AGREEMENT BETWEEN COUNTY OF LAKE AND LAKE COUNTY OFFICE OF EDUCATION-SAFE SCHOOLS HEALTHY STUDENTS PROGRAM FOR SCHOOL-BASED SPECIALTY MENTAL HEALTH SERVICES FOR FISCAL YEAR 2024-25

This Agreement is made and entered into by and between the County of Lake, hereinafter referred to as "County," and Lake County Office of Education, hereinafter referred to as "Contractor," collectively referred to as the "parties."

RECITALS

WHEREAS, County is under contract with the State of California to provide or arrange for the provision of certain mandated services, including outpatient Specialty Mental Health Services (SMHS), for Medi-Cal beneficiaries served by the County; and

WHEREAS, County has determined that it will arrange for a contractor to provide Specialty Mental Health Services to eligible beneficiaries; and

WHEREAS, Contractor has represented, through a proposal in response to County's request for proposals or through another means acceptable to the County, that it is able and willing to provide such services; and

NOW, THEREFORE, based on the forgoing recitals, the parties hereto agree as follows:

1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Lake County Office of Education shall provide to County the services described in the "**Scope of Services**" attached hereto and incorporated herein as **Exhibit A** at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and **Exhibits A/B/C/D**, the Agreement shall prevail.

2. TERM. This Agreement shall commence on July 1, 2024, and shall terminate on June 30, 2025, unless earlier terminated as hereinafter provided. In the event County desires to temporarily continue services after the expiration of this Agreement, such continuation shall be deemed on a month-to-month basis, subject to the same terms, covenants, and conditions contained herein.

3. COMPENSATION. Contractor has been selected by County to provide the services described hereunder in **Exhibit A**, titled, "**Scope of Services**" attached hereto and incorporated herein. **Compensation to Contractor shall not exceed Five Hundred Thousand Dollars ($500,000.00).**

The County shall compensate Contractor for services rendered, in accordance with the provisions set forth in **Exhibit B**, titled "**Fiscal Provisions**" attached hereto and incorporated herein, provided that Contractor is not in default under any provisions of this Agreement.

4. TERMINATION. This Agreement may be terminated by mutual consent of the parties or by County upon 30 days written notice to Contractor.

In the event of non-appropriation of funds for the services provided under this Agreement, County may terminate this Agreement, without termination charge or other liability.

Upon termination, Contractor shall be paid a prorated amount for the services provided up to the date of termination.

5. MODIFICATION. This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning scope of services which do not affect the compensation may be modified by mutual written consent of Contractor and County executed by the Lake County Behavioral Health Services Administrator.

6. NOTICES. All notices that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with the United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses, unless such addresses are changed by notice, in writing, to the other party.

County of Lake
Lake County Behavioral Health Services
6302 Thirteenth Avenue
Lucerne, CA 95458-1024
Attn: Elise Jones
Director

Lake County Office of Education
1152 S. Main St.
Lakeport, CA 95453
Attn: Brock Falkenberg
Superintendent

7. EXHIBITS. The Agreement Exhibits, as listed below, are incorporated herein by reference:

Exhibit A - Scope of Services
Exhibit B - Fiscal Provisions
Exhibit C - Compliance Provisions
Exhibit D - Business Associate – Qualified Service Organization

8. TERMS AND CONDITIONS. Contractor warrants and agrees that it shall comply with all terms and conditions of this Agreement including **Exhibit A**, **Exhibit B**, **Exhibit C**, titled, "**Compliance Provisions,**" and **Exhibit D, entitled "Business Associate – Qualified Service Organization Agreement,"** attached hereto and incorporated herein in addition to all other applicable federal, state and local laws, regulations and policies.

9. INTEGRATION. This Agreement, including attachments, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior Agreements, related proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties.

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AGREEMENT BETWEEN COUNTY OF LAKE AND LAKE COUNTY OFFICE OF EDUCATION-SAFE SCHOOLS HEALTHY STUDENTS PROGRAM FOR SCHOOL-BASED SPECIALTY MENTAL HEALTH SERVICES FOR FISCAL YEAR 2024-25

County and Contractor have executed this Agreement on the day and year first written above.

COUNTY OF LAKE

_____
Chair
Board of Supervisors
Date: _____

LAKE COUNTY OFFICE OF EDUCATION

Brock
Brock Falkenberg
Superintendent
Date: 5.3.2024

APPROVED AS TO FORM:
LLOYD GUINTIVANO
County Counsel

By: _____

Date: 07/09/2024

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ATTEST:
SUSAN PARKER
Clerk to the Board of Supervisors

By: _____

Date: _____

EXHIBIT A – SCOPE OF SERVICES

1. DEFINITIONS

1.1 BEHAVIORAL HEALTH INFORMATION NOTICE (BHIN): "Behavioral Health Information Notice" or "BHIN" means guidance from DHCS to inform counties and contractors of changes in policy or procedures at the federal or state levels. These were previously referred to as Mental Health and Substance Use Disorder Services Information Notices (MHSUDS IN). BHINs and MHSUDS INs are available on the DHCS website.
1.2 BENEFICIARY OR CLIENT: "Beneficiary" or "client" mean the individual(s) receiving services.
1.3 DHCS: "DHCS" means the California Department of Health Care Services.
1.4 DIRECTOR: "Director" means the Director of the County Behavioral Health Department, unless otherwise specified.

2. CONTRACTOR'S RESPONSIBILITIES. Contractor agrees to comply with all applicable Medi-Cal laws, regulations, including 1915(b) Waiver and any Special Terms and Conditions.

2.1 Contractor shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Lake and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by County. Contractor and County shall comply with California Code of Regulations (CCR), Title 9, Section 1810.435, in the selection of providers and shall review for continued compliance with standards at least every three (3) years.

2.2 The Contractor shall maintain written policies and procedures on advance directive in compliance with the requirements of 42, Code of Federal Regulations (CFR), Section 422.128 and 438.6. Any written materials prepared by the Contractor for beneficiaries shall be updated to reflect changes in state laws governing advance directives as soon as possible, but not later than 90 days after the effective date of the change. For purposes of this contract, advance directives means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when the individual is incapacitated as defined in 42 C.F.R 489.100.

2.3 Contractor will observe and comply with all applicable Federal, State and local laws, ordinances and codes which relate to the services to be provided pursuant to this Agreement, including but not limited to the Deficit Reduction Act (DRA) of 2005, the Federal and State False Claims Acts, and the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Health Information Technology for Economic and Clinical Health Act, found in

Title XIII of the American Recovery and Reinvestment Act of 2009, Public Law 111-005 (HITECH Act); and the HIPAA Omnibus Final Rule.

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

2.5 Contractor shall not discourage the filing of grievances and clients do not need to use the term "grievance" for a complaint to be captured as an expression of dissatisfaction and, therefore, a grievance.

2.6 Aligned with MHSUDS IN 18-010E and 42 C.F.R. §438.404, the appropriate and delegated Notice of Adverse Benefit Determination (NOABD) must be issued by Contractor within the specified timeframes using the template provided by the County.

2.7 NOABDs must be issued to clients anytime the Contractor has made or intends to make an adverse benefit determination that includes the reduction, suspension, or termination of a previously authorized service and/or the failure to provide services in a timely manner. The notice must have a clear and concise explanation of the reason(s) for the decision as established by DHCS and the County. The Contractor must inform the County immediately after issuing a NOABD.

2.8 Procedures and timeframes for responding to grievances, issuing and responding to adverse benefit determinations, appeals, and state hearings must be followed as per 42 C.F.R., Part 438, Subpart F (42 C.F.R. §§ 438.400 – 438.424).

2.9 Contractor must provide clients any reasonable assistance in completing forms and taking other procedural steps related to a grievance or appeal such as auxiliary aids and interpreter services.

2.10 Contractor must maintain records of grievances and appeals and must review the information as part of its ongoing monitoring procedures. The record must be accurately maintained in a manner accessible to the County and available upon request to DHCS.

2.11 Contractor shall follow the County's continuity of care policy that is in accordance with applicable state and federal regulations, MHSUDS IN 18-059 and any BHINs issued by DHCS for parity in mental health and substance use disorder benefits subsequent to the effective date of this Agreement (42 C.F.R. § 438.62(b)(1)-(2).)

2.12 Client's rights shall be assured pursuant to California law and regulation, including but not limited to Welfare and Institutions Code 5325, Title 9, CCR, Sections 860 through 868 and Title 42, CFR, Section 438.100(b)(1) and, (b)(2). Included in these rights is the right of

beneficiaries to participate in decisions regarding his or her health care, including the right to refuse potential treatment services.

2.13 Contractor agrees to extend to County or its designee, the right to review and monitor all records, programs or procedures, at any time in regards to clients, as well as the overall operation of Contractor's programs in order to ensure compliance with the terms and conditions of this Agreement.

2.14 All expenses of copying records and other documents shall be borne by the party seeking to review those records and/or documents and charged at the rate of $0.25 cents per page.

2.15 Contractor is to make voter registration materials available in their offices/facilities and assist individuals in completing materials if requested.

2.16 Upon discovery of a reportable breach by Contractor, the Contractor must notify County within five (5) working days of the breach by submitting an incident report to the Behavioral Health Compliance Officer/Privacy Officer, and fulfill the mandated reporting requirements. Contractor will make his/her best efforts to preserve data integrity and the confidentiality of protected health information.

2.17 Upon termination of the Agreement all Protected Health Information provided by Lake County Behavioral Health to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

2.18 Contractor shall comply with the provision of the County's Cultural Competency Plan by maintaining 100% compliance with National Culturally and Linguistically Appropriate Services (CLAS) standards. Contractor shall provide proof, no less than annually or upon County's request, evidence of compliance including but not limited to attendance and training agendas, or other such documentation which reasonably evidences compliance.

2.19 Contractor shall ensure that the logo for Lake County Behavioral Health Services (LCBHS) is included on flyers, handouts, and any advertising materials for any projects or events that LCBHS contributes to via funding from this Agreement.

2.20 Contract will notify the County about any change that may affect Contractor's eligibility and ability to provide services including, but not limited to, changes in licensing, certification, ownership and address.

3. REPORTING REQUIREMENTS. Contractor agrees to provide County with any reports which may be required by State or Federal agencies for compliance with this Agreement.

3.1 Contractor shall submit a year-end program summary in a format to be provided by County. Failure to provide reports in a timely fashion will constitute a material breach of the

contract and grounds for termination as defined under **Exhibit C**, Section 8, titled "**Due Performance – Default**."

3.2 At County's request, within ninety (90) days after the close of the fiscal year, Contractor shall provide County with an annual Cost Report in the appropriate format for submission to the State of California, Department of Health Care Services for Medi-Cal reimbursement. This Cost Report will establish the final basis upon which Contractor will be paid for services provided during the term of this Agreement. If Contractor's costs do not meet the contracted rate, Contractor will be required to pay back the difference to County.

