5-Clinically Managed High-Intensity Residential:** A minimum of thirty percent (30%) of treatment clients will successfully discharge from treatment. This will be evidenced by contractor reports provided to KernBHRS' Substance Use Disorder System of Care through the Cerner electronic health record including CalOMS standard discharge codes 1, 2, and 3.

4. **ASAM Levels of Care: 3.1-Clinically Managed Low-Intensity Residential, 3.5-Clinically Managed High-Intensity Residential:** A minimum of fifty percent (50%) of all clients will report a willingness to participate in an outpatient treatment program, upon discharge from the residential treatment level of service.

Outcome will be evidenced by data collected from post treatment tests. Data will be submitted to KernBHRS' Substance Use Disorder System of Care through the Cerner electronic health record.

B. Contractor understands that contracted services are subject to statewide evaluation of the DMC-ODS Waiver, in which Kern county will participate. Evaluation will center around

areas of 1) Access, 2) Quality, 3) Cost, and 4) Coordination. Contractors will ensure that staff provide accurate information in the following areas in order to facilitate this process:

1. Initial appointments and timelines into services
2. CalOMS data for admission, discharge, and annual updates
3. DATARs
4. Availability to provide services in languages other than English
5. ASAM placement and assessment data
6. Information on transitions between levels of care
7. Utilization of evidence-based practices
8. Grievances
9. Survey data

Contractor will be informed of additional survey data to be collected, including the Treatment Perceptions Survey for adults and youth. Contractor shall facilitate the process for clients completing these surveys as outlined in Paragraph XI.H.

[The remainder of this page is intentionally left blank.]

TARZANA TREATMENT CENTERS, INC.

EXHIBIT B

ADDITIONAL ADMINISTRATIVE AND ETHICAL REQUIREMENTS

Contractor shall provide to County:

1. **Mission:** Contractor's mission statement and related policies indicating Contractor's dedication to the same or similar mission as Kern Behavioral Health and Recovery Services. The statement or policies shall include a requirement that employees will be trained in and expected to uphold a code of ethical conduct.
2. **Oversight:** Proof that the organization has a Board of Directors that conforms to the requirements set forth in the organization's Articles of Incorporation. The Board of Directors shall be responsible for the actions of the organization and able to demonstrate due diligence in the following areas.
3. **Insurance:** Certificates of adequate and appropriate insurance as required in the paragraph of this agreement entitled "INSURANCE." A written description of the Board of Directors accountability process assuring Contractor maintains proper and adequate insurance.
4. **Statutory Responsibilities:** Documentation delineating Contractor's plan to monitor the following statutory responsibilities:
 - A. Ensuring that all labor laws relating to individuals and employers are obeyed.
 - B. Adherence to labor standards, human rights, and occupational health and safety regulations.
 - C. Commitment to an anti-drug work environment.
 - D. Enforcement of non-smoking regulations.
 - E. Ensuring that all computer software copyright laws are enforced.
 - F. Complying with laws related to fundraising practices and the maintenance of non-profit status, including, but not limited to, those required by Internal Revenue Service and the Franchise Tax Board.
5. **Fiscal:** Written documentation in the form of plans, policies and/or statements outlining and demonstrating their strategies to accomplish the following fiscal responsibilities:
 - A. Developing a financial budget and monitoring financial performance.
 - B. Avoiding a deficit and meeting the requirement of the paragraph entitled "FINANCIAL SOLVENCY" of this agreement.

- C. Ensuring the collection and remittance of required employee payroll deductions.
 - D. Ensuring that expenditures reflect the appropriate use of funds and are appropriately authorized.
 - E. Demonstrating compliance with all applicable CFR circulars.
 - F. Ensuring that no board member holds a financial interest in or receives financial benefit from the organization.
 - G. Maintaining accurate and appropriate financial records.
6. **Standards of Care:** A current copy of their standards of care and related policies that outline measures taken to ensure that standards are followed and staff is trained in the concepts therein. Standards shall clearly state the following:
- A. The range of programs.
 - B. Services provided.
 - C. How quality and outcomes are measured and tracked.
7. **Contracts:** A statement or plan proving their awareness of organizational obligations regarding contracts, including the requirements and consequences for failure to meet funding source obligations, and a plan for monitoring the organization's compliance with contractual obligations.
8. **Conflict of Interest:** Policies showing the requirement for all employees, including members of the Board of Directors, and corporate officers, to adhere to each of the standards related to conflict of interest as is applicable to governing boards, officers, and employees of public entities.
9. **By-Laws:** By-laws and policies that incorporate and set the courses of action for the following practices:
- A. Financial management.
 - B. Human resources.
 - C. Personnel safety.
 - D. Client care.
10. **Monitoring:** A monitoring plan indicating that the Board of Directors is responsible for completing the following:
- A. Reviews of financial statements (monthly or quarterly).
 - B. Initiation of an audit of financial transactions (annually).
 - C. Review of all reports on activities (e.g. monthly executive director's report).

D. Monitoring the implementation of key policies (e.g. part of the annual evaluation for the executive director).

11. **Accreditation:** In lieu of the above, Contractor shall provide to County documentation of accreditation from a County-recognized accreditation body, including but not limited, to CARF or the Joint Commission on Accreditation of Healthcare Organizations. Such accreditation warrants, and County concurs, that Contractor meets the requirements set forth in this Exhibit, provided that Contractor continuously maintains valid accreditation during the term of this agreement. Contractor shall notify County within twenty-four (24) hours of any change in the status of its accreditation. Contractor agrees that County may ask for, and Contractor shall provide, information with regard to the items listed above.

[The remainder of this page is intentionally left blank.]

TARZANA TREATMENT CENTERS, INC.

EXHIBIT C – FUNDING SCHEDULE

through June 30, 2021

(Residential Services)

BUDGET UNIT 4120	FFP	2011 REALIGNMENT	TOTAL FUNDING
Residential Services	Allowable	Allowable	\$220,203
Maximum Reimbursement			\$220,203

Physical Service Site: 44447 N. 10th St. West, Bldg B. Lancaster, CA 93534
 44447 N. 10th St. West, Bldg C. Lancaster, CA 93534
 18646 Oxnard St., Tarzana, CA 91356

Cerner Community Behavioral Health Computer System Numbers

ASAM Level	Unit Number	Sub-Unit Number	Sub-unit Description
3.3	5330	TBD	TBD
3.5	2935	TBD	TBD
3.2 WM	5432	TBD	TBD

TARZANA TREATMENT CENTERS, INC.

EXHIBIT D – COST GUIDELINES

1. Unless specified otherwise in this agreement, Contractor must follow the cost principles and guidelines set forth in 2 CFR Parts 215, 220, 225, 230 and 48 CFR 31.2 as applicable to Contractor's organization type.
2. Only those costs that are reasonable and that provide a direct or indirect benefit to the County programs under this agreement will be allowable.
3. Contractor must maintain complete, detailed, and original supporting documentation for all costs. Examples of original documentation are original invoices, time cards, written lease agreements, and bank statements. Such documentation must be made readily available to County personnel for review purposes after County provides reasonable notice to Contractor. All costs that are not supported by original documentation or that are not made readily available for review by County shall be disallowed.
4. All personnel, including contracted personnel costs, such as salaries and fringe benefits, must be supported by individual detailed time records, which indicate time charged to County programs. All time records must show evidence of having been reviewed and approved by a supervisor. Time records of therapists, counselors, etc., shall also be based upon client logs or other such information that can verify time charged to County programs.
5. In no instance shall costs be allocated to County programs based upon revenue or the funding in Exhibit C of this agreement. Such reported costs will be unacceptable and disallowed.
6. All allocations of indirect, administrative, or overhead costs must be based upon the following: cost; salaries and benefits; full-time equivalent employees; square footage; or some other base. Contractor shall allocate costs using the most reasonable base that provides the highest-level relationship of cost versus benefit. Costs allocated using revenue or contract funding amounts as an allocation basis will be disallowed. If the agreement has cost reimbursement services and services paid at a rate, the cost shall be equitably distributed between the programs.
7. No indirect, administrative, or overhead costs allocated to County programs under this agreement will be allowed if such costs provide no benefit to those programs. An example of such a disallowed cost would be the travel costs of Contractor's employees in relation to a non-County program. Such a cost would be a direct cost to the non-County program and should not be included in any allocation of indirect or administrative costs. Another example of unallowable costs would be personal expenses, benefits, gifts or other forms of compensation, which are not documented as being part of an employee's total compensation. Such costs shall not be allocated or directly charged to County programs.
8. Costs passed through from parent or affiliated organizations and charged to County programs will be allowed only to the extent that Contractor can provide documentation that such costs are reasonable and benefited County programs.