4. RECORDS RETENTION.

4.1 Contractor shall prepare, maintain and/or make available to County upon request, all records and documentation pertaining to this Agreement, including financial, statistical, property, recipient and service records and supporting documentation for a period of ten (10) years from the date of final payment of this Agreement. If at the end of the retention period, there is ongoing litigation or an outstanding audit involving the records, Contractor shall retain the records until resolution of litigation or audit. After the retention period has expired, Contractor assures that confidential records shall be shredded and disposed of appropriately.

4.2 Clinical records of each client served at the Facility shall be the property of County and shall be kept at least ten (10) years following discharge. Clinical records of un-emancipated minors shall be kept at least one (1) year after such minor has reached the age of eighteen (18) years or ten (10) years past the last date of treatment, whichever is longer. Records of minors who have been treated by a licensed psychologist must be retained until minor has reached age 25. All information and records obtained in the course of providing services under this Agreement shall be confidential and Contractor shall comply with State and Federal requirements regarding confidentiality of patient information (including but not limited to section 5328 of the Welfare and Institutions Code (W&I), and Title 45, and CFR, section 205.50 for Medi-Cal-eligible patients). All applicable regulations and statutes relating to patients' rights shall be adhered to. This provision shall survive the termination, expiration, or cancellation of this Agreement. Clinical records shall contain sufficient detail to make possible an evaluation by County's Behavioral Health Director or designee, or DHCS and shall be kept in accordance with the rules and regulations of the Community Mental Health Services Act of 1967 (MHSA), as amended.

4. DESCRIPTION OF SERVICES.

4.1 As an organizational provider agency, Contractor shall provide administrative and direct program services to County's Medi-Cal clients as defined in Title 9, Division 1, Chapter 11 of the California Code of Regulations. For clients under the age of 21, the Contractor shall provide all medically necessary specialty mental health services required pursuant to Section 1396d(r) of Title 42 of the United States Code (Welfare & Inst. Code 14184.402 (d)).
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4.2 Contractor shall provide specialty mental health services to clients under the age of 21 referred by County. These services shall be provided pursuant to the laws and regulations of the State of California governing such programs. These services shall be provided at Contractor's Medi-Cal certified "**Facilities**" known as:

Hance Community School
1510 Argonaut Road,
Lakeport, CA 95453

Clearlake Creativity School
6945 Old Highway 53, Clearlake, CA 95422.

Kelseyville Elementary School
5065 Konocti Rd, Kelseyville, CA 95461

Kelseyville High School
5480 Konocti Rd, Kelseyville, CA 95461

Mt. Vista Middle School 6-85081
Konocti Rd., Kelseyville, CA 95461

Riviera Elementary School
4410 Konocti Rd., Kelseyville, CA 95461

Clearlake High School
350 Lange Street, Lakeport, CA 95453

Lakeport Alternative School
2548 Howard Ave, Lakeport, CA 95453

Lakeport Elementary School
150 Lange Street, Lakeport, CA 95453

Terrace Middle School
250 Lange Street, Lakeport, CA 95453

Cobb Mountain Elementary School
15895 Hwy 175, Cobb, CA 95426

Middletown High School
20932 Big Canyon Rd., Middletown, CA 95461

Middletown Middle School
15846 Wardlaw Street, Middletown, CA 95461

Minnie Cannon Elementary School
20931 Big Canyon Rd., Middletown, CA 95461

Lucerne Elementary School
3351 Country Club Drive, Lucerne, CA 95458

Coyote Valley Elementary School K-6
18950 Coyote Valley Rd, Hidden Valley Lake, CA 95467

4.3 Contractor shall have hours of operation during which services are provided to Medi-Cal beneficiaries that are no less than the hours of operation during which the Contractor offers services to non-Medi-Cal beneficiaries.

4.4 Contractor shall provide the following medically necessary covered specialty mental health services, as defined in the DHCS Billing Manual available at https://www.dhcs.ca.gov/provgovpart/Documents/Billing-Manual-v-1-1-June-2022.pdf, or

subsequent updates to this billing ma manual to clients who meet access criteria for receiving specialty mental health services:

Program	CPT Code Name	CPT Code
Outpatient	Crisis Intervention Service, per 15 Minutes	H2011
	Family Psychotherapy [Conjoint Psychotherapy] (with Patient Present), 50 Minutes	90847
	Group Psychotherapy (Other Than of a Multiple-Family Group), 15 Minutes	90853
	Intensive Care Coordination	T1017
	Intensive Home Based Services	H2017,
	Interactive Complexity	90785
	Interpretation or Explanation of Results of Psychiatric or Other Medical Procedures to Family or Other Responsible Persons, 15 Minutes	90887
	Mental Health Assessment by Non- Physician, 15 Minutes	H0031
	Mental Health Service Plan Developed by Non-Physician, 15 Minutes	H0032
	Multiple-Family Group Psychotherapy, 15 Minutes	90849
	Psychiatric Diagnostic Evaluation, 15 Minutes	90791
	Psychiatric Evaluation of Hospital Records, Other Psychiatric Reports, Psychometric and/or Projective Tests, and Other Accumulated Data for Medical Diagnostic Purposes, 15 Minutes	90885
	Psychosocial Rehabilitation, per 15 Minutes	H2017
	Psychotherapy for Crisis, Each Additional 30 Minutes	90840
	Psychotherapy for Crisis, First 30-74 Minutes 84	90839
	Psychotherapy, 30 Minutes with Patient	90832
	Psychotherapy, 45 Minutes with Patient	90834
	Psychotherapy, 60 Minutes with Patient	90837
	Sign Language or Oral Interpretive Services, 15 Minutes	T1013
	Targeted Case Management, Each 15 Minutes	T1017
	Interdiciplinary Team Meeting (client/family not present)	99368
	Interdiciplinary Team Meeting (client/family present)	99366

4.5 Contractor shall observe and comply with all lockout and non-reimbursable service rules, as specified in the DHCS Billing Manual.

5. DISCHARGE CRITERIA AND PROCESS

5.1 Contractor will engage in discharge planning beginning at intake for each client served under this agreement. Discharge planning will include regular reassessment of client functioning, attainment of goals, determination of treatment needs and establishment of discharge goals.
5.2 When possible, discharge will include treatment at a lower level of care or intensity appropriate to client's needs and provision of additional referrals to community resources for client to utilize after discharge.

6. AUTHORIZATIONS AND DOCUMENTATION PROVISIONS.

6.1 SERVICE AUTHORIZATION

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

6.2 DOCUMENTATION REQUIREMENTS

A. Contractor will follow all documentation requirements as specified in Article 4.2-4.8 inclusive in compliance with federal, state and County requirements.
B. All Contractor documentation shall be accurate, complete, and legible, shall list each date of service, and include the face-to-face time for each service. Contractor shall document travel and documentation time for each service separately from face-to-face time and provide this information to County upon request. Services must be identified as provided in-person, by telephone, or by telehealth.
C. All services shall be documented utilizing County-approved templates and contain all required elements. Contractor agrees to satisfy the chart documentation requirements set forth in BHIN 22-019 and the contract between County and DHCS. Failure to comply with documentation standards specified in this Article require corrective action plans.

6.3 ASSESSMENT

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

6.4 ICD-10

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

6.5 PROBLEM LIST

A. Contractor will create and maintain a Problem List for each client served under this Agreement. The problem list is a list of symptoms, conditions, diagnoses, and/or risk factors identified through assessment, psychiatric diagnostic evaluation, crisis encounters, or other types of service encounters.
B. Contractor must document a problem list that adheres to industry standards utilizing at minimum current SNOMED International, Systematized Nomenclature of Medicine Clinical Terms (SNOMED CT®) U.S. Edition, September 2022 Release, and ICD-10-CM 2023.
C. A problem identified during a service encounter may be addressed by the service provider during that service encounter and subsequently added to the problem list.
D. The problem list shall include, but is not limited to, all elements specified in BHIN 22-019.
E. County does not require the problem list to be updated within a specific timeframe or have a requirement about how frequently the problem list should be updated after a problem has initially been added. However, Contractor shall update the problem list within a reasonable time such that the problem list reflects the current issues facing the client, in accordance with generally accepted standards of practice and in specific

circumstances specified in BHIN 22-019.

6.6 TREATMENT AND CARE PLANS

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

6.7 PROGRESS NOTES

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

6.8 TRANSITION OF CARE TOOL

A. Contractor shall use a Transition of Care Tool for any clients whose existing services will be transferred from Contractor to an Medi-Cal Managed Care Plan (MCP) provider or when NSMHS will be added to the existing mental health treatment provided by Contractor, as specified in BHIN 22-065, in order to ensure continuity of care.
B. Determinations to transition care or add services from an MCP shall be made in alignment with County policies and via a client-centered, shared decision-making process.
C. Contractor may directly use the DHCS-provided Transition of Care Tool, found at https://www.dhcs.ca.gov/Pages/Screening-and-Transition-of-Care-Tools-for-Medi-Cal-Mental-Health-Services.aspx, or obtain a copy of that tool provided by the County. Contractor may create the Transition of Care Tool in its Electronic Health Record (EHR). However, the contents of the Transition of Care Tool, including the specific wording and order of fields, shall remain identical to the DHCS provided form. The only exception to this requirement is when the tool is translated into languages other than English.

6.9 TELEHEALTH

A. Contractor may use telehealth, when it deems clinically appropriate, as a mode of delivering behavioral health services in accordance with all applicable County, state, and federal requirements, including those related to privacy/security, efficiency, and standards of care. Such services will conform to the definitions and meet the

requirements included in the Medi-Cal Provider Manual: Telehealth, available in the DHCS Telehealth Resources page at: https://www.dhcs.ca.gov/provgovpart/Pages/TelehealthResources.aspx.

B. All telehealth equipment and service locations must ensure that client confidentiality is maintained.
C. Licensed providers and staff may provide services via telephone and telehealth as long as the service is within their scope of practice.
D. Medical records for clients served by Contractor under this Agreement must include documentation of written or verbal consent for telehealth or telephone services if such services are provided by Contractor. Such consent must be obtained at least once prior to initiating applicable health care services and consent must include all elements as specified in BHIN 22-019.
E. County may at any time audit Contractor's telehealth practices, and Contractor must allow access to all materials needed to adequately monitor Contractor's adherence to telehealth standards and requirements.

7. ORIENTATION, TRAINING AND TECHNICAL ASSISTANCE

7.1 County will endeavor to provide Contractor with training and support in the skills and competencies to (a) conduct, participate in, and sustain the performance levels called for in the Agreement and (b) conduct the quality management activities called for by the Agreement.

7.2 County will provide the Contractor with all applicable standards for the delivery and accurate documentation of services.

7.3 County will make ongoing technical assistance available in the form of direct consultation to Contractor upon Contractor's request to the extent that County has capacity and capability to provide this assistance. In doing so, County is not relieving Contractor of its duty to provide training and supervision to its staff or to ensure that its activities comply with applicable regulations and other requirements included in the terms and conditions of this agreement.

7.4 Any requests for technical assistance by Contractor regarding any part of this agreement shall be directed to the County's designated contract monitor.

7.5 Contractor shall require all new employees in positions designated as "covered individuals" to complete compliance training within the first 30 days of their first day of work. Contractor shall require all covered individuals to attend, at minimum, one compliance training annually.