9. Duplicate costs charged to County programs will be disallowed.
10. Costs for meals, travel, and meetings must be consistent with those normally allowed by the organization in its regular operations and shall not exceed the established federal per diem levels. In the absence of an established organizational policy instituting meal per diem values, original receipts/invoices shall be required. Written descriptions as to purpose and in the cases of meals/meetings, names of participating individuals shall be provided in all instances.
11. The Department will be conducting specific monitoring activities to obtain information about the indirect cost Contractor is assigning to County programs. These reviews will be conducted throughout the agreement term and may include on-site visits to review documentation supporting indirect cost allocations and may include requests for reports detailing the specifics used to allocate indirect costs. It is expected the approach used by Contractor to allocate indirect costs will meet appropriate federal CFR guidelines. Any indirect cost deemed to not meet applicable CFR or this exhibit's Cost Guidelines will be disallowed.
12. County shall reimburse Contractor for the Chief Executive Officer's (or other such title) salary, benefits, and perquisites no more than the amount stated in the GuideStar Nonprofit Compensation Report for California Organizations, median range, based on budget size or actual total compensation costs, whichever is lower. Costs shall include both direct and indirect and total compensation costs and must be based on the lower of actual total compensation or the compensation limit set forth in GuideStar.
13. For purposes of determining the GuideStar limitation, Contractor's budget shall be its adopted operating budget, which must closely correlate with actual operating expenses. Capital acquisitions are not considered to be part of Contractor's operating budget. The version of GuideStar applicable is the latest version published on the execution date of this agreement.
14. County shall not provide reimbursement for any portion of the Chief Executive Officer's (or other such title) compensation costs charged to a program in excess of that which is determined reimbursable in accordance with subparagraph 12, or any other limitation set forth by applicable state and federal agencies.
15. Contractor shall provide County with the total compensation expected to be paid to the Chief Executive Officer (or other such title) over the term of agreement. If the term of agreement covers more than one operating cycle for Contractor, the report on total compensation shall identify the expected total compensation for that portion of each operating cycle that will be allocated against county programs. Contractor shall provide the above information: (1) Within sixty (60) days of execution of agreement; and (2) during the last month of the term of agreement. It is County's expectation that each report will include actual data to the extent possible.
16. Contractor shall provide County with its adopted operating budget for this agreement within sixty (60) days of execution of the agreement. If the term of agreement covers more than one operating cycle for Contractor, Contractor shall provide County with its adopted operating budget for each separate operating cycle within thirty (30) days of execution of the agreement or within thirty (30) days of adoption of each separate operating budget, whichever is later.

17. The form and content of the adopted operating budget provided to County shall be that which is normally provided to Contractor's Board of Directors, Chief Executive Officer, Chief Financial Officer, Owner, Partner, or other such governing authority.

[The remainder of this page is intentionally left blank.]

TARZANA TREATMENT CENTERS, INC.

EXHIBIT E

BUSINESS ASSOCIATE ADDENDUM

THIS BUSINESS ASSOCIATE ADDENDUM (“Addendum”) supplements and is made a part of the agreement (“agreement”) by and between the County of Kern (“Covered Entity” or “CE”) and Tarzana Treatment Centers, Inc. (“Business Associate” or “BA”). This Addendum is effective as of date first written above (the “Addendum Effective Date”).

RECITALS:

- A.** CE wishes to disclose certain information to BA pursuant to the terms of the agreement, some of which may constitute Protected Health Information (“PHI”), Personal Information (“PI”), or Personally Identifiable Information (“PII”) (defined below). For the purpose of this Exhibit, PHI, PI, and PII all refer to confidential information that must be protected.
- B.** CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.
- C.** As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) 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(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations (“CFR”) and contained in this Addendum.
- D.** In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. DEFINITIONS

A. Catch-All Definition

The following terms used in this agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

B. Specific Definitions

- 1. Business Associate.** “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Tarzana Treatment Centers, Inc.

2. **Covered Entity.** “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the County of Kern.
3. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 USC Section 17921.
4. **HIPAA Rules.** “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
5. **Personal Information (PI)** shall mean information that identifies or describes an individual, including, but not limited to, name, social security number, physical description, address, telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.
6. **Personally Identifiable Information (PII)** means any information about an individual which can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, and biometric records. This information can be in paper or electronic files and includes, but is not limited to, education records, financial transactions, employment history, criminal records, and medical files.
7. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Parts 160 and 164, Subparts A and E.
8. **Protected Health Information (PHI)** means individually identifiable health information that is transmitted or maintained in any form or medium, created or received by a health care provider or health plan, that relates to past, present, and future physical or mental health condition of an individual; provisions of healthcare to an individual; or past, present, and future payment for the provision of healthcare to an individual. Health information that is considered subject to the regulations contained in the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) includes: name, date of birth, telephone number, names of relatives, names of employers, photographic images, facsimile number, medical record number, finger or voice prints, certificate/license number, social security number, internet (IP) address, web URL, e-mail address, and any device or serial number. “Protected Health Information” includes electronic protected health information.

2. PERMITTED USES AND DISCLOSURES

- A. BA may only use or disclose PHI, PI, or PII as necessary to perform the services set forth in the attached agreement.
- B. BA may use or disclose PHI, PI, or PII as required by law.
- C. BA agrees to make uses and disclosures and requests for PHI, PI, or PII consistent with CE’s minimum necessary policies and procedures.

- D. BA may not use or disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by CE except for the specific uses and disclosures set forth below.
- E. BA may use PHI, PI, or PII for the proper management and administration of BA or to carry out the legal responsibilities of BA.
- F. BA may disclose PHI, PI, or PII for the proper management and administration of BA or to carry out the legal responsibilities of BA, provided the disclosures are required by law, or BA obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies BA of any instances of which it is aware in which the confidentiality of the information has been breached.
- G. BA may provide data aggregation services relating to the health care operations of CE.

3. **OBLIGATIONS AND ACTIVITIES OF BA**

BA agrees to:

- A. Use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided for by the agreement;
- B. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of BA agree to the same restrictions, conditions, and requirements that apply to BA with respect to such information;
- C. Make available PHI in a designated record set to CE as necessary to satisfy CE's obligations under 45 CFR 164.524;
- D. Make any amendment(s) to PHI in a designated record set as directed or agreed to by CE pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy CE's obligations under 45 CFR 164.526;
- E. Maintain and make available the information required to provide an accounting of disclosures to CE as necessary to satisfy CE's obligations under 45 CFR 164.528;
- F. Provide beneficiaries with the Notice of Privacy Practices, in accordance with 45 CFR 164.520 and KernBHRS Policy 10.1.21;

- G.** To the extent BA is to carry out one or more of CE's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to CE in the performance of such obligation(s);
 - H.** Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.
 - I.** Report to CE any use or disclosure of PHI, PI, or PII not provided for by the agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any security incident of which it becomes aware, without unreasonable delay, and in no case later than two (2) calendar days after discovery [42 USC Section 17921; 45 CFR Section 164.504(e)(2)(ii)(C); 45 CFR Section 164.308(b)].
- 4.** BA's Agents. BA shall ensure that any agents, including subcontractors, to whom it provides PHI, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by Paragraph A above with respect to Electronic PHI [45 CFR Section 164.504(e)(2)(ii)(D); 45 CFR Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 CFR Sections 164.530(f) and 164.530(e)(1)).
 - 5.** Amendment of PHI. If applicable, within ten (10) days of receipt of a request from CE for an amendment of PHI or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such PHI available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.526. If any individual requests an amendment of PHI directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of PHI maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 CFR Section 164.504(e)(2)(ii)(F)].
 - 6.** Accounting Rights. Within ten (10) days of notice by CE of a request for an accounting of disclosures of PHI, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.528, and the HITECH Act, including but not limited to 42 USC Section 17935(c), as determined by 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 for all disclosures made without written consent. However, accounting of disclosures from an Electronic Health Record for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years

prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. 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. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any PHI except as set forth in this Addendum [45 CFR Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this agreement.

7. **Governmental Access to Records.** BA shall make its internal practices, books, and records relating to the use and disclosure of PHI available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 CFR Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any PHI that BA provides to the Secretary concurrently with providing such PHI to the Secretary.
8. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the PHI.
9. BA shall report to covered entity any use or disclosure of PHI not provided for by the agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, 45 CFR Section 164.504(e)(2)(ii)(C) and 45 CFR Section 164.308(b).
10. **Notification of Breach.** During the term of the agreement, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI, PI, or PII of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations (including conducting a "risk of compromise" assessment and/or appropriate patient notification under applicable state and/or federal law). For specific instruction on breach notification, see Exhibit L, "Privacy and Information Security Provisions."
11. **Breach Pattern or Practice by CE.** Pursuant to 42 USC Section 17934(b), if BA knows of a pattern of activity or practice of CE that constitutes a material breach or violation of the CE's obligations under the agreement or Addendum or other arrangement, BA must take reasonable steps to cure the breach or end the violation. If the steps are

unsuccessful, BA must terminate the agreement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of CE that BA believes constitutes a material breach or violation of CE's obligations under the agreement or Addendum or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

12. Audits, Inspection, and Enforcement. Within ten (10) days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, information systems, agreements, policies, and procedures relating to the use or disclosure of PHI, PI, or PII pursuant to this Addendum for the purpose of determining whether BA has complied with this Addendum; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing, and location of such an inspection; (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection; and (iii) CE shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by BA. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies, and procedures does not relieve BA of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the agreement or Addendum. BA shall notify CE within ten (10) days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office of Civil Rights.