A. These trainings shall be conducted by County or, at County's discretion, by Contractor staff, or both, and may address any standards contained in this agreement.
B. Covered individuals who are subject to this training are any Contractor staff who have or will have responsibility for, or who supervises any staff who have responsibility for, ordering, prescribing, providing or documenting client care or medical items or services.

AGREEMENT BETWEEN COUNTY OF LAKE AND LAKE COUNTY OFFICE OF EDUCATION-SAFE SCHOOLS HEALTHY STUDENTS PROGRAM FOR SCHOOL-BASED SPECIALTY MENTAL HEALTH SERVICES FOR FISCAL YEAR 2024-25

EXHIBIT B – FISCAL PROVISIONS

1. CONTRACTOR'S FINANCIAL RECORDS. Contractor shall keep financial records for funds received hereunder, separate from any other funds administered by Contractor, and maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

2. CLAIMING AND INVOICING.

2.1 Contractor shall enter claims data into the County's billing and transactional database system within the timeframes established by County. Contractor shall use Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) codes, as provided in the DHCS Billing Manual available at https://www.dhcs.ca.gov/services/MH/Pages/MedCCC-Library.aspx, as from time to time amended.

2.2 Contractor's invoices shall be submitted in arrears on a monthly basis, by the 15th of the following month, or such other time that is mutually agreed upon in writing and shall be itemized and formatted to the satisfaction of the County.

2.3 Contractor's invoices shall be submitted electronically to the link: https://filetransfer.co.lake.ca.us/filedrop/BHFiscalInvoicing

2.4 Contractor shall bill County on or before the fifteen (15th) working day of the month following the month in which specialty services were provided.

2.5 All billing forms, including supporting documentation, shall clearly reflect client names, number of client days, types of services, and corresponding rates, as well as the NPI numbers of staff who provided the service. ALL SUPPORTING DOCUMENTATION MUST ACCOMPANY THE APPROVED BILLING FORM OR SERVICE(S) MAY BE DENIED. Supporting documentation will include all progress notes, treatment/client plans and assessments.

2.6 County shall make payment within 30 business days of an undisputed invoice for the compensation stipulated herein for supplies delivered and accepted or services rendered and accepted, less potential deductions, if any, as herein provided. Payment on partial deliverables may be made whenever amounts due so warrant or when requested by the Contractor and approved by the Assistant Purchasing Agent.

2.7 County shall not be obligated to pay Contractor for services provided which are the subject of any bill if Contractor submits such bill to County more than thirty days (30) after the date Contractor provides the services, or more than thirty (30) days after this Agreement terminates, whichever is earlier.

2.8 Contractor will be obligated to reimburse County for any claims subsequently denied for payment by the State of California due to violations of applicable rules and regulations.

2.9 Monthly payments for claimed services shall be based on the units of time assigned to each CPT or HCPCS code entered in the County's billing and transactional database multiplied by the service rates as identified in item 4.1 below.

2.10 County shall not provide reimbursement for date of discharge from any facilities including hospitals, skilled nursing facilities, mental health rehabilitation centers, and residential facilities.

2.11 County clients who are able to pay for services from other public or private resources are not billable under this Agreement.

2.12 Contractor shall maximize the Federal Financial Participation (FFP) reimbursement by claiming all eligible Medi-Cal services and correcting denied services for resubmission in a timely manner as needed.

2.13 Contractor and County shall each appoint one responsible representative for the purpose of resolving any billing questions or disputes which may arise during the term of this Agreement. Should such issues arise, County shall still be obligated to pay Contractor on a timely basis for those amounts and/or services which are not in dispute or with respect to which there are no questions. Questioned amounts, once adjusted (if necessary) as agreed by the two representatives, shall be paid to Contractor immediately after the Agreement is reached by the two representatives.

3. ADDITIONAL FINANCIAL REQUIREMENTS

3.1 County has the right to monitor the performance of this Agreement to ensure the accuracy of claims for reimbursement and compliance with all applicable laws and regulations. Contractor must comply with the False Claims Act employee training and policy requirements set forth in 42 U.S.C. 1396a(a)(68) and as the Secretary of the United States Department of Health and Human Services may specify.

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

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

4. CONTRACTOR PROHIBITED FROM REDIRECTION OF CONTRACTED FUNDS

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

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

5. AUDIT REQUIREMENTS AND AUDIT EXCEPTIONS.

5.1 MAINTENANCE OF RECORDS

A. Contractor shall maintain proper clinical and fiscal records relating to clients served under the terms of this Agreement, as required by the Director, DHCS, and all applicable state and federal statutes and regulations. Client records shall include but not be limited to admission records, diagnostic studies and evaluations, client interviews and progress notes, and records of services provided. All such records shall be maintained in sufficient detail to permit evaluation of the services provided and to meet claiming requirements.

5.2 ACCESS TO RECORDS

A. Contractor shall provide County with access to all documentation of services provided under this Agreement for County's use in administering this Agreement. Contractor shall allow County, CMS, the Office of the Inspector General, the Controller General of the United States, and any other authorized federal and state agencies to evaluate performance under this Agreement, and to inspect, evaluate, and audit any and all records, documents, and the premises, equipment and facilities maintained by the Contractor pertaining to such services at any time and as otherwise required under this Agreement.
B. Contractor will make available, for purposes of an audit, evaluation, or inspection, its premises, physical facilities, equipment, books, records, contracts, computer or other electronic systems relating to any Medi-Cal beneficiaries per 42 CFR 438.230(c)(3)(ii).
C. The right to audit will exist through ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later per 42 CFR 438.230(c)(3)(iii).

5.3 FEDERAL, STATE AND COUNTY AUDITS

A. In accordance with the California Code of Regulations, Title 9, Chapter 11, Section 1810.380(a), County will conduct monitoring and oversight activities to review Contractor's SMHS programs and operations. The purpose of these oversight

activities is to verify that medically necessary services are provided to clients, who meet medical necessity and criteria for access to SMHS as established in BHIN 21-073, in compliance with the applicable state and federal laws and regulations, and/or the terms of the Agreement between Contractor and County, and future BHINs which may spell out other specific requirements.

B. If DHCS, CMS, or HHS Inspector General determines that there is a reasonable possibility of fraud or similar risk, DHCS, CMS or the HHS Inspector General may inspect, evaluate and audit the Contractor or subcontractor at any time per 42 CFR 438.230(c)(3)(iv).

5.4 INTERNAL AUDITING

A. Contractors of sufficient size as determined by County shall institute and conduct a Quality Assurance Process for all services provided hereunder. Said process shall include at a minimum a system for verifying that all services provided and claimed for reimbursement shall meet SMHS definitions and be documented accurately.
B. Contractor shall provide County with notification and a summary of any internal audit exceptions and the specific corrective actions taken to sufficiently reduce the errors that are discovered through Contractor's internal audit process. Contractor shall provide this notification and summary to County in a timely manner.

5.5 CONFIDENTIALITY IN AUDIT PROCESS

A. Contractor and County mutually agree to maintain the confidentiality of Contractor's client records and information, in compliance with all applicable state and federal statutes and regulations, including but not limited to HIPAA and California Welfare and Institutions Code, Section 5328. Contractor shall inform all of its officers, employees, and agents of the confidentiality provisions of all applicable statutes.
B. Contractor's fiscal records shall contain sufficient data to enable auditors to perform a complete audit and shall be maintained in conformance with standard procedures and accounting principles.
C. Contractor's records shall be maintained as required by the Director and DHCS on forms furnished by DHCS or the County. All statistical data or information requested by the Director shall be provided by the Contractor in a complete and timely manner.

5.6 REASONS FOR RECOUPMENT

A. County will conduct periodic audits of Contractor files to ensure appropriate clinical documentation, high quality service provision and compliance with applicable federal, state and county regulations.
B. Such audits may result in requirements for Contractor to reimburse County for services previously paid in the following circumstances:
    a. Identification of Fraud, Waste or Abuse as defined in federal regulation
    b. Fraud and abuse are defined in C.F.R. Title 42, § 455.2 and W&I Code, section 14107.11, subdivision (d).

c. Definitions for "fraud," "waste," and "abuse" can also be found in the Medicare Managed Care Manual available at www.cms.gov/Regulation-and-Guidance/Guidance/Manuals/Downloads/mc86c21.pdf
d. Overpayment of Contractor by County due to errors in claiming or documentation.
e. Other reasons specified in the SMHS Reasons for Recoupment document released annually by DHCS and posted on the DHCS BHIN website.

C. Contractor shall reimburse County for all overpayments identified by Contractor, County, and/or state or federal oversight agencies as an audit exception within the timeframes required by law or Country or state or federal agency.

5.7 COOPERATION WITH AUDITS

A. Contractor shall cooperate with County in any review and/or audit initiated by County, DHCS, or any other applicable regulatory body. This cooperation may include such activities as onsite program, fiscal, or chart reviews and/or audits.
B. In addition, Contractor shall comply with all requests for any documentation or files including, but not limited to, client and personnel files.
C. Contractor shall notify the County of any scheduled or unscheduled external evaluation or site visits when it becomes aware of such visit. County shall reserve the right to attend any or all parts of external review processes.
D. Contractor shall allow inspection, evaluation and audit of its records, documents and facilities for ten years from the term end date of this Agreement or in the event Contractor has been notified that an audit or investigation of this Agreement has been commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later pursuant to 42 C.F.R.§§ 438.3(h) and 438.230(c)(3)(i-iii).

6. PAYMENT TERMS. County shall reimburse Contractor for services provided to Lake County Medi-Cal beneficiaries per the schedule below:

6.1 Rates per unit/hour

LPHA (MFT LCSW LPCC)/ Intern or Waivered LPHA (MFT LCSW LPCC)	**$**	**363.00**
Mental Health Rehab Specialist	$	273.00
Other Qualified Providers - Other Designated MH staff that bill medical	$	273.00

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AGREEMENT BETWEEN COUNTY OF LAKE AND LAKE COUNTY OFFICE OF EDUCATION-SAFE SCHOOLS HEALTHY STUDENTS PROGRAM FOR SCHOOL-BASED SPECIALTY MENTAL HEALTH SERVICES FOR FISCAL YEAR 2024-25

EXHIBIT C – COMPLIANCE PROVISIONS

1. CONFORMITY WITH STATE AND FEDERAL LAWS AND REGULATIONS

1.1 Contractor shall provide services in conformance with all applicable state and federal statutes, regulations and subregulatory guidance, as from time to time amended, including but not limited to:

1) California Code of Regulations, Title 9;
2) California Code of Regulations, Title 22;
3) California Welfare and Institutions Code, Division 5;
4) United States Code of Federal Regulations, Title 42, including but not limited to Parts 438 and 455;
5) United States Code of Federal Regulations, Title 45;
6) United States Code, Title 42 (The Public Health and Welfare), as applicable;
7) Balanced Budget Act of 1997;
8) Health Insurance Portability and Accountability Act (HIPAA); and
9) Applicable Medi-Cal laws and regulations, including applicable sub-regulatory guidance, such as BHINs, MHSUDS INs, and provisions of County's, state or federal contracts governing client services.

1.2 In the event any law, regulation, or guidance referred to in subsection (A), above, is amended during the term of this Agreement, the Parties agree to comply with the amended authority as of the effective date of such amendment without amending this Agreement.

2. SERVICES AND ACCESS PROVISIONS

2.1 CERTIFICATION OF ELIGIBILITY

Contractor will, in cooperation with County, comply with Section 14705.5 of California Welfare and Institutions Code to obtain a certification of a client's eligibility for SMHS under Medi-Cal.

2.2 ACCESS TO SPECIALTY MENTAL HEALTH SERVICES

A. In collaboration with the County, Contractor will work to ensure that individuals to whom the Contractor provides SMHS meet access criteria, as per DHCS guidance specified in BHIN 21-073. Specifically, the Contractor will ensure that the clinical record for each client includes information as a whole indicating that client's presentation and needs are aligned with the criteria applicable to their age at the time of service provision as specified below.
B. For enrolled clients under 21 years of age, Contractor shall provide all medically necessary SMHS required pursuant to Section 1396d(r) of Title 42 of the United States Code. Covered SMHS shall be provided to enrolled clients who meet either of the following criteria, (I) or (II) below. If a client under age 21 meets the criteria as described in (I) below, the beneficiary meets criteria to access SMHS; it is not necessary to establish that the beneficiary also meets the criteria in (II) below.

I. The client has a condition placing them at high risk for a mental health disorder due to experience of trauma evidenced by any of the following: scoring in the high-risk range under a trauma screening tool approved by DHCS, involvement in the child welfare system, juvenile justice involvement, or experiencing homelessness.

II. The client has at least one of the following:

a. A significant impairment

b. A reasonable probability of significant deterioration in an important area of life functioning

c. A reasonable probability of not progressing developmentally as appropriate.

d. A need for SMHS, regardless of presence of impairment, that are not included within the mental health benefits that a Medi-Cal Managed Care Plan (MCP) is required to provide.

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

e. A diagnosed mental health disorder, according to the criteria in the current editions of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases and Related Health Problems (ICD).

f. A suspected mental health disorder that has not yet been diagnosed.

g. Significant trauma placing the client at risk of a future mental health condition, based on the assessment of a licensed mental health professional.

2.3 ADDITIONAL CLARIFICATIONS

A. Criteria

I. A clinically appropriate and covered mental health prevention, screening, assessment, treatment, or recovery service listed within Exhibit A of this Agreement can be provided and submitted to the County for reimbursement under any of the following circumstances:

a. The services were provided prior to determining a diagnosis, including clinically appropriate and covered services provided during the assessment process;

b. The service was not included in an individual treatment plan; or

c. The client had a co-occurring substance use disorder.

B. Diagnosis Not a Prerequisite

I. Per BHIN 21-073, a mental health diagnosis is not a prerequisite for access to covered SMHS. This does not eliminate the requirement that all Medi-Cal claims, including SMHS claims, include a current Centers for Medicare & Medicaid Services (CMS) approved ICD diagnosis code.

2.4 MEDICAL NECESSITY

A. Contractor will ensure that services provided are medically necessary in compliance with BHIN 21-073 and pursuant to Welfare and Institutions Code section

14184.402(a). Services provided to a client must be medically necessary and clinically appropriate to address the client's presenting condition. Documentation in each client's chart as a whole will demonstrate medical necessity as defined below, based on the client's age at the time of service provision.

B. For individuals 21 years of age or older, a service is "medically necessary" or a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain as set forth in Welfare and Institutions Code section 14059.5.
C. For individuals under 21 years of age, a service is "medically necessary" or a "medical necessity" if the service meets the standards set forth in Section 1396d(r)(5) of Title 42 of the United States Code.

2.5 COORDINATION OF CARE

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

2.6 CO-OCCURRING TREATMENT AND NO WRONG DOOR

A. Per BHIN 22-011, Specialty and Non-Specialty Mental Health Services can be provided concurrently, if those services are clinically appropriate, coordinated, and not duplicative. When a client meets criteria for both NSMHS and SMHS, the client should receive services based on individual clinical need and established therapeutic relationships. Clinically appropriate and covered SMHS can also be provided when the client has a co-occurring mental health condition and substance use disorder.
B. Under this Agreement, Contractor will ensure that clients receive timely mental health services without delay. Services are reimbursable to Contractor by County even when:

I. Services are provided prior to determination of a diagnosis, during the assessment or prior to determination of whether SMHS access criteria are met, even if the assessment ultimately indicates the client does not meet criteria for SMHS.
II. If Contractor is serving a client receiving both SMHS and NSMHS, Contractor holds responsibility for documenting coordination of care and ensuring that services are non-duplicative.

3. PROGRAM INTEGRITY

3.1 GENERAL PROVISIONS

As a condition of receiving payment under a Medi-Cal managed care program, the Contractor shall comply with the provisions of 42 C.F.R. §§ 438.604, 438.606, 438.608 and 438.610. (42 C.F.R. § 438.600(b)).

3.2 CREDENTIALING AND RE-CREDENTIALING OF PROVIDERS

A. Contractor must follow the uniform process for credentialing and recredentialing of service providers established by County, including disciplinary actions such as reducing, suspending, or terminating provider's privileges. Failure to comply with specified requirements can result in suspension or termination of a provider.
B. Upon request, the Contractor must demonstrate to the County that each of its providers are qualified in accordance with current legal, professional, and technical standards, and that they are appropriately licensed, registered, waivered, and/or certified.
C. Contractor must not employ or subcontract with providers debarred, suspended or otherwise excluded (individually, and collectively referred to as "Excluded") from participation in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in 42 C.F.R. §438.610. See relevant section below regarding specific requirements for exclusion monitoring.
D. Contractor shall ensure that all of their network providers delivering covered services, sign and date an attestation statement on a form provided by County, in which each provider attests to the following:
    I. Any limitations or inabilities 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 convictions;
    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.
E. Contractor must file and keep track of attestation statements for all of their providers and must make those available to the County upon request at any time.
F. Contractor is required to sign an annual attestation statement at the time of Agreement renewal in which they will attest that they will follow County's Credentialing Policy and MHSUDS IN 18-019 and ensure that all of their rendering providers are credentialed as per established guidelines.
G. Contractor is required to verify and document at a minimum every three years that each network provider that delivers covered services continues to possess valid credentials,

including verification of each of the credentialing requirements as per the County's uniform process for credentialing and recredentialing. If any of the requirements are not up-to-date, updated information should be obtained from network providers to complete the re-credentialing process.

3.3 SCREENING AND ENROLLMENT REQUIREMENTS

A. County shall ensure that all Contractor providers are enrolled with the State as Medi-Cal providers consistent with the provider disclosure, screening, and enrollment requirements of 42 C.F.R. Part 455, subparts B and E. (42 C.F.R. § 438.608(b))

B. County may execute this Agreement, pending the outcome of screening, enrollment, and revalidation of Contractor of up to 120 days but shall terminate this Agreement immediately upon determination that Contractor cannot be enrolled, or the expiration of one 120-day period without enrollment of the Contractor, and notify affected clients. (42 C.F.R. § 438.602(b)(2))

C. Contractor shall ensure that all Providers and/or subcontracted Providers consent to a criminal background check, including fingerprinting to the extent required under state law and 42 C.F.R. § 455.434(a). Contractor shall provide evidence of completed consents when requested by the County, DHCS or the US Department of Health & Human Services (US DHHS).

3.4 COMPLIANCE PROGRAM, INCLUDING FRAUD PREVENTION AND OVERPAYMENTS

A. Contractor shall have in place a compliance program designed to detect and prevent fraud, waste and abuse, as per 42 C.F.R. § 438.608(a)(1), 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 Office (CO) 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 CEO and the Board of Directors.

III. A Regulatory Compliance Committee on the Board of Directors and at the senior management level charged with overseeing the organization's compliance program and its compliance with the requirements under the Agreement.

IV. A system for training and education for the Compliance Officer, the organization's senior management, and the organization's employees for the federal and state standards and requirements under the 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. 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, corrections of such problems promptly and thoroughly to reduce the potential for recurrence and ongoing compliance with the requirements under the Contract.

B. The requirement for prompt reporting and repayment of any overpayments identified.
C. Contractor must have administrative and management arrangements or procedures designed to detect and prevent fraud, waste and abuse of federal or state health care funding. Contractor must report fraud and abuse information to the County including but not limited to:
    I. Any potential fraud, waste, or abuse as per 42 C.F.R. § 438.608(a), (a)(7),
    II. All overpayments identified or recovered, specifying the overpayment due to potential fraud as per 42 C.F.R. § 438.608(a), (a)(2),
    III. Information about changes in a client's circumstances that may affect the client's eligibility including changes in the client's residence or the death of the client as per 42 C.F.R. § 438.608(a)(3).
    IV. Information about a change in the Contractor's circumstances that may affect the network provider's eligibility to participate in the managed care program, including the termination of this Agreement with the Contractor as per 42 C.F.R. § 438.608(a)(6).
D. Contractor shall implement written policies that provide detailed information about the False Claims Act ("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.
E. Contractor shall make prompt referral of any potential fraud, waste or abuse to County or potential fraud directly to the State Medicaid Fraud Control Unit.
F. County may suspend payments to Contractor if DHCS or County determine that there is a credible allegation of fraud in accordance with 42 C.F.R. §455.23. (42 C.F.R. §438.608 (a)(8)).
G. Contractor shall report to County all identified overpayments and reason for the overpayment, including overpayments due to potential fraud. Contractor shall return any overpayments to the County within 60 calendar days after the date on which the overpayment was identified. (42 C.F.R. § 438.608 (a)(2), (c)(3)).

3.5 INTEGRITY DISCLOSURES

A. Contractor shall provide information on ownership and controlling interests, disclosures related to business transactions, and disclosures related to persons convicted of crimes in the form and manner requested by County, by the Effective Date, each time the Agreement is renewed and within 35 days of any change in ownership or controlling interest of Contractor. (42 C.F.R. §§ 455.104, 455.105, and 455.106.)
B. Upon the execution of this Contract, Contractor shall furnish County a Provider Disclosure Statement, which, upon receipt by County, shall be kept on file with County and may be disclosed to DHCS. If there are any changes to the information disclosed in the Provider Disclosure Statement, an updated statement should be completed and submitted to the County within 35 days of the change. (42 C.F.R. § 455.104.)

C. Contractor must disclose the following information as requested in the Provider Disclosure Statement:

D. Disclosure of 5% or More Ownership Interest:

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

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

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

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

E. Disclosures Related to Business Transactions:

I. The ownership of any subcontractor with whom Contractor has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request.

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

F. Disclosures Related to Persons Convicted of Crimes:

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

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

H. Contractor must provide disclosure upon execution of Contract, extension for renewal, and within 35 days after any change in Contractor ownership or upon request of County. County may refuse to enter into an agreement or terminate an existing agreement with Contractor if Contractor fails to disclose ownership and control interest information,

information related to business transactions and information on persons convicted of crimes, or if Contractor did not fully and accurately make the disclosure as required.