13. PROVISIONS FOR CE TO INFORM BA OF PRIVACY PRACTICES AND RESTRICTIONS

- A.** CE shall notify BA of any limitation(s) in the notice of privacy practices of CE under 45 CFR 164.520, to the extent that such limitation(s) may affect BA's use or disclosure of PHI.
- B.** CE shall notify BA of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect BA's use or disclosure of PHI.
- C.** CE shall notify BA of any restriction on the use or disclosure of PHI that CE has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect BA's use or disclosure of PHI.

14. TERMINATION

- A. Material Breach.** A breach by BA of any provision of this Addendum, as determined by CE, shall constitute a material breach of the agreement and shall provide grounds for immediate termination of the agreement, any provision in the agreement to the contrary notwithstanding. [45 CFR Section 164.504(e)(2)(iii)].
- B. Judicial or Administrative Proceedings.** CE may terminate the agreement, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations, or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations, or other security or privacy laws is made in any administrative or civil proceeding in which BA has been joined.
- C. Obligations of BA Upon Termination.** Upon termination of this agreement for any reason, BA, with respect to PHI, PI, or PII received from CE, or created, maintained, or received by BA on behalf of CE, shall:
1. Retain only that PHI, PI, or PII which is necessary for BA to continue its proper management and administration or to carry out its legal responsibilities;
 2. Return to CE the remaining PHI, PI, or PII that the BA still maintains in any form;
 3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as BA retains the PHI;
 4. Not use or disclose the PHI, PI, or PII retained by BA other than for the purposes for which such PHI, PI, or PII was retained and subject to the same conditions set out in this agreement above which applied prior to termination; and
 5. Return to CE or, if agreed to by CE, destroy the PHI, PI, and PII retained by BA when it is no longer needed by BA for its proper management and administration or to carry out its legal responsibilities.

15. INDEMNIFICATION

BA agrees to indemnify, defend, and hold harmless CE and CE's agents, board members, elected and appointed officials and officers, employees, volunteers, and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs, and expenses (including, but not limited to, reasonable attorneys' fees of County Counsel and counsel retained by CE, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any negligent act or omission of BA or BA's officers, agents, employees, independent BAs, subcontractor of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include injury or death to any person or persons; damage to any property, regardless of where located, including the property of CE; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this agreement on behalf of BA by any person or entity.

16. DISCLAIMER

CE makes no warranty or representation that compliance by BA with this Addendum, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

17. CERTIFICATION

To the extent that CE determines that such examination is necessary to comply with CE's legal obligations pursuant to HIPAA relating to certification of its security practices, CE or its authorized agents or contractors, may, at CE's expense, examine BA's facilities, systems, procedures, and records as may be necessary for such agents or contractors to certify to CE the extent to which BA's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations, or this Addendum.

18. AMENDMENT

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the agreement or Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all PHI. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other applicable laws. CE may terminate the agreement upon thirty (30) days' written notice in the event (i) BA does not promptly enter into negotiations to amend the agreement or Addendum when requested by CE pursuant to this Section or (ii) BA does not enter into an amendment to the agreement or Addendum providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

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 or Addendum, 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.

20. NO THIRD-PARTY BENEFICIARIES

Nothing expressed or implied in the agreement or Addendum 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.

21. EFFECT ON AGREEMENT

Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the agreement shall remain in force and effect.

22. INTERPRETATION

The provisions of this Addendum shall prevail over any provisions in the agreement that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule, and the Security Rule. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule, and the Security Rule.

[The remainder of this page is intentionally left blank.]

TARZANA TREATMENT CENTERS, INC.

EXHIBIT F

DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT

The federal regulations set forth in 42 CFR 455.101, 455.104, 455.105, 455.106, and 455.434 require providers who are entering into or renewing a provider agreement to disclose to the U.S. Department of Health and Human Services, the state Medicaid agency, and to Managed Care Organizations that contract with the state Medicaid Agency: 1) the identity of all owners with a control interest of **5% or greater**, 2) certain business transactions as described in 42 CFR 455.105 and 3) the identity of any excluded individual or entity with an ownership or control interest in the provider, the provider group, or disclosing entity or who is an agent or managing employee of the provider group or entity or who is an agent or managing employee of the provider entity and 4) arrange for fingerprint clearance for criminal background checks and submit proof of clearance along with Disclosure of Ownership and Control Interest Statement documentation. Any changes in ownership during the contract year will require all documentation to be updated. **Please attach a separate sheet if necessary.**

Provider Entity Information

Circle the Type of disclosing entity: <input type="checkbox"/> Individual Member of a Group or Sole Proprietor <div style="text-align: center;"> <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability </div>					
Legal Name of individual or entity (" Provider Entity "):					
DBA Name:					
Group Name:					
Primary/Main Office Address:					
Mailing Address (if different from above)					
Practice Address 1:					
Practice Address 2:					
Federal Tax Identification #:					
Medicaid ID#:					
National Provider ID (NPI) #:					
Provider CAQH #:					
Are there any individuals or organizations with an Ownership or Control Interest of 5% or more in the					
Name/Title	DOB	Address	Address	SSN (if listing an individual) TIN (if listing an entity)	% Interest

***If applicable, add the group, provider or health care professional name and EIN when the Provider Entity is part of a group practice, attach a separate sheet if necessary.**

Disclosure of Ownership and Control Interest Statement

Page 2 of 3

Section I

Are there any individuals or organizations with an Ownership or Control Interest of 5% or more in the Provider Entity?

Yes

No

List the **name, title, address, date of birth (DOB)** and **Social Security Number (SSN)** for **all individuals** having an ownership or control interest in the Provider Entity of 5% or greater. This Should match those listed in the organizational chart. For Owners list the percentage of ownership. Attach additional pages if needed to **identify all parties** with ownership or control interest.

List the name, Tax Identification Number (TIN), business address of each organization, corporation, or entity having an ownership of corporation, or entity having an Ownership or Control Interest of **5% or greater**. (42 CFR 455.104 (b) (1) (ii))

Section II

Are any of the individuals listed in Section I above related to each other? Yes No

If yes, list the individuals identified and the relationship to each other (spouse, sibling, parent, child).

Are any individuals listed in Section I above related to any individuals with an ownership or control interest in any of the subcontractors listed in Section III below? Yes No

If yes, list their name and relationship. (42 CFR.455.104 (b) (2))

Name of Individual	Relationship

Section III

Does the Provider Entity have a Direct or Indirect Ownership Interest in any Subcontractor 5% or more that another individual or organization also has an Ownership or Controlling Interest? Yes No

If yes, list the following information for each person with an Ownership or controlling Interest in any Subcontractor in which the Provider Entity has Direct or Indirect Ownership of 5% or more. (42 CFR 455.104)

Name/Title	Address	DOB	SSN or TIN	% Interest

Section IV

Has any person who has an ownership or control interest in the provider entity, or is an agent or managing employee of the Provider Entity ever been convicted of a crime related to that person's involvement in any program under Medicaid, Medicare or Title XX program? Yes No (verify through HHS-OIG List of Excluded individuals/Entities (LEIE), General Services Administration (GSA) Excluded Parties List (EPLS), the Medicare Exclusion Database (the MED) databases and any State specific database.)

Any person who has a 5% or more direct or indirect interest must also submit fingerprints and a background check.

If yes, please list those persons below. (42 CFR 455.106)

Name/Title	DOB	Address	SSN (if listing an individual) TIN (if listing an entity)

Section V

Business Transactions: Has the provider Entity had any business transactions with Subcontractors or Wholly Owned Supplier totaling more than \$25,000 or 5% or operating expenses in the previous twelve (12) month period?
 Yes No

If yes, list the ownership of Subcontractor with whom the Provider Entity **has had a business transactions total more than \$25,000** during the previous twelve 12-month period; **and any Significant Business Transaction between this provider and any wholly owned supplier** exceeding the lesser of \$25,000 or 5% operating expense, during the past 5-year period. This information must be provided within 35 days of request. Attach a separate sheet if necessary.

Name of supplier/ Subcontractor	Address	Owner

Section VI

Managing Employees: Does the Provider Entity have any Managing Employees?
 Yes No

If yes, for Disclosing Entities, list each member of the Board of Directors, Governing Board, and Managing Employees (general manager, business manager, administrator or director), including the name, date of birth (DOB), Address, Social Security Number (SSN), and percent of interest.

Name/Title	DOB	Address	SSN (if listing an individual)	% Interest

I certify that the information provided herein, is true, accurate and complete.

Any person who has a 5% or more direct or indirect interest must also submit fingerprints and a background check results with the Disclosure of Ownership form.

Additions or revisions to the information above will be submitted immediately upon revision. Additionally, I understand that misleading, inaccurate, or incomplete data may result in a denial of participation.

Individuals and Sole Proprietors must sign their own form. An authorized representative may sign for Partnership, Corporation, LLC or Other disclosing entities.

Signature

Title (or indicate if authorized Agent)

Name (please print)

Date

TARZANA TREATMENT CENTERS, INC.

EXHIBIT G

TELE-HEALTH AND REMOTE ACCESS ATTESTATIONS

All contracted agencies wishing to utilize Tele-Health technology and/or remote computer access from a location that is not identified as part of the agreement between County of Kern and said agency, or a location that is not under the direct control of Contractor must execute and return this Attestation to Kern County Behavioral Health and Recovery Services.