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

3.6 CERTIFICATION OF NON-EXCLUSION OR SUSPENSION FROM PARTICIPATION IN A FEDERAL HEALTH CARE PROGRAM

A. Prior to the effective date of this Contract, the Contractor must certify that it is not excluded from participation in Federal Health Care Programs under either Section 1128 or 1128A of the Social Security Act. Failure to so certify will render all provisions of this Agreement null and void and may result in the immediate termination of the Contract.

B. Contractor shall certify, prior to the execution of the Contract, that the Contractor does not employ or subcontract with providers or have other relationships with providers Excluded from participation in Federal Health Care Programs, including Medi-Cal/Medicaid or procurement activities, as set forth in 42 C.F.R. §438.610. Contractor shall conduct initial and monthly Exclusion & Suspension searches of the following databases and provide evidence of these completed searches when requested by County, DHCS or the US DHHS:

   I. www.oig.hhs.gov/exclusions - LEIE Federal Exclusions
   II. www.sam.gov/portal/SAM - GSA Exclusions Extract
   III. www.Medi-Cal.ca.gov - Suspended & Ineligible Provider List
   IV. https://nppes.cms.hhs.gov/#/ - National Plan and Provider Enumeration System (NPPES)
   V. any other database required by DHCS or DHHS.

C. Contractor shall certify, prior to the execution of the Contract, that Contractor does not employ staff or individual contractors/vendors that are on the Social Security Administration's Death Master File. Contractor shall check the following database prior to employing staff or individual contractors/vendors and provide evidence of these completed searches when requested by the County, DHCS or the US DHHS. https://www.ssdmf.com/ - Social Security Death Master File

D. Contractor is required to notify County immediately if Contractor becomes aware of any information that may indicate their (including employees/staff and individual contractors/vendors) potential placement on an exclusions list.

E. Contractor shall screen and periodically revalidate all network providers in accordance with the requirements of 42 C.F.R., Part 455, Subparts B and E.

F. Contractor must confirm the identity and determine the exclusion status of all its providers, as well as any person with an ownership or control interest, or who is an agent or managing employee of the contracted agency through routine checks of federal and state databases. This includes the Social Security Administration's Death Master File, NPPES, the Office of Inspector General's List of Excluded Individuals/Entities (LEIE), the Medi-Cal Suspended and Ineligible Provider List (S&I List) as consistent with the requirements of 42 C.F.R. § 455.436.

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

3.7 QUALITY IMPROVEMENT ACTIVITIES AND PARTICIPATION

A. Contractor shall comply with the County's ongoing comprehensive Quality Assessment and Performance Improvement (QAPI) Program (42 C.F.R. § 438.330(a)) and work with the County to improve established outcomes by following structural and operational processes and activities that are consistent with current practice standards.

B. Contractor shall participate in quality improvement (QI) activities, including clinical and non-clinical performance improvement projects (PIPs), as requested by the County in relation to state and federal requirements and responsibilities, to improve health outcomes and clients' satisfaction over time. Other QI activities include quality assurance, collection and submission of performance measures specified by the County, mechanisms to detect both underutilization and overutilization of services, client and system outcomes, utilization management, utilization review, provider appeals, provider credentialing and re-credentialing, and client grievances. Contractor shall measure, monitor, and annually report to the County its performance.

C. Contractor shall implement mechanisms to assess client/family satisfaction based on County's guidance. The Contractor shall assess client/family satisfaction by:
   I. Surveying client/family satisfaction with the Contractor's services at least annually.
   II. Evaluating client grievances, appeals and State Hearings at least annually.
   III. Evaluating requests to change persons providing services at least annually.
   IV. Informing the County and clients of the results of client/family satisfaction activities.

D. Contractor, if applicable, shall implement mechanisms to monitor the safety and effectiveness of medication practices. This mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs, at least annually.

E. Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually and shared with the County.

F. Contractor shall assist County, as needed, with the development and implementation of Corrective Action Plans.

G. Contractor shall collaborate with County to create a QI Work Plan with documented annual evaluations and documented revisions as needed. The QI Work Plan shall evaluate the impact and effectiveness of its quality assessment and performance improvement program.

H. Contractor shall attend and participate in the County's Quality Improvement Committee (QIC) to recommend policy decisions, review and evaluate results of QI activities, including PIPs, institute needed QI actions, and ensure follow-up of QI processes. Contractor shall ensure that there is active participation by the Contractor's practitioners and providers in the QIC.

I. Contractor shall assist County, as needed, with the development and implementation of Corrective Action Plans.
J. Contractor shall participate, as required, in annual, independent external quality reviews (EQR) of the quality, timeliness, and access to the services covered under this Contract, which are conducted pursuant to Subpart E of Part 438 of the Code of Federal Regulations. (42 C.F.R. §§ 438.350(a) and 438.320)

3.8 NETWORK ADEQUACY

A. The Contractor shall ensure that all services covered under this Agreement are available and accessible to clients in a timely manner and in accordance with the network adequacy standards required by regulation. (42 C.F.R. §438.206 (a), (c)).
B. Contractor shall submit, when requested by County and in a manner and format determined by the County, network adequacy certification information to the County, utilizing a provided template or other designated format.
C. Contractor shall submit updated network adequacy information to the County any time there has been a significant change that would affect the adequacy and capacity of services.
D. To the extent possible and appropriately consistent with CCR, Title 9, §1830.225 and 42 C.F.R. §438.3 (l), the Contractor shall provide a client the ability to choose the person providing services to them.

3.9 TIMELY ACCESS

A. Contractor shall comply with the requirements set forth in CCR, Title 9, § 1810.405, including meeting County and State Contract standards for timely access to care and services, taking into account the urgency of need for services. The County shall monitor Contractor to determine compliance with timely access requirements and shall take corrective action in the event of noncompliance.
B. Timely access standards include:
    I. Contractor must have hours of operation during which services are provided to Medi-Cal clients that are no less than the hours of operation during which the provider offers services to non-Medi-Cal clients. If the Contractor's provider only serves Medi-Cal clients, the provider must provide hours of operation comparable to the hours the provider makes available for Medi-Cal services that are not covered by the Agreement or another County.
    II. Appointments data, including wait times for requested services, must be recorded and tracked by Contractor, and submitted to the County on a monthly basis in a format specified by the County. Appointments' data should be submitted to the County's Quality Management Department or other designated persons.
    III. Urgent care appointments for services that do not require prior authorization must be provided to clients within 48 hours of a request. Urgent appointments for services that do require prior authorization must be provided to clients within 96 hours of request.

IV. Non-urgent non-psychiatry mental health services, including, but not limited to Assessment, Targeted Case Management, and Individual and Group Therapy appointments (for both adult and children/youth) must be made available to Medi-Cal clients within 10 business days from the date the client or a provider acting on behalf of the client, requests an appointment for a medically necessary service. Non-urgent psychiatry appointments (for both adult and children/youth) must be made available to Medi-Cal clients within 15 business days from the date the client or a provider acting on behalf of the client, requests an appointment for a medically necessary service.

C. Applicable appointment time standards may be extended if the referring or treating provider has determined and noted in the client's record that a longer waiting period will not have a detrimental impact on the health of the client.

D. Periodic office visits to monitor and treat mental health conditions may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed mental health provider acting within the scope of his or her practice.

3.10 PRACTICE GUIDELINES

A. Contractor shall adopt practice guidelines (or adopt County's practice guidelines) that meet the following requirements:

I. They are based on valid and reliable clinical evidence or a consensus of health care professionals in the applicable field;

II. They consider the needs of the clients;

III. They are adopted in consultation with contracting health care professionals; and

IV. They are reviewed and updated periodically as appropriate (42 C.F.R.§ 438.236(b) and CCR, Title 9, Section 1810.326).

B. Contractor shall disseminate the guidelines to all affected providers and, upon request, to clients and potential clients (42 C.F.R. § 438.236(c)).

3.11 PROVIDER APPLICATION AND VALIDATION FOR ENROLLMENT (PAVE)

A. Contractor shall ensure that all of its required clinical staff, who are rendering SMHS to Medi-Cal clients on behalf of Contractor, are registered through DHCS' Provider Application and Validation for Enrollment (PAVE) portal, pursuant to BHIN 20-071 requirements, the 21st Century Cures Act and the CMS Medicaid and Children's Health Insurance Program (CHIP) Managed Care Final Rule.

B. SMHS licensed individuals required to enroll via the "Ordering, Referring and Prescribing" (ORP) PAVE enrollment pathway (i.e. PAVE application package) available through the DHCS PED Pave Portal, include: Licensed Clinical Social Worker (LCSW), Licensed Marriage and Family Therapist (LMFT), Licensed Professional Clinical Counselor (LPCC), Psychologist, Licensed Educational Psychologist, Physician (MD and DO), Physician Assistant, Registered Pharmacist/Pharmacist, Certified Pediatric/Family Nurse Practitioner, Nurse Practitioner, Occupational Therapist, and Speech-Language Pathologist. Interns, trainees, and associates are not eligible for

enrollment.

4. CLIENT INFORMING MATERIALS

A. NON-DISCRIMINATION

I. Contractor shall not discriminate against Medi-Cal eligible individuals in its county who require an assessment or meet medical necessity criteria for SMHS in the provision of SMHS because of race, color, religion, ancestry, marital status, national origin, ethnic group identification, sex, sexual orientation, gender, gender identity, age, medical condition, genetic information, health status or need for health care services, or mental or physical disability as consistent with the requirements of applicable federal law, such as 42 C.F.R. § 438.3(d)(3) and (4), BHIN 22-060 Enclosure 4 and state law.

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

B. PHYSICAL ACCESSIBILITY

In accordance with the accessibility requirements of section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973, Contractor must provide physical access, reasonable accommodations, and accessible equipment for Medi-Cal clients with physical or mental disabilities.

C. APPLICABLE FEES

I. Contractor shall not charge any clients or third-party payers any fee for service unless directed to do so by the Director at the time the client is referred for services. When directed to charge for services, Contractor shall use the uniform billing and collection guidelines prescribed by DHCS.

II. Contractor will perform eligibility and financial determinations, in accordance DHCS' Uniform Method of Determining Ability to Pay (UMDAP), for all clients unless directed otherwise by the Director.

III. Contractor shall not submit a claim to, or demand or otherwise collect reimbursement from, the client or persons acting on behalf of the client for any specialty mental health or related administrative services provided under this Contract, except to collect other health insurance coverage, share of cost, and co-payments (Cal. Code Regs., tit. 9, §1810.365(c).

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

D. CULTURAL COMPETENCE

All services, policies and procedures must be culturally and linguistically appropriate. Contractor must participate in the implementation of the most recent Cultural Competency Plan for the County and shall adhere to all cultural competency standards and requirements. Contractor shall participate in the County's efforts to promote the delivery of services in a culturally competent and equitable manner to all clients, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation, or gender identity.

E. CLIENT INFORMING MATERIALS

I. Basic Information Requirements

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

ii. Contractor shall provide the required information in this section to each client receiving SMHS under this Agreement and upon request. (1915(b) Medi-Cal Specialty Mental Health Services Waiver, § (2), subd. (d), at p. 26., attachments 3, 4; Cal. Code Regs., tit. 9, § 1810.360(e).)

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

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

v. Client information required in this section may only be provided electronically by the Contractor if all of the following conditions are met:

1. The format is readily accessible;
2. The information is placed in a location on the Contractor's website that is prominent and readily accessible;
3. The information is provided in an electronic form which can be electronically retained and printed;
4. The information is consistent with the content and language requirements of this agreement;
5. The client is informed that the information is available in paper form without charge upon request and the Contractor provides it upon request within 5 business days. (42 C.F.R. § 438.10(c)(6).)

II. Language and Format

i. Contractor shall provide all written materials for potential clients and clients in a font size no smaller than 12 point. (42 C.F.R. 438.10(d)(6)(ii))

ii. Contractor shall ensure its written materials that are critical to obtaining services are available in alternative formats, upon request of the client or potential client at no cost.

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

1. Contractor shall notify clients, prospective clients, and members of the public that written translation is available in prevalent languages free of cost and how to access those materials. (42 C.F.R. § 438.10(d)(5)(i), (iii); Welfare & Inst. Code § 14727(a)(1); Cal. Code Regs. tit. 9 § 1810.410, subd. (e), para. (4))

iv. Contractor shall make auxiliary aids and services available upon request and free of charge to each client. (42 C.F.R. § 438.10(d)(3)- (4))

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

vi. Taglines for written materials critical to obtaining services must be printed in a conspicuously visible font size.

III. Beneficiary Informing Materials

i. Each client must receive and have access to the beneficiary informing materials upon request by the client and when first receiving SMHS from Contractor. Beneficiary informing materials include but are not limited to:

1. Guide to Medi-Cal Mental Health Services
2. County Beneficiary Handbook (BHIN 22-060)
3. Provider Directory
4. Advance Health Care Directive Form (required for adult clients only)
5. Notice of Language Assistance Services available upon request at no cost to the client
6. Language Taglines
7. Grievance/Appeal Process and Form
8. Notice of Privacy Practices
9. Early & Periodic Screening, Diagnostic and Treatment (EPSDT) poster (if serving clients under the age of 21)

ii. Contractor shall provide each client with a beneficiary handbook at the time the client first accesses services. The beneficiary handbook shall be provided to beneficiaries within 14 business days after receiving notice of enrollment.

iii. Contractor shall give each client notice of any significant change to the information contained in the beneficiary handbook at least 30 days before the intended effective date of change as per BHIN 22-060.

iv. Required informing materials must be electronically available on Contractor's website and must be physically available at the Contractor agency facility lobby for clients' access.

v. Informing materials must be made available upon request, at no cost, in alternate formats (i.e., Braille or Audio) and Auxiliary Aids (i.e., California Relay Service (CRS) 711 and American Sign Language) and must be provided to clients within five business days. Large print materials shall be in a minimum 18-point font size.

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

1. Mails a printed copy of the information to the client's mailing address before the client first receives a specialty mental health service;
2. Mails a printed copy of the information upon the client's request to the client's mailing address;
3. Provides the information by email after obtaining the client's agreement to receive the information by email;
4. Posts the information on the Contractor's website and advises the client in paper or electronic form that the information is available on the internet and includes applicable internet addresses, provided that clients with disabilities who cannot access this information online are provided auxiliary aids and services upon request and at no cost; or,
5. Provides the information by any other method that can reasonably be expected to result in the client receiving that information. If Contractor provides informing materials in person, when the client first receives specialty mental health services, the date and method of delivery shall be documented in the client's file.

IV. Provider Directory

i. Contractor must follow the County's provider directory policy, in compliance with MHSUDS IN 18-020.

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

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

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

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3.12 REPORTING UNUSUAL OCCURRENCES

A. Contractor shall report unusual occurrences to the Director. An unusual occurrence is any event which jeopardizes the health and/or safety of clients, staff and/or members of the community, including, but not limited to, physical injury and death.

B. Unusual occurrences are to be reported to the County within timelines specified in County policy after becoming aware of the unusual event. Reports are to include the following elements:

I. Complete written description of event including outcome;
II. Written report of Contractor's investigation and conclusions;
III. List of persons directly involved and/or with direct knowledge of the event.

C. County and DHCS retain the right to independently investigate unusual occurrences and Contractor will cooperate in the conduct of such independent investigations.

5. DATA, PRIVACY, AND SECURITY REQUIREMENTS

1. CONFIDENTIALITY AND SECURE COMMUNICATIONS

A. Contractor shall comply with all applicable federal and state laws and regulations pertaining to the confidentiality of individually identifiable protected health information (PHI) or personally identifiable information (PII) including, but not limited to, requirements of the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act, the California Welfare and Institutions Code regarding confidentiality of client information and records and all relevant County policies and procedures.

B. Contractor will comply with all County policies and procedures related to confidentiality, privacy, and secure communications.

C. Contractor shall have all employees acknowledge an Oath of Confidentiality mirroring that of the County, including confidentiality and disclosure requirements, as well as sanctions related to non-compliance.

D. Contractor shall not use or disclose PHI or PII other than as permitted or required by law.

2. ELECTRONIC PRIVACY AND SECURITY

A. Contractor shall have a secure email system and send any email containing PII or PHI in a secure and encrypted manner. Contractor's email transmissions shall display a warning banner stating that data is confidential, systems activities are monitored and logged for administrative and security purposes, systems use is for authorized users only, and that users are directed to log off the system if they do not agree with these requirements.

B. Contractor shall institute compliant password management policies and procedures, which shall include but not be limited to procedures for creating, changing, and safeguarding passwords. Contractor shall establish guidelines for creating passwords and ensuring that passwords expire and are changed at least once every 90 days.

C. Any Electronic Health Records (EHRs) maintained by Contractor that contain PHI or PII for clients served through this Agreement shall contain a warning banner regarding the PHI or PII contained within the EHR. Contractors that utilize an EHR

shall maintain all parts of the clinical record that are not stored in the EHR, including but not limited to the following examples of client signed documents: discharge plans, informing materials, and health questionnaire.

D. Contractor entering data into any county electronic systems shall ensure that staff are trained to enter and maintain data within this system.

3. BUSINESS ASSOCIATE AGREEMENT (BAA)

A. Contractor may perform or assist County in the performance of certain health care administrative duties that involve the use and/or disclosure of client identifying information as defined by HIPAA. For these duties, the Contractor shall be a Business Associate of the County and shall comply with the applicable provisions set forth in the HIPAA BAA, which must be signed and attached as an exhibit to this agreement.

B. Contractor shall follow all requirements listed within the BAA and shall comply with all applicable County policies, state laws and regulations and federal laws pertaining to breaches of confidentiality. Contractor agrees to hold the County harmless for any breaches or violations.

6. RIGHT TO MONITOR

6.1 County or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, financial records, staff information, client records, other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Full cooperation shall be given by the Contractor in any auditing or monitoring conducted, according to this agreement.

6.2 Contractor shall make all of its premises, physical facilities, equipment, books, records, documents, contracts, computers, or other electronic systems pertaining to Medi-Cal enrollees, Medi-Cal-related activities, services, and activities furnished under the terms of this Contract, or determinations of amounts payable available at any time for inspection, examination, or copying by County, the State of California or any subdivision or appointee thereof, CMS, U.S. Department of Health and Human Services (HHS) Office of Inspector General, the United States Comptroller General or their designees, and other authorized federal and state agencies. This audit right will exist for at least ten years from the final date of the Agreement period or in the event the Contractor has been notified that an audit or investigation of this Agreement has commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later (42 CFR §438.230(c)(3)(i)-(ii)).

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

6.4 Contractor shall cooperate with County in the implementation, monitoring and evaluation of this Agreement and comply with any and all reporting requirements established by County. Should County identify an issue or receive notification of a complaint or potential/actual/suspected violation of requirements, County may audit, monitor, and/or request information from Contractor to ensure compliance with laws, regulations, and requirements, as applicable.

6.5 County reserves the right to place Contractor on probationary status, as referenced in the Probationary Status Article, should Contractor fail to meet performance requirements; including, but not limited to violations such as high disallowance rates, failure to report incidents and changes as contractually required, failure to correct issues, inappropriate invoicing, untimely and inaccurate data entry, not meeting performance outcomes expectations, and violations issued directly from the State. Additionally, Contractor may be subject to Probationary Status or termination if contract monitoring and auditing corrective actions are not resolved within specified timeframes.

6.6 Contractor shall retain all records and documents originated or prepared pursuant to Contractor's performance under this Contract, including client grievance and appeal records, and the data, information and documentation specified in 42 C.F.R. parts 438.604, 438.606, 438.608, and 438.610 for a period of no less than ten years from the term end date of this Agreement or until such time as the matter under audit or investigation has been resolved. Records and documents include but are not limited to all physical and electronic records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this Agreement including working papers, reports, financial records and documents of account, client records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for clients.

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

6.8 All records shall be complete and current and comply with all Agreement requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of Agreement. Contractor shall maintain client and community service records in compliance with all regulations set forth by local, state, and federal requirements, laws and regulations, and provide access to clinical records by County staff.

6.9 Contractor shall comply with Medical Records/Protected Health Information Article regarding relinquishing or maintaining medical records.

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

6.11 Contractor shall submit audited financial reports on an annual basis to the County. The audit shall be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards.

6.12 In the event the Agreement is terminated, ends its designated term or Contractor ceases operation of its business, Contractor shall deliver or make available to County all financial records that may have been accumulated by Contractor or subcontractor under this Agreement, whether completed, partially completed or in progress within seven calendar days of said termination/end date.

6.13 Contractor shall provide all reasonable facilities and assistance for the safety and convenience of the County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner that will not unduly delay the work of Contractor.

6.14 County has the discretion to revoke full or partial provisions of the Agreement, delegated activities or obligations, or application of other remedies permitted by state or federal law when the County or DHCS determines Contractor has not performed satisfactorily.

7. SITE INSPECTION

7.1 Without limiting any other provision related to inspections or audits otherwise set forth in this Agreement, Contractor shall permit authorized County, state, and/or federal agency(ies), through any authorized representative, the right to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract support activities and the premises which it is being performed. Contractor shall provide all reasonable assistance for the safety and convenience of the authorized representative in the performance of their duties. All inspections and evaluations shall be made in a manner that will not unduly delay the work.

8. CLIENT RIGHTS. Contractor shall take all appropriate steps to fully protect clients' rights, as specified in Welfare and Institutions Code Sections 5325 et seq; Title 9 California Code of Regulations (CCR), Sections 861, 862, 883, 884; Title 22 CCR, Sections 72453 and 72527; and 42 C.F.R. § 438.100.

9. NON-DISCRIMINATION. Contractor shall not unlawfully discriminate against any qualified worker or recipient of services because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

10. AGREEMENTS IN EXCESS OF $100,000. Contractor shall comply with all applicable orders or requirements issued under the following laws:

4.1 Clean Air Act, as amended (42 USC 1857).
4.2 Clean Water Act, as amended (33 USC 1368).
4.3 Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.)
4.4 Environmental Protection Agency Regulations (40 CFR and Executive Order 11738).