Instructions:

- A. When Contractor is in full compliance with all items in the Attestation:
 - 1. Initial in the space next to each numbered item to confirm compliance.
 - 2. CEO or Designee must sign at the end of this form
 - 3. Date and return to the County's Contract Administrator

- B. When Contractor is not in full compliance:
 - 1. Any item not initialed will require an explanation (via an addendum) stating why Contractor is not in compliance with that item.
 - 2. Contractor must specify one date in the addendum when all items in the Attestation will be in compliance.
 - 3. CEO or Designee must sign at the end of this form
 - 4. Date and return to the County Contract Administrator

County reserves the right to monitor and take actions regarding instances of non-compliance.

I, (print name) _____, as the (insert title) _____,
for (insert entity name) _____,
(insert location) _____, hereby attest

regarding my organizations compliance with the following requirements:

- 1. If Contractor site is Medi-Cal certified and said site is not included as a site in a KernBHRS agreement, Contractor shall submit a copy of the Medi-Cal certification.
- 2. _____ Paper records/charts shall not be maintained at the remote Tele-health location with the exception of Psychotherapy Notes. Psychotherapy notes shall, at a minimum, be protected within a double-locked storage area. This would include, but not be limited to, a locked file cabinet within a locked office area. Keys shall be accessible only to the rendering provider.
- 3. _____ No party other than Contractor may be permitted in the Tele-health treatment area while psychotherapy notes are unsecured.
- 4. _____ Contractor shall maintain a list of the occupants of the facility to be used for Tele-health services. Such list shall be available upon request of the Department.
- 5. _____ All medical records/notes with the exception of Psychotherapy Notes shall be maintained in the EHR.
- 6. _____ All physical artifacts, other than those considered part of Psychotherapy Notes, shall be destroyed within 24 hours.
- 7. _____ The computer utilized to access the electronic health record shall be used exclusively by Contractor. No other person, including other household members, family members or visitors, shall have access to, or the ability to use this computer.

8. _____ The computer shall be protected by a "Strong" password consisting of upper and lower case alpha characters, numeric characters and "special" characters. Said password must be a minimum of ten (10) characters in length and must be changed a minimum of every ninety (90) days. In addition to a strong password, biometric identification is encouraged.
9. _____ Access to the County network and the County EHR shall be through the use of established Virtual Private Network (VPN) procedures and software provided by County.
10. _____ The computer system shall have a recognized top-tier anti-virus software installed and activated at all times.
11. _____ Contractor shall not store any PHI on the computer system. This includes the "C:" drive as well as any removable storage.
12. _____ If utilizing a wi-fi network, said network must be configured to not broadcast the network ID (SSID) and must be protected with a minimum of 128 bit encryption.
13. _____ A password protected screen saver with a timeout not to exceed 10 minutes must be utilized.
14. _____ The use of e-mail to communicate PHI is strongly discouraged. Should it become necessary to communicate PHI in this manner, an e-mail system validated as FIPS 140-2 compliant must be used. If said e-mail system is not compliant, then the PHI shall only reside in an encrypted attachment file. Said attachment file shall be encrypted using an encryption tool validated as FIPS 140-2 compliant at a minimum of 128 bit AES or 3-DES (Triple DES). KernBHRS will supply appropriate software to perform this encryption. The pass phrase for the encrypted file must be a "Strong" password and must be transmitted in a separate e-mail from the one used to send the encrypted PHI file.
15. _____ Contractor ensures that they have identified an Information Security Officer.
16. _____ Contractor ensures that HIPAA Privacy and Security training of personnel with access to the EHR is conducted upon hire and annually thereafter. County will monitor the attendance of required HIPAA Privacy and Security trainings for Contractor through the Relias training system for Contractor utilizing this program. If Contractor does not have access to Relias, Contractor will need to develop an internal tracking mechanism to monitor their staff's attendance. This tracking system should be available for the County to review at any time to ensure that these required trainings are being completed.

Please provide an attached addendum page(s) with an explanation for all items above not initialed. List each omitted item by number, and for each item, state the reason Contractor is not currently in compliance, and the date it expects to be in compliance with all items. Once Contractor is able to certify compliance to all 16 items in the Attestation, Contractor is to resubmit a signed Attestation to County. Failure to submit a signed approved Attestation may be a material breach of this agreement. If the Provider Site is within the boundaries of the county, the Department will, at its discretion, perform random and unannounced audit visits of the site to observe compliance with this list of tele-health/remote access requirements. If the Provider Site is outside of Kern County, it will be the responsibility of Contractor, at Contractor's expense, to audit the Provider site at least annually and to report the results of those audits to the Department.

ATTESTATION

I hereby certify under penalty of perjury that, to the best of my knowledge, information, and/or belief, and to the extent indicated or as limited above and/or in any attached addendum, Contractor is currently in compliance with this specified list of Tele-health/Remote access related requirements, and that the corresponding, supporting documents and records are available and accessible to the County upon request. I am aware that the documents and records may be requested at any time, including during an onsite review.

Executive Officer/or Designee: _____ Date: _____

Print Name: _____ Print Title: _____

TARZANA TREATMENT CENTERS, INC.

EXHIBIT H

PRIVACY AND INFORMATION SECURITY PROVISIONS

This Exhibit is intended to protect the privacy and security of specified Kern Behavioral Health and Recovery Services (County) information that Contractor may access, receive, or transmit under this agreement. County information covered under this Exhibit consists of: (1) Protected Health Information (PHI) as defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191; (2) Personal Information (PI) as defined under the California Information Practices Act (CIPA), at California Civil Code Section 1798.3; Personal Information may include data provided to the Department by the Social Security Administration; and (3) Personally Identifiable Information (PII); however, to the extent that data is PHI or ePHI and PI or PII, this Exhibit shall apply.

1. Recitals.

- A.** In addition to the Privacy and Security Rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which defines Protected Health Information (PHI), County is subject to various other legal and contractual requirements with respect to the personal information (PI) and personally identifiable information (PII) it maintains. These include:
- i. The California Information Practices Act of 1977 (California Civil Code §§ 1798 et seq.).
 - ii. The Agreement between the Social Security Administration (SSA) and the Department of Health Care Services (DHCS), known as the Information Exchange Agreement (IEA), which incorporates the Computer Matching and Privacy Protection Act Agreement (CMPPS) between the SSA and the California Health and Human Services Agency.
 - iii. Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2.
 - iv. California Welfare and Institutions Code § 5328 et seq.
- B.** The terms used in this Exhibit but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and agreement. Any reference to statutory, regulatory, or contractual language shall be to such language as in effect or as amended.
- C.** For the purpose of this Exhibit, PHI, PI, and PII all refer to confidential information that must be protected.

2. Definitions.

- A. Breach** shall have the meaning given to such term under the IEA, CMPPA and under HIPAA, the HITECH Act, and the HIPAA regulations at 45 C.F.R §164.402. It shall

include a security incident, intrusion or unauthorized access, use or disclosure of County PHI, ePHI, PI, or PII.

- B. Breach of the security of the system** shall have the meaning given to such term under the California Information Practices Act, Civil Code section 1798.29(f).
- C. CMPPA agreement** means the Computer Matching and Privacy Protection Act agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).
- D. Confidential Information:** Information that is exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.
- E. Department PI:** shall mean Personal Information, accessed in a database maintained by County, received by Contractor from County, or acquired or created by Contractor in connection with performing the functions, activities, and services specified in this agreement on behalf of County.
- F. Notice-triggering Personal Information** shall mean the personal information identified in Civil Code section 1798.29 whose unauthorized access may trigger notification requirements under Civil Code section 1798.29. For purposes of this provision, identity shall include, but not be limited to, name, address, email address, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph, or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper, or any other medium.
- G. Personally Identifiable Information (PII):** Any information about an individual which can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, and biometric records. This information can be in paper or electronic files and includes, but is not limited to, education records, financial transactions, employment history, criminal records, and medical files.
- H. Personal Information (PI):** Information that identifies or describes an individual, including, but not limited to, name, social security number, physical description, address, telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.
- I. Protected Health Information (PHI):** Individually identifiable health information that is transmitted or maintained in any form or medium, created or received by a health care provider or health plan, that relates to past, present, and future physical or mental health condition of an individual; provisions of healthcare to an individual; or past, present and future payment for the provision of healthcare to an individual. Health information which is considered subject to the regulations contained in the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) including: name, date of birth, telephone number, names of relatives, names of employers, photographic images, facsimile number, medical record number, finger or voice prints, certificate/license number, social security number, internet (IP) address, web URL, e-mail address, and any device or serial number. "Protected Health Information" includes electronic

protected health information.

- J. Public Information:** Information that is not exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250-6265) or other applicable state or federal laws.
 - K. Required by law** means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
 - L. Security Incident:** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI, PI, PII, or confidential data utilized in complying with this Agreement; or interference with system operations in an information system that processes, maintains or stores P H I , PI, or PII.
 - M. Sensitive Information:** Information that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information may be either public information or confidential information. It is information that requires a higher than normal assurance of accuracy and completeness. Thus, the key factor for sensitive information is that of integrity. Typically, sensitive information includes records of agency financial transactions and regulatory actions.
- 3. Contractor and its employees, agents, or subcontractors shall promptly transmit to the County Contract Manager all requests for disclosure of any PHI, PI or PII not emanating from the person who is the subject of PHI, PI or PII without a signed Consent for Release of Information.
 - 4. Contractor shall not disclose, except as otherwise specifically permitted by this agreement or authorized by the person who is the subject of PHI, PI or PII, any PHI, PI or PII to anyone other than DHCS without prior written authorization from the County Contract Manager, except if disclosure is required by state or federal law.

5. Terms of Agreement

- A. Permitted Uses and Disclosures of KernBHRS PHI, PI, and PII by Contractor:**
 - 1.) Except as otherwise indicated in this Exhibit, Contractor may use or disclose Department PHI, PI, and/or PII only to perform functions, activities or services for or on behalf of KernBHRS pursuant to the terms of this agreement provided that such use or disclosure would not violate the California Information Practices Act (CIPA) if done by KernBHRS.
 - 2.) Contractor shall not directly or indirectly receive remuneration in exchange for County PHI.

B. Responsibilities of Contractor

Contractor agrees:

- 1) **Nondisclosure.** To protect from unauthorized disclosure any Sensitive or Confidentiality information. Not to use or disclose KernBHRS PHI, PI, or PII other than in carrying out the Contractor's obligations under this agreement or as permitted or required by applicable state and federal law.
- 2) **Safeguards.** To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of KernBHRS PHI, PI, and PII, to protect against anticipated threats or hazards to the security or integrity of KernBHRS PHI, PI, and PII, and to prevent use or disclosure of KernBHRS PHI, PI, or PII other than as provided for by this agreement. Contractor shall develop and maintain a written privacy and information security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities, which incorporates the requirements of section 3, Security, below. Contractor will provide KernBHRS with its current policies upon request.
- 3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI, PI, and/or PII, and to protect paper documents containing PHI, PI, and/or PII. These steps shall include, at a minimum:
 - a. Complying with all of the data system security precautions listed in Business Associate Agreement Data Security Requirements;
 - b. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A- 130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in federal agencies.
- 4) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of KernBHRS PHI, PI, or PII by Contractor or its subcontractors in violation of this Exhibit.
- 5) **Contractor's Agents and Subcontractors.** To impose the same restrictions and conditions set forth in this Exhibit on any subcontractors or other agents with whom Contractor subcontracts any activities under this agreement that involve the disclosure of Department PHI, PI, or PII to the subcontractor.
- 6) **Availability of Information to County** To make County PHI, PI, and PII available to County for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of County PHI, PI, and PII. If Contractor receives County PHI, PI, and/or PII, upon request by County, Contractor shall provide County with a list of all employees, contractors, and agents who have access to County PHI, PI, and/or PII, including employees, contractors, and agents of its subcontractors and agents.

- 7) **Cooperation with County.** With respect to County PHI, PI, and/or PII, to cooperate with and assist County to the extent necessary to ensure County's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of County PHI, PI, and/or PII, correction of errors in County PHI, PI, and/or PII, production of County PHI, PI, and/or PII, disclosure of a security breach involving County PHI, PI, and/or PII and notice of such breach to the affected individual(s).

- 8) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.

6. Contractor shall observe the following requirements:

- A. **Safeguards.** Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, PI, and/or PII, including electronic PHI, PI, and/or PII that it creates, receives, maintains, uses, or transmits on behalf of County. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, including at a minimum the following safeguards:

- 1) **Personnel Controls**

- a. **Employee Training.** All workforce members must complete privacy and information security training through the Relias training system upon hire and annually thereafter. If Contractor does not have access to Relias, Contractor will need to document their staff's training attendance, including maintaining a sign-in sheet, e-sign, or certificate. Indicating the staff member's name and the date on which the training was completed. These certifications must be retained for a period of ten (10) years following contract termination.

Contractor shall develop an internal tracking mechanism to monitor their staff's attendance. This tracking system shall be available for County to review at any time to ensure that this required training has been completed. Contractor's privacy and Information Security training must consist of the following:

- i. HIPAA Privacy and Security regulations (45 CFR Part 160 and 164)
- ii. California Welfare and Institutions Code § 5328 et seq (required if Contractor provides mental health services)
- iii. Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2 (required if Contractor provides any substance use services, even if Contractor is a primary mental health provider)
- iv. Contractor's internal policies and procedures related to sections i-iii above.

- b. **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of

these requirements, including termination of employment where appropriate.

- c. **Confidentiality Statement.** All persons that will be working with County PHI, PI, and/or PII must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to Department PHI, PI, or PII. The statement must be renewed annually. Contractor shall retain each person's written confidentiality statement for County inspection for a period of six (6) years following contract

- d. **Background Check.** Before a member of the workforce may access County PHI, PI, and/or PII, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

2) Technical Security Controls

- a. **Workstation/Laptop encryption.** All workstations and laptops that process and/or store County PHI, PI, and/or PII must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the County Information Security Office.

- b. **Server Security.** Servers containing unencrypted County PHI, PI, and/or PII must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

- c. **Minimum Necessary.** Only the minimum necessary amount of County PHI, PI, and/or PII required to perform necessary business functions may be copied, downloaded, or exported.

- d. **Removable media devices.** All electronic files that contain County PHI, PI, and/or PII data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Smart Phone, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.

- e. **Antivirus software.** All workstations, laptops and other systems that process and/or store County PHI, PI, and/or PII must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

- f. **Patch Management.** All workstations, laptops and other systems that process and/or store County PHI, PI, and/or PII must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within thirty (30) days of vendor release.

- g. User IDs and Password Controls.** All users must be issued a unique user name for accessing County PHI, PI, and/or PII. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least ten characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
 - Lower case letters (a-z)
 - Arabic numerals (0-9)
 - Non-alphanumeric characters (punctuation symbols)
- h. Data Destruction.** When no longer needed, all County PHI, PI, and/or PII must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the County Information Security Office.
- i. System Timeout.** The system providing access to County PHI, PI, and/or PII must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- j. Warning Banners.** All systems providing access to County PHI, PI, and/or PII must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- k. System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for County PHI, PI, and/or PII, or which alters County PHI, PI, and/or PII. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If County PHI, PI, and/or PII is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence. Audit Trail logs must be reviewed for potential violations and/or breaches on a regular basis.
- l. Access Controls.** The system providing access to County PHI, PI, and/or PII must use role-based access controls for all user authentications, enforcing the principle of least privilege.
- m. Transmission encryption.** All data transmissions of County PHI, PI, and/or PII outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network

level, or the data files containing PHI, PI, or PII can be encrypted. This requirement pertains to any type of PHI, PI, or PII in motion such as website access, file transfer, and E-Mail. Any transmission of unencrypted PHI, PI and/or PII outside of Contractor's secure network, must be reported to the KernBHRS Privacy and Corporate Compliance office. (Contacts are listed at the end of this Exhibit).

- n. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting County PHI, PI, and/or PII that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

3) **Audit Controls**

- a. **System Security Review.** All systems processing and/or storing County PHI, PI, and/or PII must have at least an annual system risk assessment/security review that provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- b. **Log Reviews.** All systems processing and/or storing County PHI, PI, and/or PII must have a routine procedure in place to review system logs for unauthorized access.
- c. **Change Control.** All systems processing and/or storing County PHI, PI, and/or PII must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity, and availability of data.
- d. **Receiving and Investigating Privacy Issues:** Contractor shall have a process for staff or individuals to make complaints or report privacy issues. Contractor must document all complaints received and privacy issues investigated, including their disposition. Upon request, Contractor shall provide to County documentation of privacy issues investigated.

4) **Business Continuity/Disaster Recovery Controls**

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

5) **Paper Document Controls**

- a. **Supervision of Data.** County PHI, PI, and/or PII in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk, or office. Unattended means that information is not being observed by an employee authorized to access the information. County PHI, PI, and/or PII in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
 - b. **Escorting Visitors.** Visitors to areas where County PHI, PI, and/or PII is contained shall be escorted, and County PHI, PI, and/or PII shall be kept out of sight while visitors are in the area.
 - c. **Confidential Destruction.** County PHI, PI, and/or PII must be disposed of through confidential means, such as cross-cut shredding and pulverizing.
 - d. **Removal of Data.** County PHI, PI, and/or PII must not be removed from the premises of Contractor except with express written permission of County.
 - e. **Faxing.** Faxes containing County PHI, PI, and/or PII shall not be left unattended, and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
 - f. **Mailing.** Mailings of County PHI, PI, and/or PII shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings that include 500 or more individually identifiable records of County PHI, PI, and/or PII in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of County to use another method is obtained.
- B. Security Officer.** Contractor shall designate a Security Officer to oversee its data security program who will be responsible for carrying out its privacy and security programs and for communicating on security matters with County, under 45 CFR 164.308.
- C. Privacy Officer.** Contractor shall designate a privacy official who is responsible for the development and implementation of HIPAA policies and procedures per 45 CFR § 164.530(a)(1)(i). Contractor must designate a contact person or office who is responsible for receiving complaints under 45 CFR § 164.530(a)(1)(ii).
- D. Discovery and Notification of Breach.** Contractor shall notify County **immediately by telephone call plus email or fax** upon the discovery of breach (or suspected breach) of security of PHI, PI, and/or PII in electronic media or in any other media, if the PHI, PI and/or PII was, or is reasonably believed to have been, **a c c e s s e d**, acquired by an unauthorized person, or upon the discovery of a suspected security incident that involves data provided to County by the Social Security Administration or involving County PHI, PI, and/or PII; **or within twenty-four (24) hours by email or fax** of the discovery of any suspected security incident, intrusion, or unauthorized use or disclosure of PHI, PI, and/or PII in violation of this agreement or the Business Associate Agreement, or potential loss of confidential data affecting this agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by

exercising reasonable diligence, would have been known, to any person (other than the person committing the breach) who is an employee, officer, or other agent of Contractor.