11. INDEMNIFICATION AND HOLD HARMLESS. Contractor shall indemnify and defend County and its officers, employees, and agents against and hold them harmless from any and all claims, losses, damages, and liability for damages, including attorney's fees and other costs of defense incurred by County, whether for damage to or loss of property, or injury to or death of person, including properties of County and injury to or death of County officials, employees or agents, arising out of, or connected with Contractor's operations hereunder or the performance of the work described herein, unless such damages, loss, injury or death is caused solely by the negligence of County.

12. INTEREST OF CONTRACTOR. Contractor assures that neither it nor its employees has any interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder.

13. DUE PERFORMANCE – DEFAULT. Each party agrees to fully perform all aspects of this agreement. If a default to this agreement occurs then the party in default shall be given written notice of said default by the other party. If the party in default does not fully correct (cure) the default within 30 days of the date of that notice (i.e. the time to cure) then such party shall be in default. The time period for corrective action of the party in default may be extended in writing executed by both parties, which must include the reason(s) for the extension and the date the extension expires.

Notice given under this provision shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable time period. No such notice shall be deemed a termination of this Agreement, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

14. INSURANCE.

A. Contractor shall procure and maintain Workers' Compensation Insurance for all of its employees.
B. Contractor shall procure and maintain Comprehensive Public Liability Insurance, both bodily injury and property damage, in an amount of not less than one million dollars ($1,000,000) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverage: personal injury, premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.

C. Contractor shall procure and maintain Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned vehicles used in connection with Contractor's business in an amount of not less than one million dollars ($1,000,000) combined single limit coverage per occurrence.

D. Contractor shall procure and maintain Professional Liability Insurance for the protection against claims arising out of the performance of services under this Agreement caused by errors, omissions or other acts for which Contractor is liable. Said insurance shall be written with limits of not less than one million dollars ($1,000,000).

E. Contractor shall not commence work under this Agreement until it has obtained all the insurance required hereinabove and submitted to County certificates of insurance naming the County of Lake as additional insured. Contractor shall provide County certificates of insurance within 30 days of date of execution of the Agreement. Contractor agrees to provide to County, at least 30 days prior to expiration date, a new certificate of insurance.

F. In case of any subcontract, Contractor shall require each subcontractor to provide all of the same coverage as detailed hereinabove. Subcontractors shall provide certificates of insurance naming the County of Lake as additional insured and shall submit new certificates of insurance at least 30 days prior to expiration date. Contractor shall not allow any subcontractor to commence work until the required insurances have been obtained.

G. For any claims related to the work performed under this Agreement, the Contractor's insurance coverage shall be primary insurance as to the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, agents or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

H. The Commercial General Liability and Automobile Liability Insurance must each contain, or be endorsed to contain, the following provision:

I. The County, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds and shall be added in the form of an endorsement to Contractor's insurance on Form CG 20 10 11 85. Contractor shall not commence work under this Agreement until Contractor has had delivered to County the Additional Insured Endorsements required herein.

J. Insurance coverage required of Contractor under this Agreement shall be placed with insurers with a current A.M. Best rating of no less than A: VII.

K. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude County from taking other action as is available to it under any other provision of this Agreement or applicable law. Failure of County to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.

L. Any failure of Contractor to maintain the insurance required by this section, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

15. <u>ATTORNEY'S FEES AND COSTS</u>. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to

reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such part may be entitled.

16. ASSIGNMENT. Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of County except that claims for money due or to become due Contractor from County under this Agreement may be assigned by Contractor to a bank, trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to County. Any attempt at assignment of rights under this Agreement except for those specifically consented to by both parties or as stated above shall be void.

17. INDEPENDENT CONTRACTOR. It is specifically understood and agreed that, in the making and performance of this Agreement, Contractor is an independent contractor and is not an employee, agent or servant of County. Contractor is not entitled to any employee benefits. County agrees that Contractor shall have the right to control the manner and means of accomplishing the result agreed for herein.

Contractor is solely responsible for the payment of all federal, state and local taxes, charges, fees, or contributions required with respect to Contractor and Contractor's officers, employees, and agents who are engaged in the performance of this Agreement (including without limitation, unemployment insurance, social security and payroll tax withholding.)

18. SUBCONTRACTS

Contractor shall obtain prior written approval from the Director before subcontracting any of its obligations to provide services under this Agreement. Approval is at the discretion of the Director but shall not be unreasonably withheld. Contractor shall ensure that all subcontracts are subject to the applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification, privacy, data security and confidentiality requirements set forth herein, and include the applicable provisions of 42 C.F.R. 438.230.

19. OWNERSHIP OF DOCUMENTS. All non-proprietary reports, drawings, renderings, or other documents or materials prepared by Contractor hereunder are the property of County. In the event of the termination of this Agreement for any reason whatsoever, Contractor shall promptly turn over all said reports, drawings, renderings, information, and/or other documents or materials to County without exception or reservation.

20. SEVERABILITY. If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

21. ADHERENCE TO APPLICABLE DISABILITY LAW. Contractor shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.

22. SAFETY RESPONSIBILITIES. Contractor will adhere to all applicable CalOSHA requirements in performing work pursuant to this Agreement. Contractor agrees that in the performance of work under this Agreement, Contractor will provide for the safety needs of its employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.

23. JURISDICTION AND VENUE. This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue of any action or proceeding regarding this Agreement or performance thereof shall be in Lake County, California. Contractor waives any right of removal it might have under California Code of Civil Procedure Section 394.

24. RESIDENCY. All independent contractors providing services to County for compensation must file a State of California Form 590, certifying California residency or, in the case of a corporation, certifying that they have a permanent place of business in California.

25. NO THIRD-PARTY BENEFICIARIES. Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in or for the benefit of third parties.

26. OVERSIGHT. Lake County Behavioral Health Services shall conduct oversight and impose sanctions on the Contractor for violations of the terms of this Agreement, and applicable federal and state law and regulations, in accordance with Welfare & Institutions Code 14712(c)(3) and CCR, Title 9, Section 1810.380 and 1810.385. Remedies in instances where the State Department of Health Care Services or the County Mental Health Plan determine the subcontractor has not performed satisfactorily and right to audit will exist through 10 years from the final data of the contract period or from the date of completion of any audit, whichever is later.

27. NON-APPROPRIATION. In the event County is unable to obtain funding at the end of each fiscal year for specialty mental health services required during the next fiscal year, County shall have the right to terminate this Agreement, without incurring any damages or penalties, and shall not be obligated to continue performance under this Agreement. To the extent any remedy in this Agreement may conflict with Article XVI of the California Constitution or any other debt limitation provision of California law applicable to County, Contractor hereby expressly and irrevocably waives its right to such remedy.

Exhibit D

Business Associate – Qualified Service Organization Agreement

THIS HIPAA BUSINESS ASSOCIATE and QUALIFIED SERVICE ORGANIZATION AGREEMENT (the "Agreement") is entered into effective July 1, 2021 (the "Effective Date"), by and between **Lake County Office of Education,** ("Business Associate/Qualified Service Organization") and **Lake County Behavioral Health Services** (the "Covered Entity").

Business Associate/Qualified Service Organization and Covered Entity have a business relationship (the "Relationship" or the "Agreement") in which Business Associate/Qualified Service Organization may perform functions or activities on behalf of Covered Entity involving the use and/or disclosure of protected health information received from, or created or received by, Business Associate/Qualified Service Organization on behalf of Covered Entity. Business Associate is also a Qualified Service Organization (QSO) under 42 CFR, Part 2 and agrees to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information. Therefore, if Business Associate is functioning as a Business Associate or QSO to Covered Entity, Business Associate agrees to the following terms and conditions set forth in this Business Associate/Qualified Service Organization Agreement.

Definitions

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. Terms used, but not otherwise defined, in this agreement shall have the same meaning as those terms in the HIPAA and CFR 42 Part 2 Regulations. Protected Health Information (PHI) includes electronic Protected Health Information (ePHI).

Specific definitions:

(a) **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 ***Lake County Office of Education*.**

(b) **Qualified Service Organization**. "Qualified Service Organization" shall generally have the same meaning as defined in 42 CFR 2.11, and in reference to the party to this agreement, shall mean ***Lake County Office of Education.***

(c) **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 ***Lake County.***

(d) **HIPAA Rules**. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 as well as the HITECH Act.

(e) **CFR 42 Part 2**. "CRF 42 Part 2" shall mean the federal law governing Confidentiality of Alcohol and Drug Abuse Patient Records and its implementing regulations.

Obligations and Activities of Business Associate/Qualified Service Organization

Business Associate/QSO agrees to:

(a) **Limitations on Uses and Disclosures of PHI.** Business Associate/QSO shall not, and shall ensure that its directors, officers, employees, and agents do not, use or disclose PHI in any manner that is not permitted or required by the Relationship, this Agreement, or required by law. All uses and disclosures of, and requests by Business Associate/QSO, for PHI are subject to the minimum necessary rule of the Privacy Standards and shall be limited to the information contained in a limited data set, to the extent practical, unless additional information is needed to accomplish the intended purpose, or as otherwise permitted in accordance with Section 13405(b) of HITECH and any implementing regulations. See Permitted Uses and Disclosures by Business Associate below.

(b) **Required Safeguards To Protect PHI.** Use, and document the implementation of, appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by this Agreement;

(c) **Reporting of Improper Use and Disclosures or Breaches of Unsecured PHI.** Report to Covered Entity within 24 business hours of Business Associate/QSO becoming aware of any use or disclosure of protected health information not provided for by the Agreement. Business Associate/QSO shall also report to Covered Entity within 24 business hours any breaches of unsecured protected health information as required at 45 C.F.R. §§ 164.400-414, and any security incident of which it becomes aware. Report should be made to:

Compliance Officer
Lake County Behavioral Health Services
1-877-610-2355

(d) **Mitigation of Harmful Effects.** Business Associate/QSO agrees to mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI by Business Associate/QSO in violation of the requirements of this Agreement, including, but not limited to, compliance with any state law or contractual data breach requirements. Business Associate/QSO shall cooperate with Covered Entity's breach notification and mitigation activities, and shall be responsible for all costs incurred by Covered Entity for those activities.