Notification shall be provided to the KernBHRS Contract Manager, the KernBHRS Privacy Officer, and the KernBHRS Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, PI, and/or PII, notification shall be provided by calling the KernBHRS Information Security Officer at (661) 203-5397. Alternately, contact the KernBHRS Information Technology Services Division (ITSD) Help Desk at 661-868-6740. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use, or disclosure of PHI, PI, and/or PII, Contractor shall take:

- 1) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect Contractor's operating environment and information confidentiality and security requirements.
- 2) Any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

E. Investigation of Breach. In the event Contractor's actions or inactions cause a security incident, breach, or unauthorized use or disclosure of PHI, PI, and/or PII, Contractor shall immediately investigate such security incident, breach, or unauthorized use or disclosure of PHI, PI, and/or PII and within seventy-two (72) hours of the discovery, Contractor shall submit an initial Department of Health Care Services (DHCS) "Privacy Incident Report," containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time.

Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Office website:

<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>.

Contractor shall submit this report to the KernBHRS Privacy Officer.

F. Written Report. Contractor shall provide a final written report of the investigation to the KernBHRS Privacy Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the DHCS "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. KernBHRS Privacy Officer will submit this information to DHCS, who will review and approve the determination of whether a breach occurred and whether individual notification is required.

G. Notification of Individuals. In the event Contractor's actions or inactions cause a breach or unauthorized use or disclosure of PHI, PI, and/or PII, Contractor shall notify individuals

of the breach or unauthorized use or disclosure when notification is required under state or federal law, and shall pay any costs of such notifications, as well as any costs associated with the breach.

- 1) Once DHCS has made a breach determination, Contractor shall draft a (de-identified) proposed breach notification letter, using guidelines provided in the [SIMM 5340-C](#) (State of California, California Information Security Office: Requirements to Respond to Incidents Involving a Breach of Personal Information), as instructed, and submit to the KernBHRS Privacy Officer, who will submit the letter to DHCS for approval.
- 2) When the proposed breach notification letter is approved by DHCS, KernBHRS Privacy Officer or designee will notify Contractor, who shall then proceed with mailing the notification letter(s) to the affected beneficiary/beneficiaries without reasonable delay, and in no event later than 60 calendar days following the date of discovery.
- 3) Contractor shall notify the Department of Health and Human Services (HHS) no later than 60 days after the end of the calendar year in which the breach is discovered, by visiting the HHS web site (<https://www.hhs.gov/hipaa/for-professionals/breach-notification/breach-reporting/index.html>) and filling out and electronically submitting a breach report form, "Affecting Fewer than 500 Individuals." If the breach affects 500 or more individuals, the KernBHRS Privacy Officer will coordinate next steps with Contractor, including HHS notification.

H. Effect on lower tier transactions. The terms of this Exhibit shall apply to all contracts, subcontracts, and subawards, regardless of whether they are for the acquisition of services, goods, or commodities. Contractor shall incorporate the contents of this Exhibit into each subcontract or subaward to its agents, subcontractors, or independent consultants.

I. Contact Information. To direct communications to the above-referenced KernBHRS staff, Contractor shall initiate contact as indicated herein. KernBHRS reserves the right to make changes to the contact information below by giving written notice to Contractor. Said changes shall not require an amendment to this Exhibit or the agreement into which it is incorporated.

Kern Behavioral Health and Recovery Services Contract Manager	Kern Behavioral Health and Recovery Services Privacy Officer	Kern Behavioral Health and Recovery Services Information Security Officer
---	--	---

<p>Ana Olvera, LMFT E-Mail: aolvera@kernbhirs.org Phone: (661) 868-7596</p>	<p>Privacy Officer Dawn Milton, RN-BC, CHC, CHPC</p> <p>Kern Behavioral Health and Recovery Services PO Box 1000 Bakersfield, CA 93302</p> <p>Email: Dmilton@KernBHRS.org</p> <p>Telephone: (661) 868-7831</p>	<p>Information Security Officer Robert Farmer</p> <p>Kern Behavioral Health and Recovery Services PO Box 1000 Bakersfield, CA 93302</p> <p>Email: RobertF@KernBHRS.org</p> <p>Help Desk Telephone: (661) 868-6740</p>
--	--	--

J. Audits and Inspections. From time to time, KernBHRS may inspect the facilities, systems, books, and records of Contractor to monitor compliance with the safeguards required in this Exhibit. Contractor shall promptly remedy any violation of any provision of this Privacy and Information Security exhibit. The fact that KernBHRS inspects, fails to inspect, has Privacy and Information Security requirements, or has the right to inspect Contractor’s facilities, systems, and procedures does not relieve Contractor of its responsibility to comply with this Exhibit.

TARZANA TREATMENT CENTERS, INC.

EXHIBIT I

PROGRAM INTEGRITY REQUIREMENTS

1. GENERAL REQUIREMENTS

As a condition for receiving payment under a Medi-Cal managed care program, Contractor shall comply with the provisions of 42 CFR §§ 438.602, 438.608, 438.610, 455.1(a)1, 455.104-455.106, 455.434; Social Security Act §§ 1128, 1156, and 1842(j)(2).

2. COMPLIANCE PROGRAM

Contractor shall have administrative or management arrangements or procedures designed to guard against fraud and abuse. Contractor shall comply with the provisions of 42 CFR 438.608.

A. Option 1: Utilize the KernBHRS Corporate Compliance Program

- i. Contractor must designate a Compliance Officer (CO), who reports directly to the CEO and the Board of Directors (BoD), and is charged with overseeing the organization's compliance with requirements under the contract.
- ii. Contractor must abide by all tenets of the KernBHRS Corporate Compliance Program.
- iii. Contractor must adopt all policies and procedures contained within the KernBHRS Corporate Compliance Program.
- iv. All of Contractor's workforce members must complete KernBHRS Corporate Compliance and Ethics training through the Relias training system upon hire and annually thereafter. Contractor shall track employee trainings to ensure training is completed at required intervals.
- v. All of Contractor's workforce members must complete KernBHRS Corporate Compliance training, upon hire and annually thereafter. Each workforce member who receives this training, must sign or e-sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- vi. Contractor must establish effective lines of communication between the CO and the organization's employees.
- vii. Contractor must provide enforcement of standards through well-publicized disciplinary guidelines.
- viii. Contractor must establish and implement procedures and a system for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or

coordination of suspected criminal acts with law enforcement agencies) to reduce the potential of recurrence, and ongoing compliance with the requirements under the contract.

- ix. Contractor's Compliance Officer must report any violation of the Corporate Compliance program, including policies and procedures contained therein, to the KernBHRS Compliance Officer. Any allegation of fraud, waste, or abuse must be reported promptly.

B. Option 2: Contractor shall implement and maintain a Compliance Program that must include:

- i. Written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable requirements and standards under the contract, and all applicable federal and state requirements.
- ii. A Compliance Officer (CO) who is responsible for developing and implementing policies, procedures, and practices designated to ensure compliance with the requirements of the contract, and who reports directly to the CEO and the Board of Directors (BoD).
- iii. A Regulatory Compliance Committee (RCC) on the BoD and the senior management level, charged with overseeing the organization's compliance program and its compliance with the requirements under the contract.
- iv. A system for training and education for the CO, the organization's senior management, and the organization's employees for the federal and state standards and requirements under the contract, including specialized training on Contractor's Compliance Program, including training on the False Claims Act.

Contractor's workforce members must complete Corporate Compliance and Ethics training through the Relias training system upon hire and annually thereafter. Contractor shall track employee trainings to ensure training is completed at required intervals. In addition to the Relias training, Contractor shall ensure staff receive training on their specific Compliance Program, including contact information for Contractor's Compliance Officer.

If Contractor does not have access to Relias, Contractor shall document their staff's attendance including maintaining a sign-in sheet, e-sign, or certificate indicating the staff member's name and the date on which the training was completed. These certifications must be retained for a period of ten (10) years following contract termination. Contractor shall develop an internal tracking mechanism to monitor their staff's attendance. This tracking system shall be available for County to review at any time to ensure that this required training has been completed. Contractor must provide training to all staff that includes specifics on Contractor's Compliance Program, which includes detection and prevention of fraud, waste, and abuse, False Claims Act – including rights of employee's to be protected as whistleblowers, Contractor's standards of conduct, code of ethics, how to report compliance issues, as well as contact information for Contractor's Compliance Officer.