(e) **Access to Information.** Within five (5) business days of a request by the Covered Entity, make available protected health information in a designated record set as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524. In the event an individual delivers directly to the Business Associate/QSO a request for access to protected health information, the Business Associate/QSO shall within two (2) business days forward such request to the Covered Entity;

(f) **Availability of PHI for Amendment.** Within five (5) business days of request of a Covered Entity, make amendment(s) to protected health information in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526. This includes, but is not limited to, the Business Associate/QSO providing such information to the Covered Entity for amendment and incorporation of any such amendment(s) in the protected health information. In the event an individual delivers directly to the Business Associate/QSO a request for amendment(s) to protected health information, the Business Associate/QSO shall within two (2) business days forward such request to the Covered Entity;

(g) **Documentation of Disclosures.** Maintain a record of all disclosures of protected health information and information related to such disclosures, including the name of the recipient and the date of disclosure. If known, the records shall also include, the address of the recipient of the protected health information, a brief description of the protected health information disclosed, and the purpose of the disclosure which includes an explanation of the basis of such disclosure;

(h) **Accounting of Disclosures.** Within five (5) days of notice by Covered Entity to Business Associate/QSO that it has received a request for an accounting of disclosures of PHI regarding an individual during the six (6) years prior to the date on which the accounting was requested, Business Associate/QSO shall make available to Covered Entity information to permit Covered Entity to respond to the request for an accounting of disclosures of PHI, as required by 45 C.F.R. § 164.528. In the case of an electronic health record maintained or hosted by Business Associate/QSO on behalf of Covered Entity, the accounting period shall be three (3) years and the accounting shall include disclosures for treatment, payment and healthcare operations, in accordance with the applicable effective date of Section 13402(a) of HITECH. In the event the request for an accounting is delivered directly to Business Associate/QSO, Business Associate/QSO shall within two (2) days forward such request to Covered Entity;

(i) **Availability of Books and Records.** Business Associate/QSO shall make its internal practices, books, and records relating to the use and disclosure and privacy protection of PHI received from Covered Entity, or created, maintained or received by Business Associate/QSO on behalf of the Covered Entity, available to the Covered Entity, the State of California, and the Secretary of the Department of Health and Human Services, in the time and manner designated by the Covered Entity, State or Secretary, for purposes of determining Covered Entity's compliance with the Privacy Standards. Business

Associate/QSO shall notify the Covered Entity upon receipt of such a request for access by the State or Secretary, and shall provide the Covered Entity with a copy of the request as well as a copy of all materials disclosed.

(j) **Electronic PHI.** To the extent that Business Associate/QSO creates, receives, maintains or transmits electronic PHI on behalf of Covered Entity, Business Associate/QSO shall:

(I) Comply with 45 C.F.R. §§164.308, 312, and 316 in the same manner as such sections apply to Covered Entity, pursuant to Section 13401(a) of HITECH, and otherwise implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI;

(II) Ensure that any agent to whom Business Associate/QSO provides electronic PHI agrees to implement reasonable and appropriate safeguards to protect it; and

(III) Report to Covered Entity any security incident of which Business Associate/QSO becomes aware.

(k) **Business Associate/QSO as Agent of Covered Entity**. To the extent the Business Associate/QSO is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate/QSO shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).

Permitted Uses and Disclosures by Business Associate/QSO

(a) Business Associate/QSO may only use or disclose protected health information:

(i) To carry out its duties to the Covered Entity pursuant to the terms of the Relationship;

(ii) For its own proper management and administration; and

(iii)To carry out its legal responsibilities.

(b) Business Associate/QSO may use or disclose protected health information as required by law.

(c) Business Associate/QSO agrees to limit uses and disclosures and requests for protected health information to the minimum amount necessary to accomplish the purpose of the request, use, or disclosure, and consistent with the Covered Entity's minimum necessary policies and procedures.

(d) Business Associate/QSO may disclose protected health information for the proper management and administration of the Business Associate/QSO or to carry out the legal responsibilities of the Business Associate/QSO, provided the disclosures are required by

law, or Business Associate/QSO 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. Additionally, Business Associate/QSO must obtain an agreement from the receiving party to immediately notify the Business Associate/QSO of any instances of which it is aware in which the confidentiality of the information has been breached.

(e) Business Associate/QSO may provide data aggregation services relating to the health care operations of the Covered Entity.

Provisions for Covered Entity to Inform Business Associate/QSO of Privacy Practices and Restrictions

(a) Covered Entity shall notify Business Associate/QSO within five (5) business days of notice of any limitation(s) in the notice of privacy practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate/QSO's use or disclosure of protected health information.

(b) Covered Entity shall notify Business Associate/QSO within five (5) business days of notice of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect Business Associate/QSO's use or disclosure of protected health information.

(c) Covered Entity shall notify Business Associate/QSO within five (5) business days of notice of any restriction on the use or disclosure of protected health information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate/QSO's use or disclosure of protected health information.

42 CFR Part 2 – Substance Abuse Treatment PHI

(a) **Qualified Service Organization Status.** To the extent that in performing its services for or on behalf of Covered Entity, Business Associate/QSO uses, discloses, maintains, or transmits protected health information that is protected by 42 CFR, Part 2, Business Associate/QSO acknowledges and agrees that it is a QSO for the purpose of such federal law. Business Associate/QSO acknowledges that in receiving, storing, processing or otherwise dealing with any PHI from the Covered Entity, it is fully bound by 42 C.F.R. Part 2.

(b) **Judicial and Administrative Proceedings.** Business Associate/QSO will resist any efforts, including judicial proceedings, to obtain PHI except as provided in 42 C.F.R. Part 2. In the event Business Associate/QSO receives a subpoena, court or administrative order or other discovery request or mandate for release of PHI, Covered Entity shall have the right to control Business Associate/QSO's response to such request. Business Associate/QSO shall notify Covered Entity of the request as soon as reasonably practicable, but in any event within two (2) days of receipt of such request.

(c) **Limitations**. Business Associate/QSO may use and/or disclose PHI within BA/QSO for the proper management and administration of its business, except as otherwise limited by the Agreement or 42 C.F.R. Part 2. Business Associate/QSO may use and/or disclose PHI within BA/QSO to carry out its legal responsibilities, except as otherwise limited by the Agreement or 42 C.F.R. Part 2. Re-disclosure of client information to third party is prohibited by 42 CFR Part 2 except to report violations of law as permitted by HIPAA and 42 C.F.R. Part 2.

(d) **Notification.** Covered Entity will notify Business Associate/QSO of any changes in or revocation of, authorization by an Individual to use or disclose PHI. Covered Entity will notify Business Associate/QSO of any Individual requests for restrictions to the use or disclosure of PHI. Business Associate/QSO acknowledges it is fully bound by HIPAA and 42 C.F.R. Part 2.

(e) **CFR 42 Part 2 Precedence**. Mandatory provisions of HIPAA preempt provisions of the Agreement. Provisions of the Agreement not mandated by HIPAA but nonetheless permitted by HIPAA will control. In the event of inconsistencies between HIPAA and 42 C.F.R. Part 2, the more restrictive rule will control.

Parties will comply with any and all federal, state and local laws pertaining to client confidentiality including, but not limited to, state mental health and developmental disability confidentiality law, state and federal drug and alcohol confidentiality laws and state AIDS/HIV confidentiality laws.

Term and Termination

(a) **Term**. The Term of this Agreement shall be effective as of July 1, 2021 and shall terminate at the time Lisa Warner (*Business Associate/QSO*) ceases to provide professional consulting services for Lake County Behavioral Health Services or on the date Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) **Termination for Cause**. Business Associate/QSO authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate/QSO has violated a material term of the Agreement. At the Covered Entity's option, the Covered Entity may permit the Business Associate/QSO to cure or end any such violation within the time specified by the Covered Entity. Covered Entity's option to have cured a breach of this Agreement shall not be construed as a waiver of any other rights Covered Entity has in the Relationship, this Agreement or by operation of law or in equity.

(c) **Obligations of Business Associate/QSO Upon Termination**.

(i) Upon termination of this Agreement for any reason, Business Associate/QSO shall return to Covered Entity or, at the Covered Entity's discretion and direction, destroy

all protected health information received from Covered Entity, or created, maintained, or received by Business Associate/QSO on behalf of Covered Entity, that the Business Associate/QSO still maintains in any form. This provision shall apply to protected health information that is in the possession of the Business Associate/QSO or agents of the Business Associate/QSO. Business Associate/QSO shall retain no copies of the protected health information.

(ii) Upon termination of this Agreement for any reason, Business Associate/QSO may retain certain protected health information for its own management and administration or to carry out its legal responsibilities at the discretion of the Covered Entity. With respect to such protected health information necessary for Business Associate/QSO's own management and administration or to carry out its legal responsibilities which was received from Covered Entity, or created, maintained, or received by Business Associate/QSO on behalf of Covered Entity, Business Associate/QSO shall:

1) Retain only that protected health information which is necessary for Business Associate/QSO to continue its proper management and administration or to carry out its legal responsibilities;
2) Return to Covered Entity, or if agreed to by Covered Entity, destroy the remaining protected health information that the Business Associate/QSO 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 protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as Business Associate/QSO retains the protected health information;
4) Not use or disclose the protected health information retained by Business Associate/QSO other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraph (d) above under "Permitted Uses and Disclosures By Business Associate/QSO" which applied prior to termination; and
5) Return to Covered Entity or, if agreed to by Covered Entity, destroy the protected health information retained by Business Associate/QSO when it is no longer needed by Business Associate/QSO for its proper management and administration or to carry out its legal responsibilities.

(d) **Survival**. The obligations of Business Associate/QSO under this Section shall survive the termination of this Agreement.

Miscellaneous

(a) **Regulatory References**. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
(b) **Amendment**. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the

HIPAA, CFR 42 Part 2, HITECH, the Privacy Standards, Security Standards or Transactions Standards and any other applicable law.

(c) **Interpretation**. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules and CFR 42, Part 2.

(d) **Injunctive Relief**. Business Associate/QSO stipulates that its unauthorized use or disclosure of protected health information while performing services pursuant to this Agreement would cause irreparable harm to Covered Entity, and in such event, Covered Entity shall be entitled to institute proceedings in any court of competent jurisdiction to obtain damages and injunctive relief.

(e) **Indemnification**. Business Associate/QSO shall indemnify and hold harmless Covered Entity and its officers, trustees, employees, and agents from any and all claims, penalties, fines, costs, liabilities or damages, including but not limited to reasonable attorney fees, incurred by Covered Entity arising from a violation by Business Associate/QSO of its obligations under this Agreement.

(f) **Exclusion from Limitation of Liability**. To the extent that Business Associate/QSO has limited its liability under the terms of this Agreement, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to Covered Entity arising from Business Associate/QSO's breach of its obligations relating to the use and disclosure of protected health information.

(g) **Owner of Protected Health Information**. Under no circumstances shall Business Associate/QSO be deemed in any respect to be the owner of any protected health information used or disclosed by or to Business Associate/QSO by Covered Entity.

(h) **Third Party Rights**. The terms of this Agreement do not grant any rights to any parties other than Business Associate/QSO and Covered Entity.

(i) **Independent Contractor Status**. For the purposed of this Agreement, Business Associate/QSO is an independent contractor of Covered Entity, and shall not be considered an agent of Covered Entity.

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AGREEMENT BETWEEN COUNTY OF LAKE AND LAKE COUNTY OFFICE OF EDUCATION-SAFE SCHOOLS HEALTHY STUDENTS PROGRAM FOR SCHOOL-BASED SPECIALTY MENTAL HEALTH SERVICES FOR FISCAL YEAR 2024-25

IN WITNESS WHEREOF, each Party hereby executes this Agreement as of the Effective Date.

Lake County Office of Education

By: _____

Name: Brock Falkenberg

Title: Superintendent

County of Lake

By: _____

Name: Bruno Sobotier

Title: Chair, Board of Supervisors

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