- v. Effective lines of communication between the CO and the organization's employees.
- vi. Enforcement of standards through well-publicized disciplinary guidelines.

vii. The establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under the contract. Upon request, Contractor shall provide to County documentation of monitoring and auditing of compliance risk and response.

C. Contractor must notify the KernBHRS Compliance Officer, at the contact information below, within ninety (90) days of the executed contract, of which option they choose. For Option 2, Contractor must also provide to the Compliance Officer, within ninety (90) days of the executed agreement, a copy of their Compliance Program and training materials utilized to train workforce members on the Compliance Program, including training on the False Claims Act.

Kern County Behavioral Health and Recovery Services Compliance Officer
Compliance Officer: Dawn Milton, RN-BC, CHC, CHPC
Kern Behavioral Health and Recovery Services PO Box 1000 Bakersfield, CA 93302
Email: DMilton@KernBHRS.org

3. EXCLUDED PROVIDERS

Contractor shall not knowingly have a relationship with any individual or entity that is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in any of such programs by any federal agency or by any department, agency or political subdivision of the state. For purposes of this paragraph, "principal" means an officer, director, owner of any portion of the entity, partner, key employee, subcontractor, or other person with primary management or supervisory responsibilities, or a person who has a critical influence or substantive control over Contractor's operations. Contractor shall be required to submit a Disclosure of Ownership and Control Interest Statement during the initial contracting, re-contracting and/or recredentialing process or upon request by County.

A. Consistent with the requirements of 42 CFR § 438.602(d), Contractor must confirm the identity and determine the exclusion status of all employees and any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee through routine checks of federal and state databases. This includes checking the appropriate databases.

Contractor must conduct an initial check, prior to hire new staff, of the following databases:

a. Social Security Administration's Death Master File, which is maintained by the United States Social Security Administration.

b. National Plan and Provider Enumeration System (NPPES), which is maintained by the Centers for Medicaid and Medicare.

B. Contractor understands that it must comply with the National Provider Identification (NPI) system, and will provide the Department NPI numbers for all staff providing direct health care or clinical services. Contractor further agrees to verify the NPI numbers(s) upon hiring staff, and to apply for NPI numbers on new employees within five (5) business days of the hiring date, immediately providing confirmation of NPI application to the Department.

Contractor further understands that all services entered in the Electronic Health Record (EHR) will suspend and agrees that electronic billings for services will not be accepted without the inclusion of the NPI number(s). If the NPI number is not received within ninety (90) days after the service, the service will no longer be billable and reimbursable to the contractor.

Contractor shall notify the department within twenty-four (24) hours of any change to staff NPI numbers or related information, including the termination of employment of any Contractor staff. NPI numbers are also required for each physical delivery site.

- a. List of Excluded Individuals/Entities (LEIE), which is maintained by the United States Department of Health and Human Services (HHS), Officer of the Inspector General (OIG).
- b. System for Award Management Excluded Parties List System (SAM-EPLS), which is maintained by the General Services Administration.
- c. Department of Health Care Services (DHCS) MediCal Suspended and Ineligible Provider List (S&I List).

C. Contractor must conduct monthly checks of the following databases:

- a. List of Excluded Individuals/Entities (LEIE)
- b. System for Award Management Excluded Parties List System (SAM-EPLS)
- c. Department of Health Care Services (DHCS) MediCal Suspended and Ineligible Provider List (S&I List)

D. Contractor shall submit reports in accordance with KernBHRS Policy 3.1.15 (Screening for Ineligible and Suspended Employees and Entities), providing verification that each database referenced in KernBHRS policy 3.1.15, and this section of this contract, are monitored at the required intervals (upon hire/monthly, depending on the database). Contractor shall not knowingly have a relationship with individual or entities that are excluded from participating in any Federal health care program per §1128 of the Social Security Act, including:

- i. Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under Title XVIII or under any State health care program.
- ii. Any individual or entity that has been convicted, under federal or state law, of a criminal offense relating to neglect or abuse of patient in connection with the delivery of a health care item or service.

- iii. Any individual or entity that has been convicted for a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct after the enactment of the Health Insurance Portability and Accountability Act of 1996.
 - iv. Any individual or entity that has been convicted for an offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996.
- E.** Federal Financial Participation is not available for any amount furnished to an excluded individual or entity, or at the direction of a physician during the period of exclusion when the person providing the service knew or had reason to know of the exclusion, or to an individual or entity when the Department failed to suspend payments during an investigation of a credible allegation of fraud. (42 U.S.C. section 1396b(i)(2).)
- F.** In accordance with Section 1903(i) of the Social Security Act, Contractor is prohibited from making payment:
- a. With respect to any amount expended for an item or service that is furnished at the medical direction or on the prescription of a physician, during the period when such physician is excluded from participation under title V, XVIII, or XX or under this title pursuant to Sections 1128, 1128A, 1156, or 1842(j)(2) of the Social Security Act and when the person furnishing such item or service knew, or had reason to know, of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).
 - ii. With respect to any amount expended for an item or service that is furnished by an individual or entity to whom the state has failed to suspend payments during any period when there is a pending investigation of a credible allegation of fraud against the individual or entity, unless the state determines there is good cause not to suspend such payments.
 - iii. With respect to any amount expended for which funds may not be used under the Assisted Suicide Funding Restriction Act (ASFRA) of 1997.
- G.** These lists include entities and individuals who have been suspended from receiving payments for services provided under any provider number to Medi-Cal beneficiaries. If Contractor or subcontractor is listed, this agreement shall terminate consistent with Paragraph 60. Contractor shall ensure that any excluded individual is immediately prevented from performing services resulting in claims for payment for services, directly or indirectly to a Medicare or Medi-Cal recipient. The excluded individual should also be removed from active duty in any position in which the person's salary or the services rendered or prescribed are paid in whole or in part, by federal health care programs or federal funds until such time the person is removed from the Exclusions lists. Contractor shall maintain records confirming verification of initial and monthly monitoring for a minimum of ten (10) years after the employee's separation from employment. Contractor shall provide affirmation of review to the Behavioral Health and Recovery Services Administrator monthly, the Quality Improvement Division designee during annual audits and upon request, and shall, as prescribed by Department, report any provider individual, employee or

subcontractor provider, appearing on any of these exclusions lists, databases or indices. Instructions for monthly submission are found in Paragraph 4 E (iv) of this agreement.

- H. The parties mutually represent and warrant to one another that they and their respective representatives are not: (i) currently excluded, debarred, or otherwise ineligible to participate in the federal health care program as defined in 42 U.S.C. section 1320a-7b(f) (the federal health care programs) and/or present on the exclusion database of the Office of the Inspector General (“OIG”) or the General Services Administration (“GSA”) or the Medi-Cal ineligible list; (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the federal health care programs; or (iii) debarred, suspended, excluded, or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved sub-contracts or from receiving federal financial and nonfinancial assistance and benefits.

This shall be an ongoing representation and warranty during the term of this agreement, and a party shall immediately notify the other party of any change in the status of any of the representations and/or warranties set forth in this section. At a minimum, the parties shall verify all current staff against the sources at the frequency identified in Exhibit M. Any breach of this section shall give the non-breaching party the right to terminate this agreement immediately.

- I. If Contractor or subcontractor is identified as an excluded provider, this agreement shall terminate consistent with the guidelines in Paragraph 60, “IMMEDIATE TERMINATION.”

4. SERVICE VERIFICATION

- A. Pursuant to 42 CFR § 438.608(a)(5), Contractor shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste, and abuse that include provisions to verify, by sampling or other methods, whether services that have been represented to have been delivered and were received by beneficiaries and the application of such verification processes on a regular basis.
- B. Contractor may follow the County process or shall develop and maintain their own process for Service Verification, based on 42 C.F.R. § 438.608(a)(5), and provide evidence to the KernBHRS Compliance Office by the last business day of each fiscal quarter (September, December, March and June), by encrypted email to BHRSPrivacy@KernBHRS.org
- C. Contractor shall provide evidence of Service Verification to the KernBHRS Compliance Officer at the end of each fiscal quarter (September, December, March, and June), by encrypted email to BHRSPrivacy@KernBHRS.org.
- D. The prescribed method of Service Verification for all office-based, billable direct services is to obtain the client’s electronic signature on the progress note, utilizing a signature pad compatible with the electronic health record.

- E. Contractor may select an alternate method of Service Verification for field-based services and shall provide evidence of Service Verification to the KernBHRS Compliance Officer at the end of each fiscal quarter (September, December, March, and June) by encrypted email to BHRSPrivacy@KernBHRS.org

5. DEFICIT REDUCTION ACT

- A. The parties to this agreement are aware of the provisions of Federal Deficit Reduction Act of 2005: Employee Education on False Claims Recovery and certify that they comply with Section 1902(a) of the Social Security Act.
- B. Section 6032 of the Deficit Reduction Act requires any entities that receive or make annual payments under the state plan (Medi-Cal in California) of at least Five Million Dollars (\$5,000,000) as a condition of receiving such payments to comply with the following requirements:

Establish written policies for all employees of the entity, including management and any contractor(s) or agent(s) of the entity. These written policies shall provide detailed information about the following:

- i. The Federal False Claims Act, including administrative remedies for false claims and statements established under title 31, USC, Chapter 38.
 - ii. State laws pertaining to civil or criminal penalties for false claims and statements; whistleblower protections under such laws; and the role of these laws in preventing and detecting fraud, waste, and abuse in federal health care programs.
- C. The written policies must include details about the Contractor's policies and procedures for detecting and preventing fraud, waste, and abuse.
 - D. Contractor must provide employee training on the False Claims Act, including the rights of employees to be protected as whistleblowers. Documented evidence of this training is to be provided to County upon request. (This training can be incorporated into Compliance Program training. See 2.B.iv. above).

6. FRAUD REPORTING REQUIREMENTS

- A. Contractor shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste, and abuse that include prompt reporting to County about the following:
 - i. Any potential fraud, waste, or abuse. (42 CFR §438.608(a), (a)(7).)
 - ii. All overpayments identified or recovered, specifying the overpayments due to potential fraud. (42 CFR §438.608(a), (a)(2).)

- iii. Information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including changes in the beneficiary's residence or the death of the beneficiary. (42 CFR §438.608(a), (a)(3).)
- B. If Contractor identifies an issue or receives notification of a complaint concerning an incident of potential fraud, waste, or abuse, in addition to notifying County, Contractor shall conduct an internal investigation to determine the validity of the issue/complaint, and develop and implement corrective action, if needed, notifying County of the outcome of the investigation.
- C. Contractor shall implement and maintain written policies for all employees that provided detailed information about the False Claims Act and other federal and state laws, including information about rights of employees to be protected as whistleblowers. (42 CFR §438.608(a), (a)(6).)
- D. County shall suspend payments to Contractor if there is a credible allegation of fraud. (42 CFR §438.608(a), (a)(5).)

7. DISCLOSURE OWNERSHIP CONTROL INTEREST STATEMENT

- A. Contractor agrees to furnish County with the names of its officers, owners, stockholders owning more than five percent (5%) of its stock, and major creditors holding more than five percent (5%) of the debt of Contractor. This information shall become public record on file with the U.S. Department of Health and Human Services.
- B. Contractor agrees to comply with the requirements set forth in the federal regulations 42 CFR 455.104-455.106 in reference to the Medicare, Medicaid, or Title XX service programs.
- C. Contractor agrees to submit to County the completed form attached herein as Exhibit M, "DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT" upon submitting the provider application, during the re-validation of enrollment, and upon request. Any person with a 5% or more direct or indirect interest in Contractor must include results of fingerprints/criminal background check.
- D. Contractor agrees to notify County and update DISCLOSURE AND CONTROL INTEREST STATEMENT within thirty-five (35) days if a change in ownership occurs.
- E. County may terminate the enrollment of any provider where any person with a five percent (5%) or greater direct or indirect ownership interest in Contractor does not submit timely and accurate information and cooperate with any screening methods required in 42 CFR 455.416.

[The remainder of this page is intentionally left blank.]

EXHIBIT J

CREDENTIALING AND RE-CREDENTIALING REQUIREMENTS

KernBHRS will establish and conduct a provider Credentialing Program for credentialing and re-credentialing Contractor's network treatment providers. Contractor shall comply with the terms set forth herein.

Contractor shall adhere to the California Department of Health Care Services' (DHCS) statewide uniform provider credentialing and re-credentialing requirements, established pursuant to Title 42 of the Code of Federal Regulations, Part 438.214.

KernBHRS will ensure that Contractor and its employees, agents, or subcontractors are qualified in accordance with current legal, professional, and technical standards, and are appropriately licensed, registered, waived, and/or certified.

Contractor and its employees, agents, or subcontractors must be in good standing with the Medicaid/Medi-Cal programs. Any provider of Contractor, including contracted organizational providers, provider groups, and individual practitioners, who are excluded from participation in federal health care programs, including Medicare or Medicaid/Medi-Cal, may not participate in any KernBHRS provider network.

The uniform credentialing and re-credentialing requirements apply to all licensed, waived, or registered mental health providers and licensed, registered, or certified Alcohol or Other Drug Counselors, employed by or contracting with KernBHRS to deliver Medi-Cal covered services.

Contractor shall observe the following requirements:

- A. For all licensed, waived, registered, and/or certified providers, KernBHRS will verify and document the information listed below. The listed requirements are not applicable to all provider types. When applicable to the provider type, the information must be verified by KernBHRS through an auditing process of Contractor's primary source verification efforts or by Contractor when submitting these documents directly to the KernBHRS Credentialing Unit or designee. This will be required unless Contractor can demonstrate the required information has been previously verified by the applicable licensing, certification, and/or registration board.

Contractor shall submit the following information for their employees, agents, or subcontractors at the time of hire and at the various timelines listed below to the KernBHRS Credentialing Unit or designee. KernBHRS reserves the right to audit the primary source verification that Contractor reports it is doing for their employees on a quarterly basis. Regardless of whether Contractor submits all information to KernBHRS to credential or Contractor's credentialing process is audited, Contractor must submit all credentialing requirements to Kern BHRS Credentialing team or designee at the time of hire of any new employee. Contractor will also notify KernBHRS Credentialing team when an employee separates from their organization to ensure that credentialing/re-credentialing efforts are not continued for separated employees.

1. **Primary Source Verification** shall be required in the following areas at the time of hire and every three (3) years thereafter unless Contractor can demonstrate the required information has been previously verified by the applicable licensing, certification, and/or registration board:
 - a. The appropriate license and/or board certification or registration, as required for the particular provider type;

- b. Evidence of graduation or completion of any required education, as required for the particular provider type;
 - c. Proof of completion of any relevant medical residency and/or specialty training, as required for the particular provider type; and
 - d. Satisfaction of any applicable continuing education requirements, as required for the particular provider type.
2. **Additional information** shall be required in the following areas from Contractor and its employees, agents, or subcontractors, as applicable, at the time of hire and every three (3) years thereafter:
- a. Work history;
 - b. Hospital and clinic privileges in good standing;
 - c. History of any suspension or curtailment of hospital and clinic privileges;
 - d. Current Drug Enforcement Administration identification number;
 - e. National Provider Identifier number;
 - f. Current malpractice insurance in an adequate amount, as required for the particular provider type;
 - g. History of liability claims against the provider;
 - h. Provider information, if any, entered in the National Practitioner Data Bank, when applicable. See <https://www.npdb.hrsa.gov/> ;
 - i. History of sanctions from participating in Medicare and/or Medicaid/Medi-Cal: providers terminated from either Medicare or Medi-Cal, or on the Suspended and Ineligible Provider List, may not participate in the Plan's provider network. This list is available at: <http://files.medical.ca.gov/pubsdoco/SandILanding.asp>
 - j. History of sanctions or limitations on the provider's license issued by any state's agencies or licensing boards;
 - k. Employee Attestation consisting of five (5) required elements:
 - i. Any limitations or inability that affect the provider's ability to perform any of the position's essential functions, with or without accommodation;
 - ii. A history of loss of license or felony conviction;
 - iii. A history of loss or limitation of privileges or disciplinary activity;
 - iv. A lack of present illegal drug use; and
 - v. The application's accuracy and completeness
 - l. Other sources pertinent to the credentialing or recredentialing process as identified by KernBHRS.

EXHIBIT K

PRIVACY AND COMPLIANCE INVESTIGATION SUMMARY

Contractor must provide this summary to the KernBHRS Privacy and Corporate Compliance office by email @ KernBHRSPrivacy@KernBHRS.org, within 30 days of the end of each quarter. Please keep in mind that privacy and compliance investigations do not have a negative impact. Investigating privacy and compliance issues and following up on issues/risks identified are a way to show that a Privacy or Compliance Program is effective.

Report for: Qtr 1 (July-Sept) Qtr 2 (Oct-Dec) Qtr 3 (Jan-Mar) Qtr 4 (Apr-Jun)

Contractor Name: _____

Contractor Address: _____

Name of Privacy Officer: _____

Phone: _____ Email: _____

Name of Compliance Officer: _____

Phone: _____ Email: _____

Name of Information Security Officer: _____

Phone: _____ Email: _____

PRIVACY INVESTIGATIONS:			
Total investigations this quarter: _____			
Total investigations this quarter resulting in a breach: _____			
Breach(es) reported to KernBHRS <input type="checkbox"/> Yes <input type="checkbox"/> No			
Please list the types of <u>Privacy</u> investigations conducted below (e.g. inappropriate access, inappropriate disclosure, PHI lost/stolen, misdirected mail/fax, unencrypted PHI in email, etc.). Enter total number of each type of investigation.			
Type of Investigation	Total	Type of Investigation	Total

COMPLIANCE INVESTIGATIONS:			
Total investigations this quarter: _____			
Total investigations this quarter resulting in fraud, waste or abuse : _____			
Fraud, waste or abuse reported to KernBHRS <input type="checkbox"/> Yes <input type="checkbox"/> No			
Please list the types of <u>Compliance</u> investigations conducted (e.g. policy violation, code of ethics violation, questionable billing practice, allegation of fraud, waste or abuse, etc.). Enter total number of each type of investigation.			
Type of Investigation	Total	Type of Investigation	Total

Signature

Title

Name (please print)

Date

[END OF AGREEMENT]